

TRAFFICKING IN PERSON ESPECIALLY ON WOMEN AND CHILDREN IN NEPAL



National Report

2005

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Abbreviations

AATWIN	: Alliance against Trafficking of Women and Children in Nepal
ABC Nepal	: Agro-forestry, Basic Health and Cooperation Nepal
APHD	: Asia Partnership for Human Development
Asia ACT	: Asia Against Child Trafficking
ATSEC	: Action against Trafficking and Sexual Exploitation of Children
BBA	: Bachpan Bachao Andolan
CAR-NWG	: Children at Risk Network Group
CAST	: Coalition to Abolish Slavery and Trafficking
CATW	: Coalition Against Trafficking in Women
CAZOP	: Children as Zone of Peace
CEDAW	: Convention on Elimination of all Types of Discrimination against Women
CEDPA	: Centre for Population and Development Activities
CeLRRd	: Centre for Legal Research and Resource Development
CRC	: Convention on the Rights of the Child
CRS	: Catholic Relief Service
CWIN	: Child Workers in Nepal Concerned Centre
DAO	: District Administration Office
DDC	: District Development Committee
DEO	: District Education Office
DFID	: Department for International Development
DMSC	: Durbar Mahila Samanwaya Committee
DoLEP	: Department of Labour and Employment Promotion
DPHO	: District Public Health Office
DPO	: District Police Office
DTF	: District Taskforce against Trafficking
ECPAT	: End Child Pornography, Prostitution and Trafficking
FGD	: Focus Group Discussion
FATW	: Foundation against Trafficking in Women
FPAN	: Family Planning Association of Nepal
FWLD	: Forum for Women, Law and Development
GAATW	: Global Alliance Against Trafficking in Women
GO	: Governmental Organization
GTZ	: German Technical Cooperation
HIV/AIDS	: Human Immune Deficiency Virus/Acquired Immune Deficiency
IDP	: Internally Displaced Persons
IEC	: Information, Education and Communication
IHRLG	: International Human Rights Law Group
IIDS	: Institute for Integrated Development Studies
INGO	: International Non Governmental Organization
IR	: Indian Rupees
JIT	: Beyond Trafficking: A Joint Initiative in the Millennium Against Trafficking in Girls and Women
ILO	: International Labour Organization
IOM	: International Organization for Migration
MoES	: Ministry of Education and Sports
MoFA	: Ministry of Foreign Affairs
MoHA	: Ministry of Home Affairs
MoHP	: Ministry of Health and Population
MoLJPA	: Ministry of Law and Justice and Parliamentary Affairs

MoLT	: Ministry of Labour and Transportation
MoWCSW	: Ministry of Women, Children and Social Welfare
NATCW	: Network against Trafficking in Children and Women
NPC	: National Planning Commission
NRC	: Norwegian Refugee Council
OHCHR	: Office of the High Commissioner for Human Rights
ONRT	: Office of National Rapporteur on Trafficking in Women and Children
NGO	: Non Governmental Organization
NHRC	: National Human Rights Commission
NNAGT	: National Network against Girl Trafficking
PCN	: Press Council Nepal
PWCC	: Police Women and Children Cell
RETA	:
SAARC	: South Asian Association for Regional Cooperation
SAFAHT	: South Asia Forum Against Human Trafficking
SAPAT	: South Asia Professionals Against Trafficking
SC	: Save the Children
SLC	: School Leaving Certificate
STD	: Sexually Transmitted Diseases
TAGSA	: Technical Advisory Group for South Asia
THB	: Trafficking in Human Beings
TIP	: Trafficking in Person Report
TV	: Television
TVPA	: Trafficking and Violence Protection Act
UK	: United Kingdom
UN	: United Nations
UNDP	: United Nations Development Programme
UNFPA	: United Nations Population Fund
UNHCR	: United Nations High Commissioner for Refugees
UNICEF	: United Nations Children's Fund
UNIFEM	: United Nations Development Fund for Women
UNS	: United Nations System
US	: United States
USAID	: United States Agency for International Development
VDC	: Village Development Committee
VVC	: Village Task Force against Trafficking
WCSC	: Women and Children Service Centre
WDO	: Women Development Officer
WOREC	: Women's Rehabilitation Centre
WPC	: Women Police Cell

Foreword

Trafficking is a major form of human rights violation. To combat this, Nepal ratified various constitutional and legal provisions at the national and international levels such as inter-country agreements like SAARC Convention, Convention on Suppression of Trafficking of Women and Exploitation of Others for Sex work, ILO 1978, 1989 and others including CEDAW. Convention on the Rights of Children (CRC) still serves as the legal instrument to mobilize the commitment for combating trafficking and thereby protecting and promoting the human rights of the vulnerable and rescued trafficked people.

Trafficking in Person Report 2005, USA states that an estimated 600,000 to 800,000 men, women and children are being trafficked across international borders each year and approximately 80 per cent are women and girls and up to 50 per cent are minors. Due to lack of responsive commitments, inadequacy and ineffectiveness in the laws, trafficking in person especially of women and girls has been increasing. Because of its invisible nature, the criminal network for the trafficking of women and children is expanding with new outlets and methods. Once a country of origin has now become the country of transit and destination, Nepal has been listed as the country of origin among others with severe trafficking problems.

As a signatory to various UN conventions and Declarations on Human Rights, specific women rights and child rights for dignity, equality and justice for all, Nepal has the full responsibility to rehabilitate the trafficked survivors, protect the vulnerable and prevent people, especially women and children from being trafficked in order to lead a life with human dignity.

Due to persistence of discriminatory socio-cultural norms, practices and laws, poverty and lack of access to resources, lack of skilled knowledge necessary for gainful employment, many women and children in Nepal become easy prey of false promises of traffickers. The political conflict in the country since 1996 has also been responsible for people disappeared, killed and internally displaced. This has made the people of Nepal and especially women and children even more vulnerable to trafficking.

Once trafficked, these helpless Nepalese women and children have to live in exploited situation and forced slavery, face the lives with fear and insecurity and bonded with debt. These vulnerable groups undergo serious physical and sexual harassment thereby straining physical and mental health. It is estimated that 60 per cent of the victims of trafficking are involved in sex work and remaining 40 per cent are in severe exploitative works like circus, embroideries, Camel Jockeying and organ transplant. Studies also show that traffickers take 75 per cent of the total income from the trafficked, and only 25 per cent going to the victims of trafficked.

With establishment of The Office of National Rapporteur on Trafficking in Women and Children (ONRT) in 2002, NHRC has shown its issue based commitment to work against human rights violation for ensuring the human rights of all and especially of women and children of Nepal.

NHRC has undertaken pioneering initiative to publish the National Report on Trafficking with an objective to examine the general situation of trafficking in Nepal. The report addresses the multidimensional problem of trafficking and impact of conflict on trafficking. It has also revealed the contribution of media to combat trafficking for general awareness and advocacy. This report acknowledges the initiatives taken by GOs, NGOs and supporting partners to combat trafficking.

The preparation of the report has helped us to develop the institutional mechanism of reporting system. Therefore, we are honoured to express that ground work for the reporting system has begun in NHRC. The network of various regional offices of NHRC forms the basis of institutional mechanism to collect relevant information at grassroots level. However, these offices along with the district task force of the respective districts will have to be strengthened and mobilized more effectively in the future in order to prepare analytical field based report.

We want to express our sincere gratitude to AusAID, CDNHRC and UNIFEM for their cooperation and support. We are grateful to various stakeholders for supplying relevant information at the district and regional levels.

The then Chairperson Mr Nayan Bahadur Khatri along with members' for policy guidelines and unwavering interest deserves credit to bring this report in this form. We are also thankful to Mr. Kedar Prasad Paudel the then acting secretary for his procedural support to prepare this report. Ms. Padma Mathema, National Rapporteur on Trafficking has painstakingly coordinated the preparation of this report. We appreciate her untiring effort for the publication of the report. We are thankful to Ms . Nibha Shrestha, the then Programme Officer and Mr. Kamal Thapa Kshetri for efficiently supporting the National Rapporteur for this purpose. Our thanks also go to Dr. Hari Bansa Jha for preparing the first draft of the report and Mr Bal Kumar KC for editing the draft to bring in this form.

We hope this report will be helpful to those who work for ensuring the human rights of trafficked and to Nepal Government, human rights organizations, civil society, media, and policy planners and researchers. We are also hopeful that this report will be helpful to formulating relevant policies to combat trafficking from human rights perspective.

Dhruba Nepal
Officiating Secretary
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Preface

Trafficking in person and especially of women and children for sexual and other forms of exploitation is a serious human rights violation in Nepal. It deprives the victims of trafficking from right to life, liberty, dignity and security.

Trafficking in person in Nepal especially of women and children is increasing internally as well as externally from village to city centres and from within the country to India and beyond. There has also been an increase in rescue and repatriation from police and NGO working for anti- trafficking activities. The ongoing conflict has also exacerbated the situation. Many women and children have been internally displaced due to conflict and being vulnerable to trafficking, many others have left homes for employment, protection and security. Nepal Government has translated its concern for combating trafficking through international commitments by formulating and enacting various acts, polices and programme. The NGO's working for anti trafficking have provided visible contribution in the area by raising awareness and creating preventive measures at border check points and establishing rescue homes for returnees among the trafficked women.

The intense nature of trafficking problem of women and children is extensive in geographical coverage. However, the lack of institutionalized reporting system and the clandestine nature of the crime make it difficult to collect reliable data and thereby prepare analytical report for developing comprehensive strategy and plan of action

with human rights perspective. This has been a major challenge to stakeholders for combating trafficking.

ONRT/NHRC has started to establish the reporting system of anti-trafficking sector as per its mandate to protect and promote human rights of the citizen in Nepal. The National Report on Anti-Trafficking 2005 is the first report in this endeavour. Since the Commission visions to publish this report annually, the reporting system at national and the district level will have to be developed and strengthened.

The current report consists of general situation and emerging trend in trafficking as well as the initiatives undertaken by UN, GO, NGO and INGO to combat trafficking at the national and international levels. Since law enforcement has a critical role to play in combating trafficking, the present report has included a separate chapter on the legal instrument of Nepal to combat trafficking. The report also examines the interrelationship between conflict and trafficking, especially of women and children of Nepal. The Report has laid due emphasis on the role of media in bringing about greater awareness among general populace and policy makers in order to effectively combat heinous crime against humanity in the form of trafficking of women and children. The report also provides way forward measures for strengthening the initiative to combat trafficking in Nepal.

A Steering Committee for Combating Trafficking, NHRC was formed under the

Chairmanship of then Honourable Chairperson of NHRC, Mr. Nayan Bahadur Khatri. The representing members were Mr. Shyam Sunder Sharma-Joint Secretary, Ministry of Women, Children and Social Welfare (MOWCSW), Ms. Bharati Silwal Giri, the then Gender Expert in United Nations Development Programme (UNDP) and Mr. Kedar Prasad Paudyal, the then Secretary as an ex-officio member. The Committee decided to initiate the preparation and publication of this report at the earliest by providing valuable policy guidelines. We are highly grateful to the input and encouragement of the Steering Committee.

Thanks are also due to Australian Assistance for Internal Development (AusAid), and UNDP for providing technical and financial support to write the report. Mr. Vikram Chhetri, CDNHR, deserve special thanks for facilitating this operation.

We are grateful to Ms. Chandni Joshi, Regional Director, UNIFEM,(South Asia) Ms. Sangeeta Thapa, National Programme Coordinator, UNIFEM, Nepal, and Ms. Aruna Thapa, National Programme Manager UNIFEM, Nepal for supporting programme activities together with the institutional continuity of the ONRT.

Dr Hari Bansh Jha- the consultant deserves thanks for preparing the draft of the report. Thanks are also due to the Members of the Core Group of the Report, Members of the Technical Committee on Trafficking, NGO participants, Government and national consultation meetings for providing useful comments and suggestions for improving the content of the report. Our thanks also go to all institutions that have supported us by providing necessary information for the Report. Mr. Sabin Shrestha deserves

thanks for his valuable contribution to the chapter on legislation. The contribution of Ms. Nibha Shrestha, the then Programme Officer, ONRT, in the field and in the Office is highly acknowledged. Further Mr. Kamal Thapa Kshetri- the Programme Officer ONRT and Mr. Ganesh Aryal – Protection Officer, Protection Division of NHRC also deserve acknowledgement for their work to finalize the Report. We appreciate the work of Mr. Sagar Shrestha for word processing. Finally, we also highly appreciate Dr. Bal Kumar KC for meticulously editing the final draft of the report into its present form.

The information included in this report will be of immense value to all those working for combating trafficking of women and children in Nepal. The report will also be useful to policy makers, legislative body and the general public for designing appropriate policy instruments and raising awareness against trafficking of women and children of Nepal.

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Executive Summary

Human trafficking is one of the worst forms of exploitation on the globe. Men, women and children are bought, sold and forced to cross international borders. Among the different vulnerable groups of people, women and children are the major victims of trafficking. It is estimated that each year 800,000 to 900,000 persons, including women and children are trafficked across international borders and those trafficked within countries far exceed this number (US Department of State, 2005). At the international level, US \$ 8 billion is generated from global trafficking industry. Trafficking in person constitutes third largest source of earnings for the traffickers, only next to narcotics and arms. It has severely affected each region of the World including South Asia. Nepal is one of them.

The present report was prepared to: (a) assess the general situation and emerging trends of the status of trafficking in Nepal, (b) review national laws, plans and policies against trafficking in human beings in line with human rights endowed in the Constitution of Nepal and the International Conventions to which Nepal is a party, (c) examine the linkages between conflict and trafficking, (d) analyze the initiatives of GOs, NGOs, donors/INGOs and ONRT/NHRC to combat trafficking in human beings, and (e) appraise the role of media in addressing the problem of trafficking.

The report is based on secondary as well as primary sources of information. Interviews/consultations, Focus Group Discussion (FGD) and Regional Workshop on Trafficking were organized to assess the problem and trend on trafficking. Information collected through the

secondary and primary sources materials were compiled, tabulated and processed for preparing the draft report. The draft report was submitted to the core committee members and the consultation meetings with stakeholders were also organized for obtaining comments and suggestions in order to finalize the report.

Trafficking in person in Nepal has its roots mostly flourished in the Lichhavi, Malla and the Rana Period (1847-1951). Initially, young mountain girls, particularly from the *Janajatis* of Sindhupalchowk and Nuwakot used to be brought to Rana palaces to serve as maids, concubines, dancers and singers. However, most of these girls and women were used to be kept in slavery like conditions. After the end of Rana regime, with the advent of democracy in 1951, many of these maidservants, kept women and concubines left Nepal along with the Ranas into exile in India. Pressing economic hardships compelled them to resort to prostitution. Women returning from Indian brothels lured many women and girls in Sindhupalchowk and Nuwakot districts to get involved in sex trade. The trafficking of women and children continued to grow in the subsequent period and now apart from these two districts, other districts of Nepal also have been affected, though the government has identified only 26 such districts as trafficking-prone.

Within the country, Kathmandu and different district headquarters are used as destinations of trafficking. Outside the country, India is both the country of transit and destination. A number of geo-physical, socio-cultural, economic and political factors are responsible for the growth of trafficking in the country. Conventional

belief is that about 5,000 to 7,000 women and girls are trafficked to various red light areas of India each year. Some estimates put the number of women and girls trafficked to India annually between 10,000 and 15,000 (Khatri, 2003). One study (KC et al.,) estimated 12,000 girls less than 18 years being trafficked to India very year. Other estimates of Nepalese women and girls being trafficked to India ranged from 25,000/- (ASMITA, 1998) to 300,000 IRS.(Indian Rupees) (JIT, 2004). Nepalese women and girls are also trafficked to Hong Kong, Thailand, Malaysia, the Middle East and the Gulf countries including Kuwait and Saudi Arabia. A woman/girl is sold at a price varying from IRs. 25,000 to IRs. 100,000 (IRS) (Rajbhandari, 1993; Himal, 2005). Of the total women and girls trafficked, 90 per cent are destined to India and the remaining 10 per cent to other countries (Sharma, 2001). Within the country, about 25,000 to 70,000 women and girls are estimated to have been involved in sex market in various parts of the country. Urbanization, unsafe migration, globalization, refugee problems and internal conflict have largely aggravated the problem of trafficking in human beings in Nepal.

Some 12,000-13,000 people have been killed during the decade old internal conflict, which began in 1996 in Nepal. Extra-judicial killings, disappearance and abductions by the warring factions have caused displacement of population on a large scale from the rural and remote regions to the district headquarters and urban pockets of the country. Besides, thousands of people were fleeing the country every day across the border to India, the Gulf countries and the Middle East. While INSEC estimates the number of IDPs(Internally Displaced Peoples) as 50,365, the UNDP estimates this number to be in the range of 150,000 and 200,000 (*The Kathmandu Post*, 2005). However, Force Nepal, an NGO estimates the

number of IDPs as high as 400,000 (*Annapurna Post*, 2005).

Internal conflict in the country has affected every section of the society irrespective of age, caste, creed, sex and economic status. Of the different groups of the society, the children and women are the hardest hit. Thousands of the school-going children have been missing education. There are reports that over 5,000 children have become orphans and 10,000 to 15,000 are internally displaced (IRINnews.org. 2005). It is estimated that each day, 500 children are forced to migrate to India to escape the warring factions. Similarly, the internal conflict has also led to a situation in which the male-headed households are fast turning into female-headed households as the male members are either forced to join the insurgents or escape to avoid forceful induction into the insurgency. Many women also moved towards urban centres for livelihood and shelter. Tharu women and girls left the country to work as agricultural workers in India. Women and girls from various parts of the country started working in hotels and restaurants in urban centres and district headquarters. There is a perception in certain quarters that most of these women and children were subject to physical, sexual and verbal abuses.

Studies show that hotels and restaurants, including the cabin restaurants have turned into “contact centres” for traffickers. The traffickers did not need to go to villages searching for women and girls for trafficking them as the business is done freely at the local hotels and restaurants since the number of the women working at the hotels and restaurants, including the cabin restaurants and dance restaurants constituted 30,000 in Kathmandu Valley (NHRC, 2005) and 70,000 at the national level (Upadhyaya, 2005).

Due to internal political conflict, many women are fleeing the country to work as

domestic workers, mainly in the Gulf countries despite limited funds and harassment by immigration authorities at Kathmandu Airport and Nepal-India border. Some of them are trapped in the Indian brothels by pimps. There are reports that most of the migrant women workers are subject to sexual abuse and exploitation.

The media have been able to capture some aspects of trafficking in women and children associated with sex work. The print media have associated the trafficking of women and children with socio-economic problems related to poverty, ethnicity, gender discrimination, family breakdown and lack of education. The electronic media have also been attempting to create awareness in the society by telecasting/broadcasting news, views and stories related to trafficking of women and girls. Several feature films/cassettes have also been created to raise awareness in the society against trafficking. Some media reports expose the traffickers and others focus on court cases, repatriation and rehabilitation related to trafficking. Media initiatives are expected to play effective roles in combating trafficking in women and girls.

Over the years, the government, NGOs, donors/INGOs and the NHRC have taken initiatives to control human trafficking and improve the status of women and children. The government has ratified several International Conventions and it is a signatory to SAARC Convention on Preventing and Combating Trafficking. It has enacted several laws to control trafficking. Besides, it has adopted a 14-point strategy as its national policy on trafficking. The National Plan of Action against Trafficking in Children and their Commercial Sexual Exploitation has also been formulated. Under the Ninth and the Tenth Plan, policy measures have been included to combat trafficking.

The NGOs, also have taken important initiatives to combat trafficking in person by making interventions through advocacy, lobbying, workshops, training, research and media monitoring. The donor agencies and INGOs have been contributing the anti-trafficking initiatives by providing financial support to the NGOs and GOs.

Nepal government has constituted a Task force from the village to the national levels in order to institutionalize the responsibility for combating trafficking in women and girls. The NGOs have also established networks with their alliance.

Office of the National Rapporteur on Trafficking in Women and Children (ONRT) has been established in National Human Rights Commission (NHRC) to coordinate national, regional and international efforts to combat trafficking, and generate high level political commitment to improve the human rights situation of women and children in Nepal.

Despite joint initiatives made by the government, NGOs, donor and INGOs to launch preventive and curative measures to control trafficking, there have been gaps in the implementation of policies, plans and laws. These gaps have to be narrowed to make the anti-trafficking initiatives in Nepal more effective.

NGOs, INGOs and other human rights bodies were seriously hampered to combat trafficking due to adverse situation arising out of insurgency in Nepal. They were not allowed to work in the rural and remote areas of the country from where the women and girls are trafficked. In the past, only the women and girls used to be trafficked but now even the boys and men are trafficked to work forcibly in factories, households and agricultural activities. Some were even subjected to organ transplantation. The traffickers have been

recruiting women and girls from several castes other than the traditional trafficking-prone communities such as the Tamangs. They have also been diversifying their bases from the traditional trafficking-prone districts to least affected districts. For some years, they have started trafficking women and girls mostly from the cabin/dance restaurants of the urban centres and district headquarters. Besides, they have been using border points without adequate patrol along the Nepal-India border for human trafficking.

Another challenge in human trafficking is the fact that India apart from being the country of destination has become the country of transit as well. The Nepalese women and girls are recruited there as domestic servants as well as sex workers in Bangladesh, Malaysia, Kuwait, Qatar, Dubai, Korea, Thailand and Hong Kong.

(IDPs) and migrants have no assured means of livelihood other than their earnings through sex trade. National and international agencies as well media initiatives have to quadruple their efforts to control trafficking in person in general and women and children in particular.

Since trafficking in persons is the total violation of human rights and its norms, it should be tackled from the holistic human rights approach. In order to address the problems of trafficking in person effectively, political will is necessary to implement activities pertaining to the international and regional commitments. Coordination and networking mechanisms are also essential among organizations involved in anti-trafficking movement. The nationwide data system on human trafficking needs to be developed. All possible efforts should be geared to promote preventive and curative anti-trafficking measures to discourage trafficking in person. Women's rights for better employment opportunities in the foreign countries need to be strengthened. Employment opportunities should be generated on a massive scale in the rural areas. Media sector needs to be trained and equipped to address the plight of anti-trafficking movement more vigorously. Besides, it is also essential for the government to formulate rehabilitation policy and introduce time-bound programme for the total elimination of trafficking in person, especially of women and children of Nepal.

CHAPTER 1

Introduction

Over this decade, we have seen tangible progress on many fronts. Life expectancy and fertility rates have improved. More girls are enrolled in primary education. More women are earning an income than ever before. At the same time, new challenges have emerged. Consider the trafficking of women and children – an odious but increasingly common practice. Or the increasing targeting of women in armed conflict. Or the terrifying growth of HIV/AIDS among women – especially young women... I would urge the international community to remember that promoting gender equality is not only women's responsibility – it is the responsibility of all of us... Whatever the very real benefits of investing in women, the most important fact remains: women themselves have the right to live in dignity, in freedom from want and freedom from fear. - Excerpts from Secretary-General, Kofi Annan's Message on the 95th International Women's Day.

1.1 Background

Human beings of the 21st century have made significant progress in social, economic and political fields. The Human Development Report, 2005 – UNDP reveals that on average, people even in developing countries are healthier, more educated, and less impoverished and more of them are living in multiparty democratic system. Since 1990, life expectancy in developing countries has been increased by two years, and child death has been decreased by three millions annually and thirty million fewer children are out of school. More than 130 million people have escaped from extreme poverty. In spite of these positive achievements in the status of human life, they are still subjected to different forms of exploitations.

Trafficking in person, especially of women and children is one of the major exploitation among them. Men, women and children are bought, sold and forced to work like commodities. More than any other groups, the women are increasingly becoming the victims of trafficking and other forms of inhuman exploitation. They are forced to live in slavery like condition, which deprives them of access to minimum standard of human rights.

Trafficking in person brings social breakdown, deprives countries of human capital, undermines public health and imposes enormous economic costs. As such, trafficking is incompatible with the dignity and honour of human beings. In fact, it is a heinous crime and brazen abuses of human rights to life, liberty and freedom.

No country in the world is immune from human trafficking and this trade continues to thrive even after the Universal Declaration of Human Rights, 1948, half-a-century ago. Estimates show that each year 800,000 to 900,000 people, including women and children are trafficked across international borders (US Department of State, 2005). This number varies from one country to another depending upon various vulnerability factors of trafficking in person. The number of people trafficked within countries may far exceed this number. Especially women and children in Nepal are trafficked to work forcefully in sex work and also in other areas including the work in circuses. Trafficking in person is a criminally institutionalized slave trade. The United Nation estimates that the profit from human trafficking ranked among the top three revenue sources for organized crime after trafficking in narcotics and arms.

The victims of trafficking are put in an embarrassing, humiliating and suffocating environment in which they are forced into prostitution, or work as domestics, child labour at mines, sweetshops, brick kilns, carpet factories and other high risk environment or serve as child soldiers and in several other forms of involuntary servitude. It is estimated that over half of the number of trafficked person are trafficked for sexual exploitation (US Department of State, 2004).

Studies show that human trafficking is the third largest source of earning for the traffickers next only to trafficking in narcotics and arms. As per the estimate of

International Organization for Migration (IOM), US \$ 8 billion is generated from global trafficking industry (IIDS and UNIFEM, 2004). As such, trafficking is regarded as a global problem, though its magnitude varies from country to country and region to region. Some African countries like Morocco, Kenya and Ethiopia are badly afflicted with trafficking. In East Asian countries, China, Vietnam and Philippines are having problems of trafficking and prostitution. Similarly, the South Asian countries like Bangladesh, India, Nepal, Pakistan, and Sri-Lanka are also plagued with trafficking.

Box 1.1: Ex-sex Workers' Recount of Sordid Past

It was 1976; Kalpana Tamang of Sindhupalchowk was barely 18 years old. An uneducated teenage girl, afflicted by poverty, she was desperately looking for a job to make a living when one fateful morning a local flesh-trader approached her with a proposal that he would provide her a job in India.

Lured by the promise of a job, Kalpana agreed to go with him to India. After arriving in Mumbai, the trafficker sold her to a brothel for Rs. 500. Far from home and parents, she did not know where the agent had left her until the couple who ran the brothel, asked her to entertain customers in Mumbai.

"At first I resisted, screaming, crying and fighting off customers but nobody would hear me...They beat me so hard that I knew I was fighting a battle I could not win in that ugly place."

Kalpana entertained at least six customers a day. Each of them paid her Rs.3.50 after having sex with her. Six years later, she escaped with a friend to Nepal. After arriving in her village, people treated her with suspicion. Her freedom still looked remote. She decided to flee again, this time to Kolkata, where a friend of hers from Mumbai had assured her a job.

"In Kolkata, police and criminal gangs constantly harassed me," she said. Her parents in Nepal had no idea where their daughter was. Now 47-year-old Kalpana is a sex-worker in Kolkata's largest sex industry base – the Sonagachi red-light area. If at all she has anyone dear to her, it is her 21-year –old daughter, who earns Rs. 2,500 a month, working in a flower shop in Kolkata.

"If only I had schooling, I would not have to suffer in life," she told the Post. She flew from Kolkata to Kathmandu on Saturday to attend workshop being organized by Family Planning Association of Nepal (FPAN).

Rama Debnath, a Bengali sex worker and president of Durbar Mahila Samanwaya Committee (DMSC), a forum of 65,000 sex workers in Kolkata, which is fighting for a secure legal status for sex workers and their children, said the police catch sex workers along with pimps and traffickers, but corruption permits the sex industry to thrive. Kalpana is a member of the DMSC, a peer educator, counseling young girls sold into brothels.

Source: The Kathmandu Post: July 31, 2005

Nepal, as one of the trafficking prone countries in South Asia, has its people trafficked to work in circus, agricultural farms, factories, road construction, forced

beggary, domestic works and sex market working in inhuman condition.

Many factors are responsible for trafficking of the Nepalese people inside

and abroad. Major socio-cultural factors that promote trafficking include low social status accorded to women and children, lack of education and literacy, lack of awareness, gender discrimination, violence against women and children including physical, sexual and emotional abuse, problems in family, urbanization and increased level of consumerism. Similarly, economic and political factors such as the lack of job opportunities in rural areas, unemployment and underemployment in cities, migration, internal displacement particularly as a result of political instability and armed conflict are responsible for the growth of trafficking. In addition, increased access to physical infrastructures like roads, communication, hotels, restaurants, exposure to traffickers, open border with India and lack of trans-border and regional interventions are also responsible for trafficking. The socio-cultural, economic and political factors as mentioned here represent the supply side of trafficking. At the same time, due to availability of the cheap labour from the Nepalese market, their demand is high in India and other countries.

Action to combat trafficking in Nepal has been taken as a concern of GOs, NGOs, and development partners of Nepal. Nepal Government through international commitments and national commitments did formulate national policies, plans and laws to deal with issues against trafficking. Accordingly, the government, NGOs and INGOs have been implementing different activities such as raising awareness among the target population prone to trafficking and also rehabilitating the survivors of trafficking. In spite of all these efforts, the implementation status of the anti-trafficking activities is subject to scrutiny in combating trafficking in person especially women and children. In addition, trafficking in person also violates human rights in totality encompassing civil, political as well as economic, social and cultural rights. Therefore, NHRC

initiated the preparation of this report in order to help develop a systematic reporting system for the country with a strong human rights perspective.

1.2 Objectives of the Report

The core objective of this report is to analyze the trends of trafficking in person in Nepal and deal with initiatives to combat trafficking for empowering women and children with a strong human rights perspective.

The specific objectives are to

- assess the general situation and emerging trends of the status of trafficking in Nepal;
- review national laws, plans and policies against trafficking in human beings in line with human rights endowed in the Constitution of Nepal and the International Conventions to which Nepal is a party;
- analyze the initiatives of GOs, NGOs and donors/INGOs to combat trafficking in human beings;
- examine the linkages between conflict and trafficking; and
- discuss the role of media in addressing the problem of trafficking.

1.3 Methodology

The report is based on both secondary and primary sources of information. Varieties of techniques were used to gather secondary and primary data. The approaches such as interview/consultation, Focus Group Discussion (FGD) and workshops were adopted to assess the problems on trafficking in greater detail as a primary source of information.

1.3.1 Secondary Source of Information

Secondary sources of information were used to supplement the primary source of

information and develop guidelines for the report. Literature on trafficking in person was collected for review from the concerned Ministries, NGOs, INGOs, NHRC, and donor agencies working actively for combating trafficking. Special attention was given to issues related to trafficking in women and children. In addition, documents received from international development partners and institutions working in media sector were also reviewed. Published and unpublished studies and reports on trafficking in person, apart from books and articles published in leading newspapers and information from Internet browsing were also reviewed. Additionally, the reports covering trafficking issues in important electronic and print media were also analyzed.

1.3.2 Primary Source of Information

The information obtained from primary source materials formed the basic data of the report. To get factual information for the report, tools and techniques as questionnaire, Interviews/consultations, FGDs and workshops were also used.

1.3.2.1 Interviews/Consultations

The government line ministries and selected resource persons/experts working in the area of human rights and trafficking were interviewed and consulted. For this, a list was prepared of relevant organizations and resource persons/experts having expertise in this field. An effort was made to collect information from these people on all such aspects as current trends, implementation of policies, plans and programme, armed/internal conflict and trafficking and case studies.

1.3.2.2 Focus Group Discussion (FGD)

- FGDs were organized with the members of District Task Force against Trafficking (DTF) at Biratnagar and Nepalgunj and necessary information in regard to the report was collected. One of the basic objectives of

arranging the FGDs was to gather factual input and cross-reference on different aspects of trafficking in person. In the FGDs, information was collected from the discussants with the help of certain prepared guidelines such as the estimate of the number of IDPs in the region due to conflict, impact of conflict on cross border movement of people per day, impact of conflict on social, economic and political life of people concerned, recent trends in trafficking in cabin and dance restaurants and *dohori*.

1.3.2.3 Regional Workshops

Regional Workshop on National Initiatives against Trafficking in Human Beings and its Challenges were conducted in Kathmandu, Pokhara, Biratnagar and Nepalgunj with participation of Women Development Officers (WDOs) and representatives from human rights groups, NGOs and INGOs working in respective districts of five development regions of Nepal. Information and experiences shared with participants proved quite useful, especially with regard to the implementation aspect of anti-trafficking. The workshops, *inter alias*, largely helped to find out the strengths and gaps in the implementation of national laws, plans and policies to address the problems of human trafficking.

1.4 Data Processing

Raw data collected from the secondary sources on trafficking were thoroughly reviewed and analyzed. Besides, information collected in the field through interviews and consultations, FGDs and workshops were tabulated, compiled and processed for interpretation.

1.5 Draft Report

The draft report was prepared by including methodology and detailed analysis of the general situation, emerging trends, laws,

policies and plans, initiatives, linkages between armed/internal conflict and trafficking and media coverage on human trafficking. Strengths and weaknesses of initiatives were analyzed. Besides, important case studies were presented. Some useful recommendations were also formulated for controlling trafficking in such a way that stakeholders could effectively implement them.

The draft report was submitted to the core committee for comments and suggestions for its improvement. It was also presented to the consultation meeting for comments from the core group members, technical committee members and experts for further comments and suggestions. In addition, specific parts of the draft report were presented and discussed at Social Welfare Council, Ministry of Women, Children and Social Welfare (MoWCSW) and at NHRC with a view to upgrade the factual quality of the report.

1.6 Final Report

The comments and suggestions made by the core committee members and also by the experts of the consultation meeting and other groups on the draft report were duly taken into consideration for finalizing the report.

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1.7 Core Committee on National Report

A core committee was formed at ONRT/NHRC consisting of representatives of the government and non-governmental organizations with the objective of promoting participatory approach for ownership, accountability and transparency in preparing the national report. The committee members were expected to facilitate networking for collection of necessary data, aside from supporting activities related to formulation of priority issues and providing comments and suggestions on the draft report for its improvement (Annex 1).

1.8 Limitations

- As the trafficking in human being is clandestine in nature and there is a lack of reliable quantitative information regarding the definite number of the trafficked persons, this report relied on secondary data.
- Difficulty was also faced in collecting information in time from different organizations and alliances working for combating trafficking.

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General Situation of Trafficking in Person in Nepal

2.1 Historical Perspective

Nepal with its historically feudal system of socio-cultural and religious practices provides a favourable breeding ground for trafficking in person, especially of women and children. However, there is no authentic information available about the historical period when human trafficking began in Nepal (Ghimire, 1997). Certain reference of trafficking in girls and women has been traced back to Lichhvi, Malla and Rana period. The British imperialism is also at the root of trafficking in the Indian sub-continent. Besides, the Tibetan merchants were held responsible for promoting trafficking in Nepal as they recruited Nepalese young women to serve in brothels run by the Tibetans (Thapaliya, 2005). Further, during these periods, the existence of slavery system and practices of *Badi* and *Deuki* system in Nepal provides exemplary evidence of trafficking in person.

Under the Rana regime (1847-1951), trafficking in girls and women thrived because of its promotion by then ruling elites. During this period, young mountain girls from Sindhupalchowk and Nuwakot, used to be offered to Rana palaces to serve as maids, concubines, dancers and singers. Studies show that most of these women and girls were from Tamang community.

King Surendra Bikram Shah promulgated the first written law called the country code "Muluki Ain" in 1853 Bikram Sambat (BC) with a view to banning the sale of girls in certain communities (Shakya, 1999). Chandra Shamsher abolished slavery system in 1981 BC. Even after the abolition of slavery system, bringing of girls (*ketis*) to the palace from mountain districts continued. In addition,

the trafficking continued with the prevalence of *Deuki*, *Jhuma* and *Badi* system.

Trafficking was confined to the Rana palaces till the inception of democracy in 1951 AD. It then cut across the national boundary. Many of the Ranas who left Nepal after 1951 AD took with them maidservants, kept women and concubines as slaves for their luxury and sexual pleasure. But the declining economic status of the Ranas living in India did not allow them to absolve all these women in their exile life. Lives of these kept women and concubines became unsecured in India. Subsequently, they were compelled to work as sex workers outside the domain of the Ranas for the sake of their livelihood and economic security (http://www.asmita.org.np/Trafficking/cha-pter_1.htm). There are reports that some of these women were even sold by the Ranas to brothels in cities like Mumbai and Kolkata for prostitution after they grew older. Some of these women opened their own brothels in those cities and started to recruit women and girls from the areas of their origins (KC et al., 2001).

The trafficking in women and girls continued to grow in the Panchayat period (1960-1990 AC) as well, because of the continued feudalistic approach to development while still marginalizing the socio-cultural and economic status of the people at the grass roots level. Aside from the organized gangs of traffickers, parents and close relatives were also involved in the trafficking of their daughters and relatives to the brothels of India in the hope of improving their socio-economic status. Many vulnerable women and girls were given the false impression that life in India was glamorous. For many of these

people, Mumbai was like a heaven. All such activities had its demonstration effect in the neighbouring districts of Dhading, Makwanpur. Many girls and women were trafficked to India, including in metropolitan cities like Mumbai, Delhi and Kolkata. In addition, internal trafficking also increased in different urban centres of Nepal including Kathmandu, Nepalgunj, Bhairahawa, Janakpur and Biratnagar and along bus routes of East-West and other highways in Tarai and in the hills. During this period, some NGOs started to raise awareness programme against trafficking in the affected areas. Besides, as a mark of stringent measure to punish the traffickers, the *Jieu Masne Bechne Karya (Niyantran) garne Ain*, 2043 BC was introduced and provision was made for the accused to produce evidence in the court for one's acquaintance.

The restoration of multi-party democracy in Nepal in 1990 AD increased the aspiration of the Nepalese people for better life. People living in rural areas of Nepal were soon attracted to urban areas, especially in the Kathmandu Valley and Tarai towns. This increased the vulnerability of women and girls in the hands of traffickers. However, Nepal's Constitution, 2047, Article 20 (1) prohibited human trafficking and made such acts punishable by law. With this instrument in mind, many NGOs, INGOs, donors and multilateral agencies launched and supported the awareness and advocacy programme in trafficking prone districts. Some of the NGOs fought against traffickers vigorously also because of growing threat of HIV/AIDS transmission across the trafficking prone districts. Even though some changes in the knowledge, attitude and practices regarding human trafficking were visible, the organized networking of traffickers changed their strategy by discovering new routes and methods to avoid vigilance from the side of the police, I/NGOs and other agencies. In addition, the availability of foreign

labour market also increased the possibility of trafficking due to nexus between trafficking and migration. The internal conflict, which began in 1996, gave severe blow to some of these efforts made by INGOs and other agencies towards curbing trafficking as their access to the affected areas was largely denied. Besides, the number of Internally Displaced Persons (IDPs) also increased due to conflict in all the districts; traffickers took advantage of the displaced and vulnerable population. More than a decade of the conflict spread the trafficking zone far and wide of the country and abroad by cutting across caste, ethnic and national boundary.

Key elements of trafficking include such factors as threat or the use of violence or other forms of coercion, of abduction, of fraud or deception. Thus, trafficking for sex work is only one of its several dimensions. Sex work is one of the several goals for which a person is trafficked. Apart from sex work, trafficking might result into other forms of exploitative labour such as bonded labour, domestic servitude and organ trade. The major concern behind trafficking in person is the gross violation and serious abuse of human rights leading to a serious crime against human dignity. With these perspectives, in the recent years, different agencies have attempted to present comprehensive definition of trafficking going beyond the limit of sex work and treating the issue as a violation of human rights pertaining to civil, political, economic, social and cultural rights.

2.2 International Instruments

2.2.1 The UN General Assembly, 1994

It defined trafficking as the *illicit and clandestine movements of persons across national borders, largely from developing countries and some countries with economies in transition, with the end goal of forcing women and girls into sexually or*

economically oppressive and exploitative situations for the profit of recruiters, traffickers, and crime syndicates, as well as other illegal clandestine employment and false adoption.

2.2.2 United Nations Convention Against Transnational Crime, Article 3

It defined trafficking in persons as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, or deception, of the abuse of power or of a 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 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 or organs.

2.2.3 European Parliament

It defined trafficking as an illegal action of someone who directly encourages a citizen from a third country or stays in another country in order to exploit that person by using deceit or any other form of coercion by abusing that person's vulnerable situation or administrative status.

2.2.4 Global Alliance against Trafficking in Women (GAATW)

It defined trafficking encompassing all acts and attempted acts involved in the recruitment, transportation within or across borders, purchase, sale, transfer, receipt or harboring of a person involving the use of deception, coercion (including the use or threat of force or the abuse of authority), or debt bondage for the purpose of placing or holding such a person, whether for pay or not, in involuntary servitude (domestic, sexual, or reproductive), in forced or bonded labor,

or slavery-like conditions, in a community other than the one in which such a person lived at the time of the original deception, coercion, or debt bondage.

2.2.5 SAARC Convention

The SAARC Convention defined trafficking as moving, selling, or buying of women and children for prostitution within and outside the country for monetary or other considerations with or without the consent of the person subjected to trafficking.

2.2.6 US Department of State

Trafficking and Violence Protection Act (TVPA) of the US Department of State defines the severe forms of trafficking as (a) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or (b) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

2.2.7 RETA

RETA defines trafficking in persons as recruitment, transportation, purchase, sale, transfer, harboring or receipt of persons: by threat or use of violence, abduction, force, fraud, deception or coercion (including the abuse of authority), or debt bondage for the purpose of placing or holding such person(s), whether for pay or not, in forced labor or slavery-like practices, in a community other than the one in which such person lived at the time of the original act described.

2.2.8 Proposed Definition of Trafficking in the Nepalese Context-NHRC¹

The proposed definition of trafficking in the Nepalese context by the NHRC 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 a 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 or organs, adoption, or other illegal*

2.3 Present Status of Trafficking in Person

Currently, trafficking in women and children is prevalent in all geographical regions of the country. However, MoWCSW has identified 26 districts in five development regions of Nepal as trafficking prone districts. Statistical data on trafficked person are widely varied.

¹ In line with the objective of the ONRT to bring conceptual clarity on trafficking in person, the ONRT organized one day consultation meeting in 2004 with the participation of concerned GOs, NGOs, experts, and development partners and proposed draft definition on trafficking. According to the recommendation of consultation meeting, technical committee consisting of four experts was formed. With technical inputs of experts of technical committee, the draft definition was finalized by NHRC and then recommended to Nepal Government for adoption.

ILO report (KC et al., 2001) shows that it might be as high as 12,000 girls below 18 years being trafficked per annum for the purpose of sexual exploitation. The number of Nepalese girls trafficked was also estimated as high as 200,000 residing in the Indian brothels (Maiti Nepal, nd). Studies on women and girls show that 72 per cent of girls when trafficked were below the age of 18 years. The more vulnerable age groups for the girls are 11-18 years (75.6%) followed by age groups of 19-25 (18.3%) years (IIDS and UNIFEM, 2004). The vulnerable age group for the boys is 6-12 years (80%) followed by 12-18 years old (20%) (ILO/WOREC, 2002).

Trafficking in person has affected all caste and ethnic groups in Nepal including Brahmin, Chhetri, Tharu, Chaudhary, and other occupational caste (IIDS and UNIFEM, 2004). An unpublished report by NHRC showed that among the trafficked, Chhetri constituted 27 per cent followed by Tamang (18%), Gurung/Lama (11%), Rai (10%), Newar (9.5%) and (9.5%). Brahmin constituted only 7 per cent and the rest 8.5 per cent represented Damai, Tharu and Ranjbanshi.

Majority of women and children from Nepal have been annually trafficked to India (O'Dea, 1993). There has been perceptible change in the nature of trafficking as well. Previously, women and children were major victims of trafficking but now men are also becoming vulnerable due to increasing attraction and demand for foreign labour.

Initially, India used to be the only country of destination for trafficking; whereas now the Nepalese women and children are also trafficked to countries like Bangladesh, Malaysia, Kuwait, Qatar, Dubai, Korea, Thailand and Hong Kong. In India, the mega cities like Mumbai, Delhi, Calcutta and Patna are the main destinations of trafficked women and children.

2.3.1 Internal Trafficking

The magnitude of internal trafficking proliferates from rural to semi-urban and urban centres and semi-urban to urban areas. Various reports indicate that there is an increasing trend of women and children migrating from rural areas of Nepal to urban areas for better economic opportunity. Internal conflict has also added up the number of people leaving their homes and migrating to semi-urban and urban areas for security reasons caused by the internal conflict also increased. Major destinations of these people are Kathmandu, Birgunj, Pokhara, Biratnagar, Dharan, Hetauda, Nepalgunj, Bhairahawa and other urban areas. Some rough estimates carried out some eight years ago claimed that nearly 10,652 children worked as domestic workers in Kathmandu municipality alone; whereas 30,000 children worked in hotels and restaurants in the country, 2,500 were engaged in brick factories and nearly 3,000 children worked in carpet and garment factories (Acharya, 1998). These numbers must have been much greater now due to increasing displacement of population due to internal political conflict.

The socio-cultural and religious practices in Nepal also favour the possibility of internal trafficking. By tradition, the *Badi* women of western Nepal make their living by singing and dancing for the local rich people. The *Badis* are confined to districts including Dang, Salyan, Rukum, Pyuthan, Banke, Kailali, Bardiya, Surkhet and Dailekh. The religious practices like *Deuki* and *Jhuma* tradition sacrifice divine girls in the name of gods. They have to live in temples on their own and are not allowed to marry.

Because of the *Jamindari* (landlord) system in the agricultural sector in Nepal, the system of *Kamaiya* and *Kamalaria*, a kind of bonded labour is prevalent. The Tharu community living in five districts of mid and far western Nepal, including in

Dang, Banke, Bardiya, Kailali and Kanchanpur are badly affected by this system. *Kamaiya* households in these districts account for 20,000 of which there are 57,000 children between the age group 5-18 years (Sharma et al., 2001). In this region, each of the *Kamaiya* households has to surrender one or more than one children to work for landlords. Studies showed that 72.5 per cent of the households surrendering children as child labourers are virtually landless and paupers and are not in a position to support them because of low pay, excessive hours of work and lack of alternative source of income (Sharma, 2001). The situation is so precarious that loans are collected by their parents and use their minors as collateral. In return for their services and also for child labour, a *Kamaiya* household on an average receives Rs. 1,000 to Rs. 2,000 (US \$ 13 to 26) annually, which is too small to scratch a living. However, Nepal Government declared *Kamaiya* debt-bondage system abolished on July 17, 2000 and made it illegal to employ people as bonded labourers. The impact of the abolition of debt-bondage system on the life of the *Kamaiya* is almost non-existent and the *Kamaiyas* are living exploitative lives (Jha, 2004).

Of the 1 million landless and full-time wage earners/labourers in Nepal, 30 per cent are *haliyas/haruwas* or bonded labourers (Sharma, 2002). These *haliyas/haruwas* receive certain amount of credit, aside from leased cultivable land on sharecropping pattern basis for ploughing and/or performing farm activities. The minors of these *haliyas/haruwas* are made to work as animal herders for the farmers who are called *charuwas*. Even the wife of a *hailya/haruwa* is made to support agricultural activities and domestic chores of the farmers for the loan that they have borrowed.

Cabin/dance/dohari restaurants and massage parlours are another also

providing employment to the rural girls and women who come to the city centre in search of employment. Economic hardship is the main reason for starting to work (NHRC/ONRT, 2005). Lack of other employment opportunities was reported as the main reason for deciding to take-up the current job despite adverse working environment, especially for girls. The employees are exploited, under-paid and have to work for long hours than what is specified by the law. Most of them are not compensated for working extra hours. Their job is not secure since these establishments do not enter into job contract with the employees and do not maintain any record at all. These employees, therefore, are highly vulnerable to further exploitation by the owner/manager regarding recruitment, continuation or dismissal from the job. The study further revealed that, irrespective of their age, girls and young women working in these establishments were subjected to sexual exploitation and harassment especially by the restaurant guests. Though they did not admit to involving in commercial sex, the general environment of these restaurants (especially cabin and dance) is such that sooner or later these girls and young women would be involved in such activities.

Badi, Deukis, and Jhumas, with no possibility of family life may end up in trafficking. Similarly, *kamaiya, kamalaria, haruwas, charuwas* and other bonded labourers may be trafficked with a lure of better job opportunities. The girls and women in cabin/dance/dohari restaurants and employees of carpet and garment factories have become profitable areas for traffickers to pick up vulnerable population for trafficking.

The internal conflict started in the country since 1996 has raised the new issue of conscription i.e., use of children in the armed force. The government and the Maoist both have denied the use of

children to serve in their respective army. Even though Nepal government restricts to recruit children below 18 years in the armed force, there is an evidence of use of children for message carrier, spy and porters (Child Soldiers Global Report 2004). South Asia Intelligence in Nepal: Arming the Children, 2004 reported that children below 18 years constituted 30 per cent of militants in the Maoist insurgency. According to Amnesty International, some local commanders have reported of using children as porters and domestic workers, though they denied the use of children in war. The use of children in the internal conflict has created new group of vulnerable children for trafficking. The eye witness and the media news coverage reveal that a substantial number of children cross the border to work in Indian cities as child workers with the possibility of being trafficked.

2.3.2 Trafficking to India and Other Countries

Cross border trafficking is one of the major problems caused primarily by extensive 1,800 Kilometers of open border between Nepal and India and also due to the long history of migration of Nepalese to India for employment. In recent years, however, the conflict compounded by the deteriorating economic condition of the rural areas has been fuelling the trafficking in person not only to India but also to other countries.

Available data on the interception by Maiti Nepal during 1997-2000 showed that there had been an increase in cross-border trafficking to India. While the number of persons intercepted at the border was 58 in 1997, 150 in 1999 and 359 in 2001. But most of these interceptions were held only at important border points. Pashupati Nagar (Ilam), Kakarbhitta (Jhapa), Biratnagar (Morang), Bhandabari (Saptari), Birgunj (Parsa), Bhairahawa (Rupandehi), Nepalgunj (Banke) and Mahendra Nagar (Kanchanpur) are regarded as important

exit/entry points along the Nepal-India border for trafficking (MoWCSW, no date). But there are other minor border points as well, which are not patrolled.

There are reports of alarming number of Nepalese crossing border into India. United Nations High Commissioner for Refugees (UNHCR) reported that the number of people crossing the border to India was reported to have soared up to 2,000 each day since January 2003 (<http://www.ipsnews.co.th/writingpeace/features/nepal.html>).

Since most of these people have no assured source of livelihood, it is likely that they might easily become the victims of trafficking in various forms ranging from sexual exploitation to domestic work,

circus work, and child labour in hotels and restaurants.

Over 300,000 Nepalese women and girls have been in Indian brothels. ASMITA, however, reported the total number of sex workers in India as 25,000 (ASMITA, 1998). Selling a woman/girl to a brothel on an average fetches IRs. 25,000 to IRs. 30,000 (Rajbhandari, 1993). But some recent survey shows that the price of selling a woman has gone up to IRs. 75,000 (Himal, 2005). Most of the women and children trafficked to India are lured with promises of good jobs or marriage. There is a high demand of Nepalese women and girls aged between 15 and 30 years in Indian brothels and with this the trafficking cases have grown (Box 2.1).

Box 2.1: An Innocent Victim of Trafficking and Sex Abuse

For millions of people in India, Bombay is a city of dreams. They are attracted to Bombay for several reasons, and dream of linking their future with this illusive land. The city's fame and appeal is not only inland, but stretches across the border as well. There are many people in Nepal, too, who dream of making it to Bombay at least once in their life. Among them are Maya and Parvati for whom the city seemed a promised land of prosperity, a heavenly escape from their hard life at home. But it was before their dreams came true that these dreams were quickly and easily shattered. The horror stories of the shadier side of Bombay apparently have not yet reached as far as wide as its glittering success.

Every year, thousands of innocent girls are trafficked into India for sex work, but only a very few of them come back, that too with broken hearts and minds. Those who are fortunate to come back to the country are either rescued by police or social workers or runaways or deported by the brothels or authority after they are identified as the HIV/AIDS patients.

There are thousands of young girls who are working as sex slaves in the red light areas of Bombay, Calcutta, Delhi, Patna, Bararas, Lucknow, Muzaffarpur, Ranchi and other cities of India. Most of these girls want to be free from this sort of servitude condition and want to come back home. Unfortunately, they can't.

This time, about 130 rescued girls from the red light areas in Bombay got a wonderful opportunity to come back home with the help of the Government of Maharashtra and Nepali social organizations fighting against trafficking in women and children. These girls are being accommodated with different centres run by ABC-Nepal, CWIN, WOREC, Maiti Nepal, Shanti Punarsthapana Griha, Nawajyoti Kendra and Stri Shakti. They are receiving a very warm treatment in these centres run by the local social organizations where they feel themselves very homely.

Unfortunately, Maya and Parvati who were the similar victims of trafficking and child sex abuse did not get such an opportunity to be relieved from the pains and plights of the life of the forced prostitutes. Maya, however, had got a chance to come back home after some years of sex slavery, but her end was so near, painful and tragic. Nobody knows whether Parvati is living or dead.

Source: Gauji Pradhan. 1997. Back Home from Brothels. CWIN. Kathmandu

Of the total number of women and children in Mumbai brothels, 75 per cent are unmarried, 20 per cent married and the remaining 5 per cent are girls below the age of 15 years (Rajbhandari, no date).

The Indian circuses mostly employ Nepalese children for their attractive appearances, and also due to the fact that their parents are unlikely to interfere as they are far away in another country. These girls are trafficked to India by brokers who do not only promise to pay money to their parents but also promise to provide other facilities such as schooling and remuneration to the girls. Certain Nepalese parents usually sell their children

mostly between 6 and 10 years to circuses due to poverty, innocence and greed (Box 2.2). There are illegal agreements between the parents and the circus agents whereby the children are bought in bondage for 7 to 10 years. The circuses promise to pay a monthly stipend of Rs. 50 (about US \$ 1) to the child from the second year of his or her entry into the circuses but they are paid merely Rs. 20 per month and sometimes they get no payment against their job at all (http://www.laborrights.org/press/wt/kailash_0625.htm). Another report discloses that a circus girl was paid US \$ 6 a month against her work (<http://southasia.oneworld.net/article/view/89575/1/>

Box 2.2: Selling Daughter to Circus for 5,000 Rupees

Ram Bahadur was approached in 2002 by an agent who offered the equivalent of \$ 2 per day- double what most families earn in their village at Makawanpur, Nepal – if their daughter went to work in the circus. “We were given 5,000 rupees- equivalent to \$ 110 – in advance in 2002, and promised that after one year, they would send 3,000 rupees a month, but this never reached us.

Source: (http://www.laborrights.org/press/wt/kailash_0625.htm)

Estimates are that about 1,000 Nepalese girls work in 30 to 40 Indian circuses performing risky jobs against their wishes. These minors are enslaved, tortured mentally and physically and even raped by the owners of the circuses (Box 2.3). It is

also revealed that circus girls are offered for sexual entertainment of powerful local people and officials. Quite often the parents of the circus girls are ignorant of this inhuman behaviour.

Box 2.3: Rape at Circus

The 13-year-old girl [Meena] who had been with the circus for about two years told police: “I can not remember how many times I was raped by the two men in the past year. After our performances in three shows were over, around the middle of night some of us used to be called to the tents of the owners and managers where we were raped...In the beginning we cried and were too frightened to protest. Also we had no way to escape and so gradually we got used to it. We were given pills to avert pregnancy.

Source: http://www.laborrights.org/press/wt/kailash_0625.htm

In the process of trafficking, recruitment usually takes place at the village level itself. Intermediaries and final recipients play major roles in trafficking. However, there are no fixed routes and modes of transportation to traffic women and children from the place of their origin to destination. Since there are so many cross border points along the open border

between Nepal and India that the organized networks of traffickers take advantage from this fluid situation and constantly change their routes and cross such border points that are not patrolled. There are reports that many actors are involved in the trafficking business from the stage of recruitment and procurement of women and children to transportation

within and across the country. Different studies have shown that various actors indulging in trafficking are parents, husband, family members, close and distant relatives, friends and neighbours, school teachers, villagers, tourists, travel agents, employment agents, bar madams, female brothel keepers, local women recruiters, pimps, clients of women in prostitution, corrupt law enforcement officials and crime syndicates (IIDS and UNIFEM, 2004).

Of the total women and girls trafficked from Nepal, 90 per cent are destined to India and the remaining 10 per cent to other countries (Sharma, 2001). However, most of these statistics are based on assumptions and it is difficult to verify them on account of the underground nature of the business of trafficking in person. Available reports show that Nepalese women and girls are not only trafficked to India but also to Hong Kong, Thailand, Malaysia, the Middle East and the Gulf countries including Kuwait and Saudi Arabia.

2.4 Factors Affecting Trafficking

Various geo-physical, socio-cultural, economic and political factors play roles in promoting trafficking in person in Nepal. The difficult terrains have made people's lives in the mountain and hills difficult already. This is compounded by the absence of any gainful employment. Low socio-economic status of women and girls in the society, gender discrimination, domestic violence, illiteracy and unawareness, early marriage, religious practices, changing life style and social and cultural norms such as dowry/*tilak* and marriage payment to bride are the major social-cultural factors responsible for trafficking in person in Nepal. In addition, poverty, household activities, lack of job opportunities, increased access to transport and communication system, sex tourism, consumerism and attraction to easy money

have attracted women and children for trafficking for sexual and other exploitative activities. Similarly, the lack of political commitment to address the issue of trafficking in person, patronage to traffickers by forces close to power centres, internal conflict and the lack of effective legal mechanism to address the trafficking cases are some of the important political/ administrative factors for the growth of trafficking in person in Nepal.

2.5 Open and Uncontrolled Border

Some NGOs have opened vigilance cells right at the border check points to control the cases of trafficking. But it is found that the traffickers hardly take trafficked persons through such points. Since the border is open, such persons are usually trafficked and made to cross the border through border points having no vigilance. In case of Nepalgunj, both Maiti Nepal and SAATHI have their vigilance cells at Nepalgunj-Rupaidiha border point but the persons are made to cross the border through such other border points on bicycles where there is no vigilance. Such persons are taken to Nanpara, the nearest railway station, and from there they are trafficked to other parts of India. Similarly, there is a vigilance cell right at Biratnagar-Jogbani border point but the traffickers rarely take the persons through this point. In most of the cases, they are made to cross the border through such other routes which lack vigilance.

There is paucity of information on cross border trafficking from Nepal. Available data on the interception by Maiti Nepal during 1997-2000 shows that there has been an increase in cross-border trafficking. While the number persons intercepted at the border was 58 in 1997, it increased to 150 in 1999 and 359 in 2001. But most of these interceptions were held only at important border points. Pashupati Nagar (Ilam), Kakarbhitta (Jhapa), Biratnagar (Morang), Bhandari (Saptari),

Birgunj (Parsa), Bhairahawa (Rupandehi), Nepalgunj (Banke) and Mahendra Nagar (Kanchanpur) are regarded as important exit/entry points along the Nepal-India border for trafficking (MoWCSW, no date). But there are other minor border points as well, which are not patrolled. Certain stakeholders expressed their opinion against the act of interception as this curtailed women's rights to migration (IIDS and UNIFEM. 2004).

Thousands of women and children have been sold to the Indian brothels under the conditions of virtual slavery. In Agra city of India, there is a human trading centre called *Maal-ki-bazar* where women and

girls from Bangladesh, Nepal and other cities of India are sold (Box 2.4). Studies related to trafficking survivors present different kinds of psycho-social and mental tortures committed by traffickers, pimps, brothel owners and clients to the women and children victims, that include physical, sexual and verbal abuse, forced to drink alcoholic beverages, use of drugs and medicines, abortion or forced pregnancies, beatings, burning of private parts with cigarettes, forced to serve many clients each night and gang rape. Besides, they are also exposed to arbitrary imprisonment and exposure to serious health risks like STIs and HIV/AIDS.

Box 2.4: Maal-ki-bazaar

In the heart of Agra city, India, there is a famous open bazaar known as Kashmiri bazaar. One can find good Kashmiri woolen shawls, clothes, and shoes in this bazaar. After 3 o'clock in the evening this bazaar becomes a human trading centre. Then this is known as Maal-ki-bazaar, where women and young girls are sold. This human trading goes on till 5 o'clock. Women from Bangladesh, Nepal and other cities from India are sold here. Women and girls sitting on the ground keep their thumbs upward to indicate that they are for sale. One cannot see their face as they cover it. The women do not have any way to run away as the *Dalals* keep an eye. The police are aware of this market, but no action is taken against it. It is said that police take money. Underage girls are rarely found in brothels because the pimps and owners receive tip offs from police about impending raids.

Source: Meena Menon, "Tourism and Prostitution," *The Hindu*, 14 February, 1998 reproduced in *South Asia Policy Dialogue on Trafficking 2003*.

These trafficked women and girls are often held in debt bondage for years. They have little control over their earnings. It is virtually impossible to escape from the brothels because of constant surveillance. The Government shows little/ no initiative, however, in rescuing and rehabilitating these people. Even if the traffickers are identified, there is a lack of initiative for arrest or prosecution.

Working conditions of children at brothels, carpet factories and domestic services are at times akin to the life in jails and forced labour camps. Many of these children and also the bonded ones are denied of payment for their work (Jha, 1999).

It is important to address the problem of trafficking in children and women more

thoroughly through a human rights perspective rather than merely on a moral ground. In the human rights perspective, prosecution and protection strategies should be put in place by the government for the protection of human rights of women and children.

Under the existing criminal sanction paradigm in Nepal, it is the trafficking victim rather than the trafficker who is repressed and suppressed despite the existence of legal thrust for empowering the trafficked person by promoting human rights in all forms of anti-trafficking activities. As a mark of preventive measures, priority needs to be given to prevention of deception, coercion and violence against trafficked persons. Similarly, under the interventionist

measures, thrust should be given to activities like rescue, rehabilitation and deportation and attempt might be made to see that the victims are not denied of their basic human rights in either in the countries of origin or destination (IIDS and UNIFEM, 2004). However, the ineffective legislation system and lack of cross-border agreements with India are major hurdles in controlling human trafficking from Nepal.

2.6 Emerging Issues

2.6.1 Urbanization

Over the span of 40 years, the country recorded growth of urban population from 3.6 per cent in 1961 to 14.2 per cent in 2001 (Census, 2001). Since services and opportunities are there to earn income in urban areas, people living in rural, remote and deprived areas have a tendency to migrate towards the city. Poverty, lack of opportunities for education and insufficient village-level income generating opportunities are the major pull factors for the person to move towards urban centres. Gender discrimination, dysfunctional family and the attraction to the bright life in the urban areas encourage women to migrate to the urban areas in search of work. Since employment opportunities in urban centres are also not easy, there is every possibility of being unemployed, and become an easy prey of traffickers. The traffickers create a dream of good income by assuring employment opportunities in the sectors like carpet factories, garments and entertainment sectors. The mushrooming of cabin restaurants, massage parlours in the urban centres such as Kathmandu, Pokhara, Dharan, Biratnagar, Janakpur, Birgunj, Bhairahawa and Nepalgunj have created job opportunities on the one hand and possibility of being trafficked on the other hand.

In the Regional Workshop on Building Reporting System on Activities against

Trafficking held in Pokhara on June 9 and 10, 2005, many of the delegates participating from different districts of Western Development Region of Nepal expressed their concern about the way trafficking of women and children has increased in the district headquarters and urban centres of the country in recent years. The delegate anticipated that at least one restaurant is opened each week in Pokhara. These restaurants employ mostly displaced women and girls with exploitation in wage and work as well as sexual exploitation (ONRT/NHRC, 2005).

2.6.2 Migration

Migration is a basic human right. There are twenty basic rights that are universally applicable to migrant workers (Box 2.5).

External migration of the Nepali population started during the time of British East India Company. There are reports that the Anglo-Nepalese Peace Treaty of 1816 authorized the British Government to establish three regiments of Gurkha soldiers from Nepal in India. Additionally, the Nepalese were also taken to Darjeeling as labourers in British Tea Plantations for their ability to work at high altitudes. Later on, the Nepalese migrated to countries like Bhutan, Hong Kong and UK to work in agricultural fields or as soldiers in Gurkha army.

As many as 198,130 persons or 2.3 per cent of Nepal's total population migrated from the country according the 1952/54 census, which swelled up significantly to 762,181 or 3.4 per cent of the total population of Nepal in 2001 (Panta, 2004). In recent years, there has been a massive recruitment of the Nepalese people to Middle East, the Gulf countries, Malaysia and South Korea. Currently, foreign employment opportunity seems to have attracted also the females. Because of the remittance sent by the Nepalese from abroad, Nepal has received about 69 billion rupees from foreign employment

each year (Panta, 2004). The budget speech of the fiscal year 2004/05 states that the contribution of remittance to Gross Domestic Product (GDP) accounts for 8

per cent. It merely shows remittance from foreign employment has become an important component to calculate GDP in Nepal.

Box 2.5: Basic Rights

1. Right to leave any State, including a migrant worker's State of origin and employment;
2. Right to livelihood and access to economic resources and opportunities in State of origin and employment
3. Right to work
4. Right to fair, just and humane working conditions
5. Right to fair and equal treatment in the workplace
6. Right to rest and leisure, to engage in recreational activities and to participate freely in cultural life
7. Right to mobility within the State of employment
8. Right to be protected from cruel, inhuman or degrading treatment or punishment
9. Right to be protected from discrimination and exploitation.
10. Right to life, including access to urgent medical care and protection from physical or other abuse.
11. Right to freedom of association and peaceful assembly, including the right to form associations and unions in the State of employment to protect migrant worker's economic, social, cultural and other interests.
12. Right to participate in public affairs of their State of origin, including voting.
13. Right to be consulted on policies affecting migrant workers in their States of origin and employment.
14. Right to personal and professional development, including the right of access to educational and social services in the State of origin and employment
15. Right to recognition everywhere as a person before the law
16. Right to protect, preserve and maintain the unity of the family.
17. Right to sexual reproduction including maternity protection and reproductive choice, and to sexual preference.
18. Right to freedom of thought, conscience and religion
19. Right to preserve cultural identities and roots
20. Right to liberty and security of person

Source: Asian Migrant Yearbook 2000 as reproduced in *Perceptions of Grassroots People about Human Trafficking, Migration and HIV/AIDS*.

The monthly report of the Department of Labour and Employment Promotion (DoLEP), recorded 122,074 Nepalese who left Nepal for overseas employment between mid-July 2004 and mid-June 2005. It was 28 per cent (95,314 persons) increase from the period in the previous year (*The Kathmandu Post*, 2005). Some countrywide employment figures reveal that during the same one year period assessed, the number of people leaving for Malaysia increased from 39,636 to 58,350, while the number of people leaving for Qatar increased from 24,077 to 37,259.

There has also been internal migration of population from the hills to Tarai and urban areas. In 1981, it was reported that 8.5 per cent of the population migrated

from the hills and mountains to Tarai and urban areas (Panta, 2004).

During the FGD in Morang, dated 11th July 2005, it was reported that some 70-110 people obtained passports in a single day from the District Administration Office (DAO). Of those taking passports, 15 to 20 per cent were women. In Bardiya, 50 per cent of the persons taking passports from DAO were women. Women are highly demanded to work as caretakers and domestic helpers. Seddon and Gurung (2000) reported that women contributed 11 per cent of the total remittance of US \$ 932,432,432 in Nepal.

Exclusion of women from the public sphere, gender discrimination and poverty make them highly vulnerable to be

exploited in low-paying work by the owners. The disintegration of the traditional rural economy, shrinking employment opportunities, skewed land distribution, insecurity of food and livelihood have obliged women and marginalized groups to seek gainful employment. Under the existing situation, these people have a tendency to look for jobs beyond the countries of their origin.

Migration is a legal process to move from one place to another; however it may lead to smuggling and trafficking of person. In smuggling, the migrant population would agree to move illegally, whereas in trafficking, coercion is used without consent of the trafficked person. However, the common component of migration, smuggling and trafficking are movement of persons from one place to another to earn money by whatever means by using more or less of the same route in general.

Therefore, migration, if unsafe, places migrants in highly vulnerable position which may lead to exploitation and trafficking. However, the every exploited migrant may not be trafficked in the sense that trafficked persons do not have consent of physical movement. The decisive factors in distinguishing between the two is the – the nature of consent, and the disparity of the information made available at the start of the journey as compared to the condition they find themselves at the end of the journey. The vast majority of the trafficking episodes take place after migration in the form of coercion and deception. Coomarswamy states that trafficking is distinguished from migration by a coerced transport and coerced end practices (United Nations, 2000:9).

A recent study on labour and migration laws in Nepal indicated that laws that were enacted in the past to protect women have in fact made them more likely to migrate illegally and thus vulnerable to trafficking and exploitation. Nepalese women have

used India as transit country to migrate to foreign countries for employment to avoid the legal requirement for women to come out with permission from the male relatives to get employment in foreign countries. Section 12 of Foreign Employment Act requires permission of a guardian and by the government for women seeking employment outside the country, though this procedure is a violation of fundamental rights to equality ((Supreme Court Bulletin, 2058 B/S, Vol. 19, p.1.). However, by the verdict of Supreme Court, the permission of the guardian have been omitted to go for the employment in the formal sector.

The Census of 2001 recorded 82,712 women as being absent from home for more than six months and living abroad. Out of this absentee population of females, nearly 41 per cent did not report any reason for being absent abroad. Some of the unreported cases might have been related to trafficking (IIDS and UNIFEM, 2004). Thapaliya (2005) reported the number of missing women and girls as high as 200,000. Similarly, Human Rights Watch suspects that many of the Bhutanese women and girl refugees who were missing from the UNHCR refugee camps in Nepal might also have been trafficked (GTZ, 2004).

2.6.3 Globalization

Modernization has changed the structure of the family and it has also shattered the traditional rural households. As a result, each member in a family is likely to live separate and independent. It meant for being plugged into the labour market (Sanghera, 1999). Globalization in the recent years has produced consumerism in developed countries and has further expanded and diversified the labour market particularly for those services that require the labour of women and children. To fill this market, the Nepalese women and girls have been globally involved and are mostly in sex trade. Poverty,

unemployment and social subordination, unequal social, economic, legal and political position of women, shrinking resources like land, forest and water as well as natural calamities are major push factors responsible for the migration of Nepalese labour force to different parts of the globe. The global nature of human trafficking, especially in women and children, has necessitated the government and stakeholders to become sensitive towards this transnational crime in the process of controlling violation of human rights.

2.6.4 Refugee

The refugee problem in Nepal has also intensified trafficking. In Nepal, none of the refugees are expected to go out of the camps without due permission by the authorities but there are many cases in which the girls and women from Bhutani refugee camps in Morang and Jhapa go out and are trafficked.

2.6.5 Internal Conflict

Internal conflict between the government and the Maoist over the years has made the trafficking issue worse as the remote areas are largely cut off from the rest of the country. Women and children from these areas are vulnerable to trafficking. They are also kidnapped to join the militants. When the women and children leave their

homes to avoid conflict from the rural to urban areas and district headquarters for employment and security on account of insurgency, this has intensified the risks of human trafficking. Hence, women and children have been trapped for trafficking, sexual exploitation and kidnapping from all factions of barbarism.

2.7 Challenges

1. Enhance social awareness and formulation of effective laws to eliminate discriminatory socio-cultural practices and to empower women.
2. Effective implementation of the laws to eliminate discrimination.
3. Adopt safe migration polices and regulate the mechanism for safe migration.
4. Create employment opportunity through livelihood option in line with the Poverty Reduction Strategy Paper (PRSP) of Nepal government.
5. Devise priority based strategic plan of action to address the trafficking issue in most vulnerable target population and area.
6. Establish reporting mechanism for the authentic data base report and to monitor the activities related to combat trafficking.

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Conflict and Trafficking

3.1 Background

Conflict is the result of difference of opinion in the existing socio-economic and political system laden with suppression and exploitation. It creates an environment for structural change in the society with positive and negative impact on people's lives. The conflict has positive impact if it empowers the exploited group of the society by creating enabling environment for all forms of development. This kind of development overcomes all discriminatory practices in terms of age, sex, caste, ethnicity, religion, language and political affiliation with gender equality as the common practice. The positive impact of the conflict may be neutralized and reversed by violation of human rights, especially women and children and by criminal activities associated with all forms of violence.

Trafficking and sexual slavery are closely linked with conflict. Women and children are in extremely vulnerable conditions in the war territories as the general level of violence against women is high. During this time, the forcibly displaced women and children become the victims of impunity, lawlessness and dysfunction. The conflict create conducive environment for the trafficking of women and children through or from the conflict areas. Sometimes, the warlords thriving on the war-related economic trafficking activities like involvement in small arms and drugs often resort to activities to trafficking of women. Women often abducted by government or rebel forces are raped and succumb to forced pregnancy. Abducted women and children are often forced to work for the abductors and are victims of physical injury, psychological traumas, diseases, malnutrition and many of them

are even infected with HIV/AIDS. The study on Armed conflict and Trafficking makes the analysis on conflict and trafficking by providing the example of different war affected nations –Liberia Congo, East Timor, Sierra Leone, Colombia and Iraq. The physicians reported that in Afghanistan, vast majority of women who are abducted by rebels are taken to rebel's camps and forced to become sex slaves and perform slave labour such as cooking, washing, farm works, carrying ammunition and looted items. Rebels often choose the very young women and girls because they were assumed to be virgin, healthy and resilient. The studies reveal that in Sierra Leone, about one third of abducted women during the war reported sexual violation and 5 per cent were subjected to sexual slavery. Similarly, in post-war Afghanistan, women and girls are routinely abducted and sexually abused by soldiers from different military factions, the police and former fighters. Reports of trafficking of women within the country during the conflict include abduction for forced marriage, and sexual and domestic servitude. The over all scenario presented by the study shows that the impact of conflict on women and children indicated the total violation human rights, disempowerment and inequality towards women. In this situation, as a rescue to security and livelihood option, traffickers find a profitable scope for trafficking of women and children.

The democratic government in Nepal - 1990 with constitutional monarchy and parliamentary form of government faced the most serious challenge of people's war since 1996. The Communist Party of Nepal -Maoist (CPN-M) declared people' war- an armed struggle with an objective

to overthrow the existing political system and establish a communist republican state. Though the intensity of the people's war is concentrated more in rural Nepal, it has affected the country as a whole. The unilateral ceasefire by the Maoist in August-November 2001 and 29 January 2003 was broken and the guerilla war continued between the state and the Maoist. The villagers became the targets from both sides. They were either forced to be the front line attackers of the insurgents or the victims of the bombing of the both parties. Extra-judicial killings, disappearances and abductions by the warring factions have caused a large number of displacements of people. The most common form of torture and inhuman treatment inflicted by both sides included beatings, threats, humiliation, verbal sexual humiliation, forced incongruent acts, social isolation, tying down, rape and other forms of sexual harassment (NHRC, 2003). Both sides seriously violated the basic human rights by all means. The villagers, including women and children, were the largest victims of torture caused largely by the deteriorating security environment in the country.

These situations have created increasing number of internally displaced population causing internal and external migration associated with increased number of trafficking of women and children in Nepal.

3.2 Status of Conflict and Its Impact on Trafficking in Women and Children

Collection of data on trafficking has been difficult in the conflict situation. However, the NHRC and other similar organizations working for peace, NGOs, research institutions and the media did provide information relating to the impact of the conflict on people's socio-economic

condition and the extent of vulnerability of women and children to trafficking during the conflict.

INSEC's Human Right Report 2005 reported the number of casualty in the conflict as 12,887 people categorized into 10,106 males, 912 females, unidentified 1,869, and more than 38,191 displaced. In addition, the damage of billions of rupees worth of property and infrastructure was unaccounted for. Over 4,000 women lost their husbands. Over 600,000 people ran away to urban headquarters within the country as well as to India. The report further claimed that about 122 people were killed in landmines and more than 300 people were injured. Similarly, bomb explosions killed more than 132 persons and injured 363. These alarming situations were further aggravated by the increased number of rape, further displacement and disappearance, forced recruitment with severe violation of human rights. Consequently, agricultural production decreased by 70 per cent, several industries and enterprises were closed down due to absence of labour. Industrial production declined. Due to shrinking development budget, employment opportunities also declined.

NHRC as per its mandate from the Act 2053 BC (1996 AD) received complains and provided recommendatory action to the Government, made spot monitoring, visited prisons and carried out studies on issues of human right violations. The conflict led human rights violation especially against women and children was found to be frustrating.

Table 3.1 shows an increasing trend on violation of civil and political right in the form of disappearance, abduction, killings and tortures. The cases of violation of human rights were reported as 277, 1,178 and 1,948 in 2003, 2004 and 2005 respectively.

Table 3.1: Complaints Received in NHRC Relating to Violation of Civil, Political, Socio-economic and Cultural Rights

Complain Areas		2005	2004	2003
A	Civil and Political Rights	998	802	-
	• Killings	166	94	106
	- Security force	99	74	Not disaggregated
	- Maoist	62	20	-
	- Defense group against Maoist	5	-	-
	• Disappearance and abdication	832	708	-
	- Security Force	495	-	-
	- Insurgent	337	-	-
	• Torture and inhuman activities	142	40	46
	• Illegal imprisonment	213	32	59
	• Threat	94	-	-
	• Other	134	169	47
B	Economic, social, culture and property rights	108	27	19
	• Internal displacement	93	14	-
Total		1,948	1,178	277

Source: NHRC Annual Reports of the corresponding year's employment.

Note: Others include refugee, requesting for property, financial help, citizenship, death penalty and imprisonment in foreign counties.

Economic, social and cultural rights issues are related to education, health, employment and property rights.

3.3 Situation Created by the Conflict

The state security forces mostly pulled back to district head quarters from the remote and rural areas due to lack of logistic support. There were no political representatives at the local villages. This further aggravated the security situation in the rural areas. Development activities have almost come to a halt both in the DDCs and VDCs. Funds expected to be disbursed by these bodies on development activities are rarely used for such purpose. There is a provision for secretaries in each VDCs, but under the chaotic conditions they are compelled to stay back at district headquarters while letting the rural development works standstill. Lack of development opportunities within the district thus severely affected people's livelihood and employment opportunities.

The security environment in the rural and remote areas also worsened as the access of many GOs, I/NGOs, donor and multilateral agencies was restricted to grassroots levels, which affected the health and education system. At many places, the health posts, sub-health posts, drinking

water system and public communication services have been destroyed.

As the school and school compounds in several areas were used by both the warring factions as forts, the children felt increasingly threatened. Similarly, the disadvantaged and marginalized groups like the *Dalits* and *Janajatis* were constantly subjected to suspicion as they were thought to be supporters of the Maoists (Jha and Vienings, 2004). Mobility of the people was restricted due to regular announcements of *bundhs* which sometimes even lasted for weeks together. Food supplies in several districts were stopped because of the restriction imposed on the transportation of essential items required for the people. This made lives in the rural and remote areas harsh enough for the people to leave home for survival elsewhere.

Each section of the society was affected from the conflict irrespective of their economic status (rich vs. poor), ethnicity and social background. They were compelled to live in an environment of tension and insecurity and had to leave

their home locality in a distressed situation. Women were separated from their families during the time of conflict and the state hardly found time and resources to protect them from traffickers or rape from the unscrupulous elements. They had least access to health, education and other basic necessities of life such as food, drinking water, clothes and homes. Women succumbed to severe income insecurity because of their husbands fleeing or getting killed. They could not even involve themselves in petty trades as it was too dangerous to walk around the

village to buy products from the nearby market centres.

3.4 Displacement

The internal conflict within the country has been largely responsible for the displacement of people caused largely by the insurgents and security agencies (Box 3.1). Each day thousands of people moved across the border to India, the Gulf countries, the Middle East and different other countries of the world as the torture continued to be inflicted by the warring factions (NHRC, 2003).

Box 3.1: Youth can not stay in villages

At the moment the youth can not stay in the villages due to both the Maoist and the security forces. The Maoists have been forcefully drifting the youth and the security forces are suspicious of the youth. Given this situation many young people are leaving the villages. Migration is increasing and this migration may lead to more cases of people being trafficked. It has certainly provided a fertile ground for brokers. Even parents do not want their children to stay in the village now. Village schools are now devoid of children fearing Maoists and the security forces, since Maoists force these school children to participate in their programs. You can never say what will happen. So in these circumstances when people come offering jobs away from the village, the youth is bound to go with them.

Source: Manak, Sindhupalchowk in *Gaps Analysis on Intervention Strategies Against Trafficking in Women in Nepal*

According to UNHCR, the number of people crossing the border to India due to the conflict increased to 2,000 each day since January 2003. (<http://www.ipsnews.co.th/writingpeace/features/nepal.html>). Each day the number of persons crossing over the Nepal-India border through the Nepalgunj sector alone averaged 1,200 in November/December, 2003 (Kernot and Gurung, 2003). In previous years, it used to be between 300 and 400 (SC, 2005). There are also provocative reports that the violent conflict within the country pushed nearly 2 million Nepalese overseas to find better paid jobs (Panta, 2004).

There are reports that from Rajapur in Bardiya district alone as many as 3,500 households constituting 24,000 men, women and children from the Tharu community were forced to leave their

homes for Baharaich district in India to avoid the violence from the warring factions. Most of these people were forced to starve and live as bonded labourers (Samay, Asadh 23, 2062). Many of the households in the rural areas have become female-headed; land remained uncultivated and livestock unattended.

The chaotic situation at home compelled thousands of families to get displaced to district headquarters and urban areas for livelihood and security to their lives. Estimates in regard to the IDPs widely vary. Government estimated the number of displaced families in the country as 5,656 since 1996. Of this, about one-fourth came from Rapti Zone alone, the hot bed of the insurgency movement. But it is widely believed that this figure is too conservative as the number of IDPs is swelling. INSEC estimated the number of IDPs as 50,365;

while UNDP's estimates ranged from 150,000 to 200,000 (*The Kathmandu Post*, 2005). Force Nepal, an NGO, estimated the number of IDPs as high as 400,000 (*Annapurna Post*, 2005).

3.4.1 Displacement and Trafficking of Children

Thousands of children including girls across the country faced serious human rights violations due to the on-going conflict. Hundreds of children were injured and killed. During the first six months of 2004, 92 children were killed (*Annapurna Post*, 2005). Children were also arrested and taken away by armed forces (Save the children Norway, 2004). Thousands of them missed their education. Over 5,000 children became orphans; while 10,000 were internally displaced. Children form the bulk of the displaced population in Nepal during the conflict. Each day 500 children were forced to

migrate to India to escape the warring factions.

Amnesty International, the London-based rights watchdog, revealed that children in Nepal were killed, illegally detained, tortured, raped, abducted and recruited for military purposes. Besides, they have also been rendered disabled and are displaced along with their families (Amnesty International, 2005). It seems as if neither of the warring factions have any regards for the Convention on the Rights of the Child (CRC), which states that, "every child deprived of liberty shall be treated with humanity and in a manner which takes account of the needs of persons of his or her age." Unfortunately, these factions have been held responsible for the violation of fundamental rights of the children (<http://www.nepalnews.com.np/archive/2005/jul/jul26/news02.php>).

Box 3.2: Conflict sends Students to India

With the number of dropouts from Narbodaya Secondary School here increasing each year, there are very few students left in the school, which, only a few years back had a considerable strength.

"Total enrolment this year was less than 50 per cent compared to last year," said the principal of the school. "Students have been leaving the school in large numbers since the last three years. Moreover, talking only about grade 10, which is a prime stage in one's education, out of the 18 students who had enrolled this year, there are only 7 remaining now," he added.

The situation is the same in most schools in rural areas of Doti district. Most students, who are dropping out from schools, are not quitting education but also leaving their villages for India.

"The main reason behind this is the bloody conflict between Maoists and the government, which has left the children here with no other option than to leave their villages," said a schoolteacher, requesting anonymity.

According to students here, the Maoists force them, time and again, to join their labour camps.

"They take us to faraway places where they keep us for months and make us work for them," said a ninth-grader at Narbodaya Secondary School, who was taken twice by Maoists.

"If one has to choose between his education and his life, one will obviously go for the latter," said one of the parents, adding, "our children are at least safer in India."

Source: *The Kathmandu Post*- Saturday, July 30, 2005.

Many schools in different parts of the country, particularly in the rural and remote parts were destroyed. School compounds were used as fort by the

warring factions (WCSC, 2005). *Bundhs* (strikes) and other such problems disrupted the smooth functioning of the schools affecting the education of the boys and

girls. Besides, there has been a constant fear of abduction and disappearance of boys and girls from schools. As a result, the dropout rates in many of these schools have increased (Box 3.2).

In the Regional Workshop on "National Initiatives against Trafficking in Human Beings and its Challenges" held in Pokhara on 12-13 July, 2005 and in Nepalgunj on 19-20 July, 2005, participants reported that organized gangs operate in educational institutions like in the schools and colleges in several parts of the country to make boys and girls addicted to drugs. Once a person is addicted, it becomes far easier for the unscrupulous elements to misuse them and make them vulnerable to trafficking and other such purposes. Many of the participants of the workshops had a feeling that the use of drugs in the educational institutions has substantially increased in recent years and many took it as natural offshoot of the conflict.

The armed conflict has also increased child marriage in various parts of the country. Parents want to give their young daughters in marriage to the bridegrooms at an early age out of fear to avoid their possible abduction or disappearance by the armed people.

Displacement of the population due to conflict has aggravated the problem of child labour. Migration of the displaced children to the urban areas caused them to be engaged in some of the worst forms of child labour. Uddhab Poudel of ILO estimated the number of displaced children entering into urban areas in a year to somewhere between 10,000 and 15,000 (IRINnews.org, 2005). In FGD organized by ONRT/NHRC during the Regional Workshop on Building Reporting System on Activities against Trafficking held in Biratnagar on 12-13 July, 2005, participants pointed out that the number of child labourers in Morang district alone is 20,000. Of these almost half are in

Biratnagar. If this is the level of displacement of the children in one single year, the total number of children displaced for more than ten years of conflict might be much higher than reported.

The Norwegian Refugee Council (NRC) estimates that a substantial chunk of young children, including girls migrating to the urban or semi-urban areas live in most difficult circumstances. Many of them are helpless and have to pass their lives on the streets and are denied basic education. They are exposed to threats and are forced to work in unhygienic conditions and in hostile environment like in agriculture, manual work in carpet industries, basket making, iron and steel production, brick-making and stone quarrying. Many of them are also compelled to work as domestic helpers, hotel servants, porters and rag pickers.

In its appeal, the Amnesty International has urged Nepal Government to fulfill its commitments to protect the rights of children as given in CRC and other human rights treaties. It has also called the Maoists to end the abduction and recruitment of children and release children from its forces (nepalnews.com: July 26, 2005). An appeal was made to the rebels and the security forces to leave the children out of conflict under the "Children as Zone of Peace" (CAZOP) initiative. But both the parties violated it. Many children are reported to have been victims of abduction, interrogation, sexual abuse and physical torture by the two parties compelling the children to flee from their villages and live in exploitative conditions in urban areas (IRINnews.org, 2005).

The conflict has even made the displaced children to lose whatsoever bargaining power they had. Before the conflict, the children could venture to go back to their home if they found the working

environment as too hostile. But now they can not do that as they have no home to go back to. Children in Nepal are far below the minimum status, which has been laid down in CRC. As such, they are exposed to being trafficked.

3.4.2 Displacement and Trafficking of Women and Girls

The conflict has led to a situation in which male-headed households are fast turning into female-headed households because the male members of the households are either forced to join the conflicting forces or escaped outside to avoid forceful induction into the insurgency, or they migrated to safer places in or out of the country in search of livelihood and jobs. Most of the women, in the absence of education and skills, are abruptly thrown to face the hard realities of life without any assured source of livelihood. When they move away from their homes to urban areas and district headquarters, they virtually find no jobs in the formal sector. It is difficult for them to scratch a living even in the informal sector. They are mostly unaware of organizations that could be approached for protection and as such they find themselves vulnerable to exploitation. Then they are left with no alternative but to choose whatever jobs that is available without considering the terms and conditions imposed on them. It increases their vulnerability and consequently they get trapped by the unscrupulous elements like traffickers.

To avoid the chaotic situation at home, many girls and women particularly from the Tharu community of Dang and Deukhari, including the *Kamalari*, are now forced to leave their villages for the Indian states like Hariyana and Punjab to work on agricultural farms. Indian agents come to this district mainly in the rainy season when there is cropping and also in harvesting season of wheat in the month of March/April and take them to those states for farming activities. Each woman

workers is assured of getting Rs. 160 for a day's work. Women go to India during these farming seasons. But there are reports that many of these girls and women do not return home and they become victims in sex trade.

At the Regional Workshop on Trafficking in Nepalgunj, it was revealed by a participant how police personnel intercepted a group of 20 Tharu girls/women in Dang Deukhari district who were following two Indian agents to go to India for working in agricultural farm and made them return to their homes. Reports also show that some girls who are trafficked to India return homes after becoming pregnant and they give birth to children without a known father (Box 3.3). Since the social system among the Tharus is liberal, it is not much a problem to reintegrate the girl/woman trafficked. Because of some of these factors the Tharu girls and women who were immune from the problem of trafficking and prostitution are now getting affected and worse is the situation of those who suffer from HIV/AIDS and other STIs.

Ever since the growth of the conflict in various parts of the country, there has been a significant growth in the number of women and girls working in hotels and restaurants in most of urban centres and district headquarters of the country working as waitresses, cleaners or receptionists. The general notion prevails that most of them are subjected to physical, sexual and verbal abuses. Quite often they are teased, touched and pinched and are under constant threat of rape. In addition to conflict, such factors as poverty, lack of education and employment in villages, dislike of husband and family and the visions for a better life force them to join hotels and restaurants. From the outside it looks that most of the women and children working in hotels and restaurants perform their jobs with their own will but in fact most of them are

compelled by the internal conflict and the circumstances around them. The hotels and restaurants, including the cabin restaurants, have also turned into new “contact centres” for traffickers of women and girls to other destinations – be it

within or outside the country. Hence, the traffickers do not have to go to villages in search of women and girls for trafficking purpose as they can do their business right in urban centres sitting and enjoying life in modern hotels and restaurants.

Box 3.3: Name to the Son of an Unwed Mother

Sita was one of Tharu girls in Dang Ghorahi who was trafficked to Mumbai. When she returned her parents' home, she gave birth to a son. The child, though six or seven months old, was not given any name and was discarded by the society. Once a social worker from Kathmandu, Azeliya Ranjitkar, met the unwed mother, Sita, and the child at Dang Ghorahi. Sita had gone there to attend 7-day training on “Trafficking and Counseling” in 2005.

When asked about the name of the child, Sita replied, “He has no name.” Sita said that she did not feel it necessary to give the baby a name because nobody in the society bothered to call him and give him love. Then Azeliya in group gave the baby a name ‘Adhar Chaudhary.’ Adhar means base or the foundation and this name was appealing to the mother and all the people around. The mother was told that it was essential to give name to the baby because it gives a person an identity. This event happened to change the outlook of the mother and also the society towards the helpless and malnourished baby who was looked down upon. Chocolate was distributed as the baby was showered love and affection during the name giving ceremony.

Source: Regional Workshop on Trafficking, Nepalgunj

Thousands of girls between the age 15 and 30 years make their livelihood by working at restaurants as dancers and waitresses, so called “cabin girls.” In the Regional Workshop on Trafficking in Biratnagar, the participants pointed out that even in small places like Duhabi, 30 girls and women have been used in the sex trade; while their number is 300 in Itahari. Similarly, municipal areas like Biratnagar, Dharan and Inaruwa have been highly affected by the prostitution industry.

It is estimated that women who are involved in prostitution at hotels and restaurants is 70,000 at the national level. But there is a feeling that this figure is exaggerated. Organization like Nepal Restaurants Professional Association presents that the number of women working in Kathmandu’s restaurants are about 30,000 (Upadhyaya, 2005). In Kathmandu, most of the cabin restaurants prostituted women are available at Thamel, Sundhara, Bag bazaar, Maharajgunj, Samakhushi, Koteshwor, Baneshwor and the bus park areas.

A study conducted by ActionAid shows that the dancers on an average earn an amount ranging between Rs. 5,000 to 10,000 a month; while the waitresses earn between Rs. 2,000 to Rs. 2,500 per month (http://www.actionaid.org/asia/333_2_26.html). Waitresses are asked by their owners to entertain the customers in a way that that they extend their stay at the restaurants and take drinks. Most of these girls come from the rural areas of both the hills and Tarai region to avoid the daily drudgery and poverty back home (Box 3.4). While most of the dance restaurants attract the locals and Indian tourists, the cabins are meant to satisfy the local clients.

A study conducted by Save the Children Norway presents that 44 per cent of all those exploited in the sex trade come from the Dalit caste groups, including the Badi community (SC - Norway, 2005). Women and children from Janajatis, Brahmin, Chhetri and other caste groups are also involved in this trade. However, all these vulnerable groups are subject to physical,

mental, emotional and even financial

trauma as a result of internal conflict.

Box 3.4: Alone, Abandoned and Compelled to Join the Sex Trade

Rima is a beautiful 20 year old girl. But her face conveys the scars of suffering and pain. She married her husband 3 years back. She also has a beautiful 2 years old daughter. Rima and her husband decided to come to Nepalgunj in search of a better life for themselves and their daughter. The Maoist insurgents had made their lives a living hell and survival had becoming impossible.

Rima's husband found a job and threats from both insurgents and security forces were no longer a permanent fixture of their daily lives. But four months after moving to Nepalgunj, Rima suddenly found herself all alone. Her husband, the sole breadwinner suddenly disappeared with no trace. With no education, no technical skills, and a young child to support Rima has reached the point of desperation. Her problems are further compounded when she realizes she is pregnant with their second child. She is finally able to find work in a hotel, as a dishwasher. Only a few days after joining the hotel she realizes her job entails more than just washing dishes. She is also forced to sleep with some of the hotel customers. She agrees to do so in order to abort her second pregnancy, following which she could go back to her village. A couple of months later when she collects sufficient money through this trade, she goes to a health provider. But too late! Rima is informed she has already crossed the legal 12 weeks period for the abortion.

Source: Save the Children – Norway, 2005

Note: The name of the victim is changed

Of the affected women and girls, 42 per cent got involved in the sex trade three months to a year period before a survey was conducted by Save the Children–Norway (SC, 2005); while 29 per cent were involved in this trade since 13 months to 3 years and 29 per cent for over 4 years. Over half (51 per cent) of the women and girls used in the sex trade were between 16 to 21 years old; while 30 per cent used in prostitution were between the age of 22 and 28 years, which is also the age bracket when there is heavier burden on the family to support the children and the family (SC, 2005). The majority of the women and children used in the prostitution industry revealed that certain categories of their clients neither pay them nor behave with them properly. Most of them are not so aware of the health and hygiene and are constantly exposed to all sorts of diseases like STIs and HIV/AIDS.

Of the major clients sexually exploiting the women and children in the sex trade are businessmen, transport workers, lawyers, service men, engineers and local people. Demand for sex increases as the number and resource of the armed forces grow. Similarly, the supply of women and

children in the sex market increases due to poverty and conflict. Interestingly, one-third of the girls and children used in the sex trade revealed that they would leave the sex trade once the conflict is over (Save the Children Norway, 2005).

3.4.3 Foreign Employment and Trafficking

The conflict has also created an environment in which women and girls are forced to leave the country in anticipation to get employment as domestic workers, particularly in the Gulf countries. Many of them are unaware of the potential for abuse and exploitation that they are likely to be exposed to. They are compelled to get rid of the hardships at home and earn money abroad. The displacement of the population along with poverty, unemployment and internal migration intensified the external employment. It resulted into increased vulnerability of women to be trafficked for various purposes.

The number of people going for foreign employment was 3,259 in 1995 and 165,252 in 2005 (Ministry of Labour and Transport Management, 2005). In 1995, an

average of 272 people per month left for foreign employment, whereas it increased to 13,771 people per month in 2005. The number of destination countries also increased from 10 to 64 with the major chunk going to the Gulf countries. Gender disaggregated data shows that females leaving the country for foreign employment increased from 590 in 2004 to 938 in 2005. There is every possibility of trafficking of additional female population because of gender biased practices their

low literacy and skill and low access to source of information and resources.

The path of destination of world of work outside the country is not that easy. At home, taking permission from the guardians and managing money becomes difficult for them. They face all sorts of problems to deal with all the procedural and administrative hassles. There is a greater possibility for them to be cheated by the pimps of the employment agencies and quite often the border guards deceive them.

Box 3.5: Manpower Agencies and Women's Power

Three years ago, when Kani Sherpa came home in a casket from Kuwait, her suffering and death was reported widely in the Nepali media. Kani was employed as a domestic worker in Kuwait. She was raped and beaten almost every day, and when she finally attempted to go to the police, her employer pushed her off a balcony. The Kuwaiti man was never tried.

Kamala Rai was also working for a family in Kuwait. She suffered multiple rapes from her employer and his friends. She fled the house and was finally sent home, traumatized and sick.

Source: <http://www.nepalitimes.com/issue207/nation.htm>

Box 3.6: Whither Nepali Migrant Women Workers?

Ramila is an example of a successful woman. She owns a cosmetics shop and earns a good living. In fact, her income almost exceeds her husband's. A migrant woman worker in South East Asia, she had a respectable job with a good income and invested her savings in a cosmetic store. However, she loaths to reveal her identity as a migrant worker anyone. She feels she will be stigmatized and will be labeled 'sold' if anyone knew that she earned money as a migrant worker. Talking to a number of women like Ramila, I seriously started feeling that we (the women activists) have been doing a disservice to women seeking better economic opportunities abroad by talking too much about women trafficking. Now every woman who goes abroad to work is widely perceived as trafficked. Are we not at some level only reinforcing and confirming the traditional mindset? Are there to be no good employment opportunities available to the majority of us, and can we not aspire to better livelihoods by finding employment in stronger economies than our own? Are only lahures worthy of social respect, which springs from greenbacks? Are we women only going to be stigmatized for having dared to step out of the courtyard, aangan? Is it fair to make these assumptions? Are they true? There is no doubt about the success of making people aware of the trafficking women from Nepal. But is it fair to keep women from having an access to good employment opportunities abroad?

Source: Sancharika Samuha and UNIFEM. 2003. *Foreign Employment for Women: Challenges and Opportunities*: Lalitpur

At the airport, many women have to face harassment by the immigration authorities and others. As such, several women prefer to travel overland to cities like Mumbai or Delhi through Nepal-India border to reach the destination countries. But this puts them at far greater risks of being sold to brothels *en route*. Several agents who

pretend to work as recruiters are in fact pimps who have little interest in taking the female workers to the one of the Gulf countries. What they do is that they sell them off in the brothels in Indian cities like Mumbai and Delhi (<http://www.nepalitimes.com/issue207/nation.htm>). It is said that the demand

for the Nepalese women and girls are high in the Indian brothels because of their facial colour and polite nature. They are often quoted to be sold at between IRs. 75,000 and IRs. 100,000 with anticipated profit of IRs. 300,000 per year. Once trapped in the brothels, it is difficult for them to quit.

There are also female workers who succeed and reach their destinations. But the agony of the workers is not over even after reaching there. The employers in the Gulf or elsewhere not only compel them to overwork but also often beat and rape them (<http://www.nepalitimes.com/issue207/nation.htm>) (Box 3.5).

Not all the women and girls going abroad are abused in the same way. There are also cases of success stories in which female migrant workers find their conditions better and they are able to send money to their families (Box: 3.6).

3.5 Impact from the Conflict

Studies in regard to the impact of the internal armed conflict on trafficking of human beings are limited. Yet the available information on the subject shows that there have been both the positive and negative aspects of the conflict. The conflict has empowered certain groups of women to the extent that they are now in a position to raise voices against political repression, caste based and other social injustice, economic disparities in wealth and income of different classes of the society and other exploitative practices.

Those women who left their homes and villages have learnt to live in difficult circumstances. Several women and girls have taken arms by joining either the rebel or security forces. Many of them live at the district headquarters and urban areas by offering their services in the cabin restaurants, hotels and other such activities. This has not only raised

confidence and independence among the women but it has also opened ample opportunities for their development. It has created healthy environment for gender equity. In rural areas, women have started ploughing the land and cremating the dead bodies that were culturally prohibited before. In many places, the widows wear red color dresses. There are reports that such social practices as gambling, alcoholism and even trafficking of women and girls and sexual abuse have declined in certain areas. Such a development was unthinkable in the past.

However, the other side of the picture is that the women and girls during the armed conflict are major victims of trafficking. The conflict has a tendency to disintegrate the traditional forms of moral, community and institutional safeguards and thereby make the women vulnerable to all kinds of violations like that of rape and sexual exploitation. Women are more exposed to risks through rape. Apart from the psychological and physical violence, there is a greater possibility for the women to get infected to HIV/AIDS through rape causing immense anxiety to the victims.

A study conducted by GTZ shows in many war affected nations of the world such as in Liberia Congo, east Timor, Sierra Leone, Colombia, Iraq and Afghanistan, women are often abducted and enslaved by the rebel and security forces. They are used as forced combatants and sexual slaves. Quite often they are compelled to serve as labour force in activities related to cooking, farm works and carrying ammunition and looted items. There are enormous social, health and economic implications to the abducted women once they venture to escape such forces. Even in the post-conflict situation, the national and international agencies mostly fail to address the problems of the abducted women in tier recovery, reconciliation and reconstruction programme (GTZ, 2004).

As in other war-torn countries, the conflict situation in Nepal might have created almost similar positive and negative outcomes. Information available from the media, human rights bodies and other studies shows that men and women alike are victims of forced recruitment in combatants, forced labor and enslavements. It is an additional burden on the conflict-affected women to bear the responsibility of family separation, female-headed households, family security and property related dealings at a time they have no assured supply of income. Additionally, they are exposed to forced pregnancy, abortion, rape and sexual exploitation, diseases, diseases and malnutrition and HIV/AIDS. In the society, problem of single women and unmarried mother has become an emerging issue. The overall impact of the conflict on women and children reflects the scenario of total violation of human rights and inequality and discrimination with women in all aspects of socio-economic life in which the gender equity and women empowerment is a mere dream.

3.6 Challenges

There has been considerable increment in the sex trade, which is an outcome of the on-going conflict. Different studies confirm the proportionate relationship between the conflict and the expansion of the sex industry. Sexual exploitation of women and children has increased with the rise of conflict. It has affected the lives of women and girls of all ethnic communities from Dalits and Janajatis to Brahmins and Chhetris. It is not only the illiterate but also the educated women and girls who fall victims of traffickers. School children have been largely affected as the warring factions use the school compounds in several parts of the country. There are reports that even educated and socially secured women of Kathmandu fall victims

of trafficking (<http://www.kurakani.tk/Article535.phtml>).

1. Collection of information and data on conflict and its impact on trafficking because of its clandestine nature of activities and criminal net working.
2. Mobilization of commitments from decision makers, formulation of inclusion policies and programme and allocation of resource accordingly to cater the need of the empowered women population in the country, as security cadre in army and police, armed combats, head of household and work force of development activities
3. Educate and raise awareness of both warring parties to be away with abduction of women and children and using them as workers of the conflict through civil society because of increasing number of abduction, internally displaced and migration of women and children.
4. Creating job opportunities within village premises due to family responsibility and limitation of women mobility since poverty and lack of livelihood option in the rural areas is a major cause of trafficking vulnerabilities.
5. Rehabilitation of the internally displaced population especially of those women and children who have lost their male member since they are already left their home and property with no livelihood option and is under high risk of being trafficked.
6. Provision of education and skill for employment to those vulnerable populations since they are scattered and lacks awareness on the values of education and skill
7. Provision of health service to those with HIV/AIDS reproductive health problems service who are the forced marriage and raped victims of the

warring partners and are also the vulnerable targeted trafficked population

8. Establishments of rehabilitation centers for the internally displaced women and children because of absence of policy, resource and managerial constraints
9. Adopt a coordinated approach to resolve the abduction of women, girls and children and control the trafficking problem by addressing demands

components of empowerment through awareness, education, employment, equity, law and social security (<http://www.kurakani.tk/Article535.phtml>).

10. Provide information about organizations working with vulnerable groups of women and girls to trafficking.

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Initiatives for Combating Trafficking

4.1 Background

Combating trafficking is a multi-sectoral issue. It is related to socio-cultural factors, economic exploitation, and above all emerging pull and push factors of the modern world. Therefore, an integrated approach is needed from the related stakeholders including government, NGOs, INGOs, donors and private sectors to launch activities to combat trafficking. The constitution, laws, and the commitments on the international Conventions guide the state parties to formulate policies, plans and programme for launching initiatives to combat trafficking for respective signatory countries. Accordingly, the government is firmly committed to fight against trafficking to protect and promote the human rights of the vulnerable groups of the society. In this respect, Nepal Government has implemented different initiatives in terms of policies, plans and programs with an objective to combat trafficking. Similarly, NGOs, INGOs, donor agencies and private sectors are also executing various programme and activities in line with government commitment to combat trafficking in person. NHRC, with its mandate to protect the rights of women and children in Nepal is also committed to combat trafficking in person, particularly of women and children. Accordingly, NHRC is also implementing activities related to different issues on rights of women and children.

Various strategies adopted for the purpose of controlling trafficking include measures like awareness raising programme, education programme and advocacy. Other aspects covered under the strategies include activities like skill development measures, income generation activities,

generation of employment opportunities, capacity building of stakeholders, networking of GOs and NGOs, rescue and rehabilitation of survivors of trafficking and finally prosecution and punishment to the traffickers. These strategies focus on activities related to training, workshops, seminars, community surveillance system, cross-border collaboration, research and studies and media mobilization.

Trafficking in Person Report, 2004, US Department of State has placed Nepal in Tier 2, indicating that Nepal Government has not complied with minimum standard to combat trafficking in person. However, based on the efforts made by Nepal government, NGOs and other stakeholders, Nepal is placed on Tier 1 of the group of 24 countries of the world in 2005 on the ground that the country fully complies with the minimum standards for the elimination of trafficking despite the political and security challenges in the country (US Department of State, 2005). As per the Report, the country is serious in addressing the problem of human trafficking as it has National Plan of Action to combat trafficking and a draft Human Trafficking Control Bill to strengthen its 1986 law and has also established Office of National Rapporteur on Trafficking in Women and Children within National Human Rights Commission.

4.2 Government Initiatives

Nepal Government is deeply concerned to improve the status of women and children from human rights perspective. As a member of the UN, Nepal Government is signatory country of different Conventions and Conferences and has also ratified accordingly. In line with these

international commitments and also according to the need of the country for TIP, Nepal Government formulated National Policies and Plans of Action. As the trafficking related issues are inter-sectoral, the government has implemented different programme through different ministries such as through the Ministry of Home Affairs (MoHA), Ministry of Education and Sports (MoES), Ministry of Health and Population (MoHP) and Ministry of Labour and Transport Management (MoLTM). At the district level, major governmental agencies working against human trafficking include, District Administration Office (DAO), District Police Office (DPO), Women Police Cell (WPC), District Public Health Office (DPHO), District Education Office (DEO), WDO and DTF and Village Vigilance Committee (VVC). Institutional framework has been established even up to the VDC level.

4.2.1 International Conventions

Nepal Government is committed to International Declarations and Conventions that it has signed and ratified. Nepal has set an exemplary record in ratifying the International Instruments in South Asia. Nepal has ratified 16 International Human Rights Conventions.

Directly or indirectly, each of the Conventions that Nepal ratified bears country's commitment to combat trafficking. Accordingly, in line with the commitment made by Nepal on UN Convention on the Rights of the Child (CRC), the National Plan of Action (NPA) for Children has been prepared with participation of all the stakeholders including the children and the contributions from the development partners, NGOs and civil society. This NPA focuses on issues like health, education, and protection of children from a child-rights perspective and linking them with other NPAs like the Education for All, Human Rights, CEDAW, Beijing+5, Disabilities, Child Labour, Sexual Exploitation, and abuse and trafficking (HMG/N, 2004). Furthermore, the National Human Rights Action Plan, CEDAW Plan of Action and Beijing Plan of Action have been formulated. The Plans of Actions are based on inter-sectoral approach, strategies, programme, indicators and responsibilities, which are specified for respective ministries and NGOs. As per the commitment made, Nepal government has submitted the first periodic report on CEDAW. The Conventions related to trafficking that Nepal ratified are presented in Table 4.1.

Table 4.1: Conventions Related to Trafficking as Ratified by Nepal

S.N.	Name of Convention/Covenant	Approval Date	Date of Nepal's Ratification Accession
1	Slavery Convention of 1926	25 September 1926	7 January (1963) (A)
2	Slavery Convention of 1926 as Amended	23 September 1953	7 January (1963) (A)
3	Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery	7 September 1956	7 January (1963) (A)
4	Convention on the Right of the Child	20 November 1989	14 September 1990(R)
5	Convention on the Elimination of All Forms of Discrimination Against Women	18 December 1979	22 April 1991 (R)
6	International Convention on Civil and Political Rights	16 December 1966	14 May 1991 (A)
7	Convention on the Suppression of Trafficking of Women and Exploitation of Others for Sex work	2 December 1949	27 December (A) 1995
8	C.29 Forced Labour Convention, 1930 (No. 29)		3.01.2002
9	C.138 Minimum Age Convention, 1973 (No. 138), Minimum age specified: 14 years		30.05.1997

4.2.2 Regional Conventions

Trafficking in girls and women in South Asia is rampant and uncontrolled because

the nature of trade involves trans-border issues and factors associated with weak law enforcement machinery, lack of extra-

territorial and extradition laws, and organized trafficking networks. Since trafficking is an international phenomenon, the highly organized network of traffickers can not be combated effectively in the absence of regional efforts such as trans-border law enforcement machinery (FWLD, 2002:1). In this context, the third SAARC Ministerial Meeting on Children-Rawalpindi, 1996 made a commitment to combat inter and intra-country trafficking in children by assisting survivors of violence due to sex work and sexual exploitation. And the Ninth SAARC Summit of Heads of State or Government – Male, 1997 passed the resolution to coordinate, streamline and enforce for the simplification of repatriation procedures for the survivors of trafficking. As a result, two Conventions "SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002" and " SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia, 2002" came into effect.

All SAARC countries including India, Bhutan, Bangladesh, Maldives, Sri Lanka, Pakistan and Nepal has ratified both of the SAARC Conventions by October 31, 2005 and now the Convention comes into force as it is ratified by all the SAARC member states.

4.2.3 Regional Initiatives: South Asia Regional Equity Programme SARI/Q

The focus of the South Asia Regional Initiative/Equity Support Programme (SARI/Q) 2004-2006, a USAID funded regional programme implemented by the Academy for Educational Development (AED) and Management Systems International (MSI), is on equity and fairness for women and children. SARI/Q is a the regional programme consisting of Bangladesh, India, Nepal and Sri Lanka. Afghanistan and Pakistan were also included as partner in the latter phase of

the Programme. The objective of the Programme is to provide women and children with the conditions they need to maximize the human potential with which they were endowed at birth.

Within this broad framework, SARI/Q concentrates its efforts on three areas namely; improving the implementation of laws and policies for combating trafficking and violence against women and children, ensuring safe migration and raising the standards for services to victims/survivors. SARI/Q Program works closely with and through non-governmental organizations (NGOs) and government initiatives whose mission often parallels the focus of this programme.

SARI/Q introduces a range of mechanisms for supporting the expansion of NGO networking, both within countries and across borders. SARI/Q has launched various activities to help these networks identify, analyze, replicate, scale-up and institutionalize proven best practices, and use research findings from SARI/Q for targeted advocacy to ensure the systematic implementation of related policies and laws. SARI/Q assistance also includes fostering networking through workshops, conferences, training and technical assistance, electronic dissemination of research and "how to" materials. The programme has provided grants aimed at collaboration among NGOs to develop shared advocacy action programs, to replicate successful initiatives as well as grants for hands-on cross- border work/learning experiences. SARI/Q, within its two years period has produced and published strategic documents which will serve as regional as well as national reference document for the implementation of the SAARC Convention on Anti- Trafficking

Published Products are:

- *Regional Victim Witness Protection Protocol.*
- *Compilation of Progressive Landmark Judgments (50) from South Asia.*
- *Regional Protocol on Minimum Standards of Care and Support for the Victims of Trafficking and Other Forms of Violence.*
- *South Asian Regional Resource Book on Livelihood Options for Survivors of Trafficking and Other Forms of Violence.*
- *Policy for Ensuring Safe Labor Migration Within and Beyond South Asia.*
- *Translation/ Printing of the "Protocols" in Bangla, Hindi, Nepali, Sinhala and Tamil completed. (Printing of Nepali and Bangla version in Progress).*

4.2.4 National Laws

All democratic countries in the world want to establish rule of law. The state enacts laws, rules and regulations. Any effort made by a person to violate such legal procedures is subject to punishment. Constitution of Nepal (1990) has guaranteed the rights against the exploitation of human beings and accordingly the trafficking in persons, slavery, serfdom or forced labour in any form are punishable by law. Under Article 26 (7) (8), the constitution has made provision to stop exploitation of children and provide social security to the deserving persons.

Many laws, rules and regulations have been made to combat trafficking. But legal provision against trafficking was first made under the *Muluki Ain* (Country Code) 1910. Provision was made to give punishment to those indulging or promoting trafficking across the national boundary. During the amendment of the *Muluki Ain* in 1992, further provision was made for the imprisonment of the

traffickers. The *Muluki Ain* 2020 had provision for imprisonment to the traffickers for 20 long years. There was also a provision in this Act for the imprisonment of a person for three to ten years if found guilty to have kept others as serf, slave or bonded labour.

Moreover, the *Jieu Masne Bechne Karya (Niyantaran) garne Ain, 2043* (Trafficking in Persons Control Act 2043) was enacted and brought into force with the objective of controlling the trafficking considering the fact that the interest of the common people is not jeopardized and good conduct is established in the society (Acharya, 2005). In accordance with provision of this Act, the accused was expected to produce evidence in the court for one's acquaintance.

Furthermore, the proposed ordinance on Trafficking in Persons (Control) Act, 2058 is lying pending in the National Assembly after being ratified by the House of Representatives. The proposed ordinance is broader than the earlier Acts aimed at controlling trafficking in human being. It has defined the terms like trafficking, brothel, prostitution and sexual work. It has prohibited one from engaging or instigating others to engage in offences related to trafficking in human being. Any person committing crime of trafficking is subject to imprisonment for a period of 10-15 years and a fine between Rs. 50,000 and 100,000 in case the offence is committed within the territory of Nepal. But if the crime is committed outside the territory of Nepal, the offender is subject to imprisonment for a period of 15-20 years and a fine of Rs. 100,000 to Rs. 200,000. A person is liable for three years' imprisonment if found engaged in prostitution or for calling any person from outside in a public place for prostitution (Acharya, 2005). There is also a provision under which a person liable to imprisonment up to three months or a penalty or both the punishments and the

confiscation of house, land or the vehicles if used for the purpose of prostitution.

4.2.5 National Trafficking Policy

With a view to preventing and combating trafficking in women and children for their sexual exploitation, the MoWCSW in cooperation with the International Programme on the Elimination of Child Labour and International Labour Organization (ILO-IPEC) adopted a 14-point strategy as its national policy on trafficking. In the policy, there is wider focus on creating awareness campaign against trafficking, removal of discriminatory laws against women and mobilizing support of GOs, I/NGOs, the private sector and donor agencies for combating trafficking in women and children. Similarly, the policy stresses on the imposition of fines on the traffickers, control and prevention of sexually transmitted diseases and HIV/AIDS, poverty alleviation and generation of employment opportunities for women of high risk communities. Emphasis is given in the policy for strengthening the coordination mechanism at national, district and village/municipality levels, launching informal and vocational education, rehabilitation for the rescued women and children and seeking commitment of political parties to combat trafficking. The main highlights of the policy are:

1. Public awareness campaigns on trafficking will be carried out at a large scale.
2. Action will be taken to remove laws that discriminate against women.
3. Various institutions of the Government, NGOs, INGOs and private sector will be mobilized to combat the problem of trafficking in women and children.
4. The MoWCSW will act as the “focal point” for carrying out programme against trafficking.

5. Nepal government will open its door for co-operation with the bilateral and multilateral donors to combat the problem of trafficking.
6. Nepal government will protect the human rights of women and children.
7. Heavy fines will be imposed on the traffickers and exploiters of women and children. The fines collected will be utilized to provide financial assistance to the victims.
8. Steps will be taken to control and prevent the spread of STIs and HIV/AIDS.
9. Nepal government will take necessary steps to alleviate poverty and provide employment opportunities to women of high-risk communities.
10. District level coordination committees will be formed to function as information centres and for collecting data, coordinating local level activities and raising awareness to combat trafficking.
11. Nepal government will establish coordination committees at the national, district and village/municipality levels to control trafficking.
12. Provisions will be made for carrying out formal and vocational education.
13. Rehabilitation programme for the rescued women and children will be organized in collaboration with NGOs.
14. Step will be taken to seek the commitment of Political parties to combat against trafficking of women and children.

4.2.6 Trafficking Policies in the Plan

The Ninth Plan (1997-2002) and the Tenth Plan (2002-2007) have expressed seriousness about the growing problem of trafficking of women and children by designing legislative measures to control sexual exploitation, sale and theft of

children and other inhuman and heart rendering activities under the women development policy of the plans. For this, different programme has been initiated for the improvement of social, economic, educational, political and legal status of the women and girls.

4.2.6.1 The Ninth Plan (1997-2002)

The Ninth Plan makes special mention to Gender Equity and Women's Empowerment National Work Plan 1997 in light of CEDAW and the Beijing Declaration, 1995. As per the Beijing Work Plan, NPA for gender equality and women empowerment was prepared. The Work Plan encompassed 12 sectors for the upliftment of women, which include areas like violence, armed insurgency, human rights, poverty, education and health (NPC, 1998). Many of the components as mentioned in the Work Plan were expected to empower women and girls and control their trafficking. There is also focus in the Plan for formulating laws, rules and regulations to control all forms of violence against women and for their empowerment through employment and different other income generating activities.

4.2.6.2 The Tenth Plan (2002-2007)

The Tenth Plan associates women's plight with their lower socio-economic status. It gives focus to the implementation of convention on elimination of all forms of discrimination against women (CEDAW) and Beijing Declaration. Besides, it lays stress on extensive publicity to HIV/AIDS and health services to the victims of this disease. It also mentions 11th amendment of the civil code as it was positive on issues related to sexual exploitation of women, abortion, right to property, etc. It not only supports committees working at centre and district levels to control trading and trafficking of women and girls (NPC, 2002) but also advocates for the implementation of the article of SAARC Convention on prostitution for its role in

controlling trafficking of women and children.

Major programme stated in the Plan to control trafficking of women and children includes steps to reform the existing legal system in a way that it proves effective in eliminating crimes against *bokshi*, *jhuma* and *deuki* which all arise out of superstitions. Additionally, there is emphasis on creating awareness for increased women's rights. There is also stress to develop and coordinate activities related to counseling, medical treatment, legal advice and rehabilitation and reintegration of survivors of domestic violence, trafficking and other kinds of atrocities (NPC, 2002). Besides, there is focus on programs aimed at providing security to the displaced women, including women and girls victimized by the current conflict for which rehabilitation and income generating activities need to be launched.

4.2.7 National Plan of Action, 2002 (NPA)

In order to combat child trafficking, the government formulated a National Plan of Action against Trafficking in Children and their Commercial Sexual Exploitation-1998 . A national consultative workshop was organized on 23-24 July, 2001 and the strengths, weaknesses and gaps of the National Plan of Action were reviewed and formulated National Plan of Action Against Trafficking in Children and Women for Sexual and Labour Exploitation 2001(NPA).The NPA was sent to the WDOs in all the 75 districts of the country to implement the activities. This NPA was the first of its kind in the SAARC region, which identified 8 areas for action:

- Policy, research and institutional development;
- Legislation and enforcement;

- Awareness creation, advocacy, networking and social mobilization;
- Health and education;
- Income and employment generation;
- Rescue and reintegration;
- Trans-border, regional and international issues; and
- Monitoring and evaluation.

4.2.8 Programme

Different sectoral programs have been launched by the line ministries particularly Ministry of Women Children and Social Welfare, Ministry of Labour and Transport

Management, Ministry of Education and Ministry of Health and Population, and Ministry of Home for empowering vulnerable group especially women and to take the rights of children. These programmes have direct and indirect contribution to fight against anti-trafficking activities. Following matrix presents the analysis of such programme activities launched by these ministries:

4.2.8.1 Ministry of Women, Child and Social Welfare

Goal: Mainstreaming Women for Empowerment and Development

Programme/Activities	Status
Women empowerment programme <ul style="list-style-type: none"> • Public Service Commission training programme to increase women in decision making and civil service; • Scholarship for women studies; • Information, Education and Communication (IEC) to increase awareness for gender equality; and • Award to the people/institution working for the cause of women empowerment. 	<ul style="list-style-type: none"> • A national level programme activities for women empowerment in general but the coverage is negligible and the impact not effective enough. • Activities for women empowerment in general; and • Impact not effective enough.
Beyond Trafficking: A Joint Initiative in the Millennium against Trafficking in Girls and Women (JIT-NEP) 2002 - 2005. Activities undertaken by JIT-Nepal: policy research and institutional development, legislation and enforcement awareness creation, advocacy, social mobilization and networking, health and education, employment and income generation, trans-border, regional and international issues, rehabilitation and reintegration, monitoring and evaluation.	<ul style="list-style-type: none"> • Project of the MoWCSW of Nepal government and the United Nations System (UNS); • targeted project for combating trafficking; • Districts: Covered: - Nuwakot and Kaski for intervention activities; and • Rupandehi for cross border intervention in collaboration with District Task Force (DTF) and line agencies and partner organizations on both sides of the border. • Establishment of ONRT in NHRC Nepal.

Documentation and information centre for trafficking, woman info data base.	Resource centre for reference materials related trafficking sector.
Special Grant to the district Women Development Office to launch the activities against girl trafficking.	<ul style="list-style-type: none"> • Financial support for anti trafficking activities. • Limited coverage by district. • Negligible financial support.
Establishment of rescue and emergency fund in Kathmandu, Parsa, Jhapa, Rupendehi, and Banke.	
Mainstreaming Gender Equity Programme.	Programme for gender empowerment in general.
Production credit for rural women and micro credit programme.	Access to resource and employment for the rural women in general.
Especial programme for single women, conflict affected women and <i>Badi</i> community.	Targeted programme for trafficking vulnerable population.
Skill training programme for women.	
Child protection activities inline with CRC including grant to central child welfare Board, grant	<ul style="list-style-type: none"> • Targeted programme. • Egligible coverage.

for child welfare Homes in Butwal and Birgunj.	<ul style="list-style-type: none"> • Negligible support.
Emergency relief programme for conflict affected children.	<ul style="list-style-type: none"> • Argeted programme. • Negligible coverage.

Goal: Produce Physically, Mentally and Psychologically Healthy Population

4.2.8.2 Ministry of Health and Population

Programme /activities	Status
HIV/AIDS control programme <ul style="list-style-type: none"> • Included Trafficking and HIV/AIDS target in the strategy plan of HIV/AIDS 2002-2006 Strategy plan. • Collection and examination sample blood for detecting HIV/AIDS, drug distribution to the concerned institution, care and support to the AID patients in the district, orientation training to the workers, school education programme, observation of AIDS Day programme, Started ARV treatment in few hospital. 	As per HIV/AIDSs strategic plan 2002-2008 traffic, vulnerable and survivor are included as target population <ul style="list-style-type: none"> • Part of essential health care • District committee for HIV/AIDS works as policy body at local level • Primarily implemented through NGO mobilization for awareness • Health check up and blood examination is available in health facility The programme directly addresses the need of Trafficked returnees
Reproductive Health Programme <ul style="list-style-type: none"> • Provision of temporary and permanent family planning service as informed choice directory • Regular essential health and emergency care to the pregnant woman by the trained health workers under safe mother programme/ training to the different level of health professional including Doctors 	General programme and not specifically targeted to the trafficking population as such, though it is the need of that population.

4.2.8.3 Ministry of Education and Sports

education to 90 per cent school going children and 75 per cent literacy rate of the population above 15 years age by the year 2015.

Goal: In line with the commitment of *Education for All, 2000*, and *Millennium Development Goal*, provision of primary

Programme/Activities	Status
Provision of Free primary education:- <ul style="list-style-type: none"> • Provision of female teacher in the primary school. • Free school fee and course book, extra activities grant to the school based on per student enrollment, scholarship to girl student and to the student in special circumstances, scholarship to the Dalit. • Nutrition programme in the school of 22 remote districts:-Distribution of nutrition launch to the primary school students. Lower secondary and secondary education:- <ul style="list-style-type: none"> • Free school fee up to 10th class, • Scholarship to the targeted population. • Per student Rs. 500 grant to the school based on 	<ul style="list-style-type: none"> • National level Programme with equity model. • Attain education for all goals. • Implemented in all 75 districts of the country. • Targeted programme activities by area remote districts by population- girls and dalits, marginalized with special grant for construction of additional physical facilities and scholarship. • Addressed as programme to main stream female and retain student in the education. • The programme serves as empowerment activity to address to cause of trafficking due to ignorance and lack of employment opportunities However access to these special provision of education to the trafficking vulnerable population is questionable since the

enrollment off marginalized, the <i>Dalit</i> student. • Rs 2000 scholarship to the female students in ten remote districts in addition to the school grant.	programme does not directly cover trafficking issues as such.
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4.2.8.4 Ministry of Labour and Transport Management

Goal: – Provision of skill and career development opportunities for basic and middle level human resource of the country

Programme /activities	Status
<ul style="list-style-type: none"> • Formulation of safe foreign employment Act and Policies in process. • Training in different vocational areas for foreign employment with priority to women and marginalized population. • Awareness raising activities for elimination Child Labour. • Provision of education to the child worker of hotel and house hold activities. • Rehabilitation Programme for the child worker. 	<ul style="list-style-type: none"> • National Level Policies and Act • National Level programme but has been implemented only in limited districts. • Covered the need of limited areas of skill and target labour population. • No specific skill training programme targeting female. • Lack of access to vulnerable population in trafficking .

4.2.8.5 Ministry of Home

Goal: – To protect and promote peace and security in the country

Programme/Activities	Status
Cross border security organizes annual cross border meeting with Indian security officers on border issues including trafficking.	<ul style="list-style-type: none"> • National level programme with cross border intervention. • Programme under regular budget.
Women police cells <ul style="list-style-type: none"> • Women police cells in 18 districts to prevent activities on trafficking at border check points. • Receive complains on trafficking case as front line case handling. 	<ul style="list-style-type: none"> • National level programme with cross border intervention. • Programme under regular budget.

4.2.9 Institutional Framework

MoWCSW is entrusted with the responsibility to work as a national focal point of Nepal government for combating trafficking in women and children. At the MoWCSW, a 16-member National Coordination Committee under the chairpersonship of the Minister for MoWCSW has been established. A broad-based National Task Force is created in the Committee under the coordination of the secretary of MoWCSW. The Task Force consists of senior officials of the different line ministries as representatives, which include Ministry of Foreign Affairs (MoFA), Ministry of Home Affairs (MoHA), Ministry of Law, Justice and Parliamentary Affairs (MoLJPA), Ministry

of Labour and Transport Management (MoLTM), Ministry of Health and Population (MoHP), Ministry of Education and Sports (MoES) and National Planning Commission (NPC), along with the Police, NGOs and multilateral bodies like UNICEF and ILO. The National Task Force coordinates activities, provides guidelines and policy decisions at national level on the issues of trafficking in women and children.

The government has also formed District Task Force (DTF) in 26 districts²

² Name of trafficking prone districts with DTF: Dang, Rasuwa, Udaypur, Kailali, Gorkha, Lalitpur, Chitwan, Morang, Kavre, Makwanpur, Sarlahi, Kathmandu, Sunsari, Mahottari,

identified as trafficking prone districts. DTF consists of 18 members from various government and non-government organizations under the chairpersonship of Chairperson of District Development Committee (DDC). The responsibility of the DTF are to coordinate activities for policy formulation, program support, advocacy, supervision and monitoring at district level in collaboration with local authorities, line agencies and NGOs. Further, DTF are also responsible for forming Village Task Force against Trafficking in Village Development Centre (VDCs). It was constituted for program support at community level in respective VDCs/wards in collaboration and coordination with local NGOs, community representatives and women cooperatives.

Under JIT programme, the DDCs are also made responsible for the formation and mobilizing Village Vigilance Cell (VVC) against trafficking. So far the VVCs have been formed in districts like Jhapa, Parsa, Rupandehi and Banke (IIDS and UNIFEM, 2004). A program has been launched in cooperation with ILO to enhance the capacities of staff of MoWCSW and its district level bodies, DTF, GOs and NGOs to make them more effective in coordinating, networking and monitoring human trafficking related issues.

4.3 Police Cell

Women are discriminated in almost every walk of socio-economic and political life. They fall victims of such social evils as trafficking, domestic violence, sexual exploitation, polygamy and child marriage. With the objective of controlling and preventing crimes against women and children, the Nepal Police set up the Police

Dhading, Sindhupalchowk, Sindhuli, Nawalparasi, Ramechhap, Dhanusa, Jhapa, Parsa, Banke, Rupandehi, Nuwakot and Kaski.

Women and Children Cell (PWCC) - a separate cell of women police at its Headquarter in Kathmandu in February 1996. Various programme under PWCC were launched and expanded to other districts like Lalitpur, Kaski and Morang. Criminal cases against women registered under PWCC included domestic violence, polygamy, trafficking, sexual abuse, missing, etc. Subsequently, PWCC service was provided to additional twelve districts like Jhapa, Sunsari, Udayapur, Makawanpur, Chitwan, Sindhupalchowk, Kavre, Nuwakot, Nawalparasi, Rupandehi, Dang and Banke.

While the first phase of PWCC plan of action was implemented between November 1998 and January 2000; the second phase of action was implemented between May 2001 and April 2002. The name of PWCC was later changed to Women and Children Service Centre (WCSC) as per the advice of civil society and NGOs, INGOs. The British Embassy, the US Embassy, ILO and DFID extended major support for capacity building of WCSC (NHRC, 2004). At present, WCSC is functioning at 20 places, including one at the central level at Police headquarter and one in Kathmandu Valley and the remaining 18 in districts.

4.4 NGO Initiatives

The NGOs in Nepal have been playing imperative role in combating trafficking. They have contributed significantly in the areas of prevention, rescue, repatriation, rehabilitation, reintegration, and in the legal sector by launching different activities up to the grassroots level. The study made by IIDS and UNIFEM has outlined the number of the NGOs involved in anti-trafficking movement as 57 (Annex 2). Some of them have been addressing this issue as single focus area of intervention; while, for some NGOs, the trafficking in women and children are just a part of their total activities. As such,

these NGOs have been divided into three categories based on the nature of their interventions. Those NGOs which have made anti-trafficking as their focus area of intervention and have been found involved in this area for over three years have been put in category A. The NGOs that drew attention to human trafficking issue through activities like advocacy, lobbying, workshops, training, study and research, media monitoring, and integrated anti-trafficking interventions in other programme were put in category B. Similarly, the NGOs implementing event-based programs, supporting anti-trafficking initiatives and integrating the issue with other programs for awareness creation were put in category C (IIDS and UNIFEM, 2004).

Anti-trafficking programs launched by NGOs target both primary and secondary groups. The primary target group includes programme for women, children and adolescent girls; while the secondary target group covers communities, VDC and DDC representatives, social workers, doctors, nurses, school and college teachers and students, judges, advocates, prosecutors, lawyers, police, human rights personnel, parliamentarians, politicians and journalists (IIDS and UNIFEM, 2004).

The NGOs have also developed national networks like Alliance against Trafficking of Women and Children in Nepal (AATWIN), National Network against Girls Trafficking (NNAGT) and Children at Risk Network Group (CAR-NWG) to develop a linkage to work against trafficking.

The solidarity efforts of the NGOs have helped bring policy, plans and legal documents for combating trafficking and, thereby, enhance the status of women as dignified citizens of Nepal. The NNAGT, AATWIN, CWIN, CeLRRd, WOREC and *Sancharika Samuha* have developed standard documentation centres on issues

related to trafficking and sex trade. Because of the awareness activities implemented by different NGOs, there has been a growth in public awareness on the issues related to trafficking. At the same time, programs like rescue and rehabilitation have provided opportunities to trafficked survivors to settle in rehabilitation home and ultimately to integrate socially on their own or with the family. Furthermore, the *Shakti Samuha* can be set an exemplary as the first organization established by the survivors of trafficking to raise awareness and to provide rehabilitation centre for survivor of trafficking from Human Rights Perspective. The NGOs also have been actively working to provide legal support to the survivors so as to provide justice to them. The overall activities being implemented so far by the NGO sector are presented as follows:

4.5 Programme Measures to Combat Trafficking

Various programme measures related to prevention, rescue, repatriation, rehabilitation and reintegration have been launched by the NGOs for combating trafficking in women and girls. Some of these measures adopted by the NGOs are:

4.5.1 Prevention

Awareness

- Seminars, Workshops and Interactions;
- Advocacy Materials like posters/pamphlets, Information Tool Kit, Audio Cassette and Resource Directory;
- Hording Board;
- Role Play;
- Street Drama;
- Video Film;
- Rally;
- Door to door visit;
- Distribution of IEC Materials;
- Media Campaign and Mass Information;
- Talk Programme at Schools;

- Mobilization of students and teachers;
- Booklet prepared by local level on local issues;
- Radio/TV Programme;
- Safe Migration counseling; and
- Working with men and boys to address the issue of violence against women.

Capacity Building

- Informal Education;
- Legal, Para-legal and Vigilance training;
- Leadership trainings for high risk groups;
- Instruction and Education;
- Skill and Employment oriented training to the trafficked survivors;
- Income-generating activities;
- Empowerment Efforts;
- Exposure visits;
- Counseling Centres;
- Computer Network and Database;
- Urban Child Education;
- National, Regional and International exposure;
- Information Centre;
- Establishment of Community Safety Net in district and VDC level;

- Trainings, Consultation for Task Forces – National, District and Village; and
- Trainings to Judiciary, Police, VDC Secretary.

Institutional Development

- Paralegal Committee
- Pressure Groups at VDC and district levels
- Networking
- Gender Mainstreaming
- Research and Studies
- Formation of Community Group and its Mobilization – women, child, youth, students and teachers
- Establishment of Indo-Nepal Committee to coordinate cross border issues

4.6 Interception/Surveillance at Border Check Points

The NGOs coordinate with Police unit at borders and assign local volunteers to watch the passerby and make an inquiry with the persons who are suspected of being trafficked (Box 4.1). The volunteers are given special training for the purpose.

Box 4.1: Interception of Trafficked Girls

On duty at checkpoints and transit points we observe young people (men and women) crossing the border. We try and verify the relationship if they are related, if they are married and ask them questions individually, like "Where they are going? Why? If there is no relationship between them, if there is no proof of work in India, or if anything suspicious we take them into custody. We also check with the parents, if the parents verify that the daughter is going for work in India, we will let them go.

Source: OXFAM: *Gaps Analysis on Intervention Strategies against Trafficking in Women in Nepal.*

Of the different NGOs, SAATHI intercepted 62 women and girls at Jayespur in Banke district between September 2004 and July 31, 2005, whereas the number of such women and girls was 477 at Gaddachowki in Kanchanpur during May-June 2003-July 31, 2005. Of these intercepted women and girls, 32 have been reintegrated in Banke against 67 in Kanchanpur. Most of the girls intercepted at the border were referred to transit homes and from there

they were made to reintegrate. But questions have been raised about the interception related activities at the checkpoints (Box 4.2).

Altogether eight transit homes have been set up along Nepal-India border points by Maiti Nepal for intercepting those persons at the border who are suspected of being trafficked by pimps. Due support is provided to transit homes by the Nepalese and the Indian police. Once the women

and girls are confirmed of being trafficked, they are brought to transit homes and then they are made to return back their homes with the support of police, administrative personnel, NGOs and political parties. Food, health checkups and counseling are

made available to the victims at transit homes by initiating the process of legal action. Besides counseling, efforts for the family reunion are also made (JIT-Nepal, 2002).

Box 4.2: Whether Border Checkpoints are Wrong?

It is not to say that the activities undertaken at the checkpoints are wrong but they have to be adept at finding the truth and make sure that the girl is really being trafficked. Moreover, we have heard rumors that intercepted girls have faced difficulties, both mentally and physically, by the border officials. Intercepting a woman at the checkpoint raises the question of the rights of the women and their right to mobility. It's high time the organizations managing these girls being intercepted comes out in the news and everyone knows about it. And the popular sense prevailing in the community that girls being intercepted were going to India to work as prostitutes puts them girls in a difficult situation. They fear stigmatization by the community when they return and as a result most of these girls do not want to go back to the community and try to find jobs in Kathmandu. This process leaves them more vulnerable to trafficking again.

Source: OXFAM: *Gaps Analysis on Intervention Strategies against Trafficking in Women in Nepal.*

WOREC has its transit home at Janakpur and an information centre on trafficking at Biratnagar. Similarly, ABC-Nepal has its transit homes at Biratnagar and Janakpur (IIDS and UNIFEM, 2004). These transit homes are useful in so far as they accommodate trafficked victims, prostitutes and the victims of HIV/AIDS. But they might be made more useful if at all they could serve as a refuge for women fade up of domestic violations (Hausner, 2005).

4.6.1 Rescue and Repatriation

The Nepalese and Indian organizations have made efforts to rescue Nepalese women and girls from various brothels of India since 1982 and rescued 59 women and girls between 1985 and 1995 (ASMITA, 2005). In 1996, the Indian police rescued Nepalese women and girls from Mumbai's brothels and referred them in remand homes. At the initiatives of Maharashtra State Government in India and certain NGOs in Nepal and India, 128 of these women and girls were repatriated to Kathmandu. This had been a big issue because the government does not have any policy to rescue and repatriate. It was possible to rescue and repatriate the victims due to the Nepal-India networking

on trafficking on the one hand and cooperation and coordination with the Indian officials and police on the other. Since then, the issue of rescue and repatriation became distinct in the NGOs activities. And now, girls and women are not only rescued from brothels but also from other sectors like industry, domestic work. The rescue process is presented below:

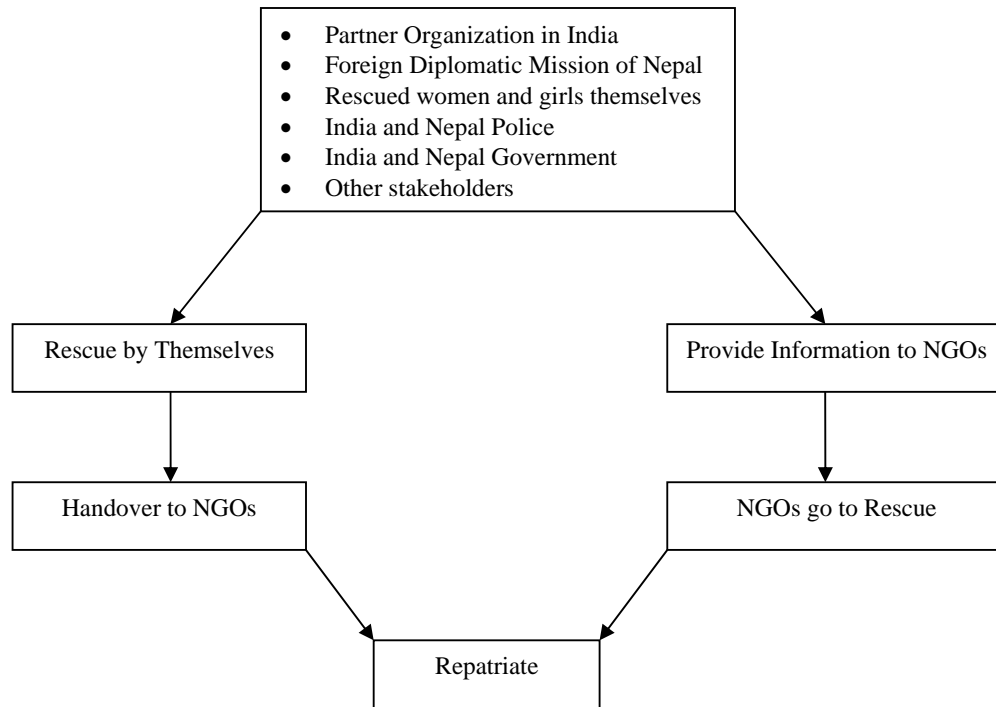
4.6.2 Rescue Process

The rescue and repatriation process is facilitated in two ways. In some cases, the victims are withdrawn by the NGOs based on the information they receive from certain source; while in other cases the partner organizations, police and the stakeholders rescue the trafficked survivors and hand over them over to the NGOs. The process through which the rescue takes place is presented in Chart 1. Apart from the sex workers, children and women working in circus had been rescued and repatriated. In 2004, *Bachpan Bachao Andolan* (BBA), an Indian unit of Global March against Child Labour rescued some Nepalese circus girls from the Roman circus. Besides, NHRC, India, *Pravasi Nepali Maitri Manch* and other Nepalese organizations like CWIN rescued

circus girls (Box 4.3). CWIN rescued 48 children from circus and provided them residential as well as healing and emotional care at CWIN *Balika*. Of these

children, 43 were either reintegrated with their families or were self-reliant after receiving vocational and skilled training.

Chart 1



Source: Developed on the basis of NGO Consultation Meeting, along with Social Welfare Council 2005.

Box 4.3: Seema Rescued from Asian Circus

Seema Lama (fake name) is 18-year-old girl from Makwanpur District, Thanbhanjyang Squatter Area. There were altogether four members in her family – father, mother, elder brother and herself. But her parents expired when she was a small kid. They were financially very weak. After her parent’s death, her brother got married. Her brother and sister-in-law kept her in different places to work as a domestic worker. According to the child, her sister-in-law sent her to work in Asia Circus through a broker named Tara Lama. She was not treated well in her working place. She had faced lots of problem in terms of working. The owners used to torture her physically and mentally. She was not given enough to eat but had to perform different kinds of risky games. In case of any mistake, the owner used to scold and even beat her.

While working in Asia Circus, she along with other girls was taken to Biratnagar, Sunsari on 12 Baishakh 2061 to perform a circus in Bishnu Mahayagya. When they were performing a game, they were rescued with the help of CWIN Helpline Biratnagar, Sunsari District Police Office and an organization named SISA. From there, they were brought to CWIN Balika. When she first came to Balika, she used to behave differently, it seemed she was scared. She used to talk in different accent. But as time went by there were some changes in her accent as well as behavior. Now she feels very happy to be a part of CWIN Balika. She is always eager to learn new things and keenly participates in all the activities of the home.

As per Balika's objective, she was taken to her home to reunite her in her family. But our field workers friend could not find out where her brother was. Later it was found that her sister-in-law got married to some other man and brother got addicted to bad habits. Due to all this it was not possible to reunite her in the family and was brought back to CWIN Balika. Seema is a very disciplined and hardworking girl. As the child was very much interested in taking skill training, she is undergoing vocational training in Shreejanatmak Kala Guthi Dhobighat. .

Source: CWIN (name of the survivors has been changed)

The Rescue Foundation of India has been able to rescue Nepalese women and girls

from Indian brothels and send them to Nepal (Box 4.4).

Box 4.4: Rescue Operation by Rescue Foundation

Kamala (17) of Nepal came to Delhi from Nepal by Royal Nepal Airways. From Delhi she went to Dubai. After a few days, she returned back to Mumbai. She was rescued by us on 5/7/05 from Andheri before she was programmed to be transferred to Dubai again. Sunil Thapa, the broker had brainwashed her and they were staying as married couple. During dubious discussion with them at their flat, our staff realized that the minor girl was in fact sold and then we rescued her. On counseling by us, she told us her true story and ultimately she was sent to Nepal on 24 August 2005. We have even talked to her mother on phone.

Source: Rescue Foundation

4.6.2.1 Rehabilitation and Reintegration

Maiti Nepal, Shakti Samuha, ABC Nepal, Shanti Punarsthapana Kendra and SAATHI are some of the examples of the NGOs rehabilitating trafficked survivors, especially women and children. As soon as the trafficked survivors are brought to the rehabilitation centres, they are registered and provided with basic counseling, medical treatment, lodging, education, and skill and leadership training. In addition to the legal assistance, they are also involved in income generating programme. Some of them also receive support to become self-dependent. Ultimately, they are reintegrated with their respective families or with the society. In some cases, marriages are also arranged with suitable candidates to start their own family life.

Follow up and monitoring mechanism is an instrument to indicate the impact of reintegration whether the respective survivors have been leading a life with dignity or not. During the consultative meeting organized by ONRT in the process of report writing, NGOs reported problems in follow-up and monitoring of the women and girls reintegrated with their families. There is a lack of technical and

financial resources with the NGOs to discharge such functions. Besides, it is also difficult to take stock of the situation as it is not that easy for the NGO staff to reach various destinations in rural and remote parts of the country due to difficult terrain and the political conflict. Effective mechanism for follow up is yet to be developed.

4.6.3 Research Activities

The NGOs have been conducting two main types of researches. Major researches conducted by the NGOs are either confined to making gap analysis of the plan, policies, laws and programs or they are baseline surveys. Examples of some of research activities conducted by the NGOs are:

- ABC Nepal. No date. *Programme Against Girls Trafficking*. Kathmandu.
- ASMITA. 1998. *Efforts to Prevent Trafficking in Women and Girls- A Pre-Study for Media Activism*. Kathmandu: ActionAid, OXFAM, Plan International, Save the Children Japan and Save the Children Fund UK.

- FWLD, The Asia Foundation and USAID. No date. *Comments on SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002*. Kathmandu. to be confirmed.
- HimRights and Plan, 2003. *Human Trafficking: Zero Tolerance to Impunity: South Asia Policy Dialogue on Human Trafficking 2003*. Lalitpur.
- NNAGT. 1999. *Media Study on Women and Girl Trafficking*. Kathmandu.
- Gauri Pradhan. 1997. *Back Home from Brothels*. CWIN. Kathmandu.
- Renu Rajbhandari and Binayak Rajbhandari. 1997. *Girl Trafficking: The Hidden Grief in Himalayas*. Kathmandu: Women's Rehabilitation Centre.
- Action against Trafficking and Sexual Exploitation of Children (ATSEC);
- Foundation Against Trafficking in Women (FATW);
- Coalition to Abolish Slavery and Trafficking (CAST);
- International Human Rights Law Group (IHLRG);
- Asia Against Child Trafficking (Asia ACT);
- End Child Pornography, Prostitution and Trafficking (ECPAT International);
- Coalition Against Trafficking in Women (CATW);
- Global Alliance Against Trafficking in Women (GAATW);
- Technical Advisory Group for South Asia (TAGSA);
- South Asia Forum Against Human Trafficking (SAFAHT); and
- South Asia Professionals Against Trafficking (SAPAT).

4.7 Donor Agencies and INGOs Initiatives

Several bilateral and multilateral agencies along with INGOs have been involved in anti-trafficking activities in Nepal. At the initiative of UNDP, an inter-agency consultation meeting was convened in 1998 together with UN agencies, civil society and line ministries. The consultation was important in getting commitment of different bodies for UN efforts to combat trafficking in women and girls. Donor support for various anti-trafficking activities is available to the NGOs.

The donor agencies and INGOs also have supported to NGOs to implement anti-trafficking related activities up to the grass root level. The donor agencies also supported to establish alliance with active regional and international bodies in combating trafficking in women and girls. Organizations with whom such alliance was formed are (IIDS and UNIFEM, 2004):

The donor agencies and INGOs have initiated a number of programmes with support from NGOs and the government for the execution of awareness programme, institutional development and capacity building of the community. Support is extended to activities related to interceptions and building of transit homes along Nepal-India border and protection, rehabilitation and reintegration of trafficked survivors.

Though a number of intervention programmes have been launched to combat trafficking in women and girls, there is paucity of information on the amounts of funds disbursed on such activities. However, it is estimated that US \$ 2.5 million is spent each year on anti-trafficking activities (IIDS and UNIFEM,

2004). USAID is the largest funding source for anti-trafficking initiatives.

4.8 National Human Rights Commission's Initiatives

The National Human Right Commission (NHRC) was established in 1997 under the Human Right Commission Act-1997. It is legally mandated for the effective enforcement as well as protection and promotion of human rights of the people in Nepal conferred by the constitution and other prevailing laws. NHRC considers trafficking as one of the priority issues, which should be addressed as the worst form of human rights violation. ONRT was established under a Memorandum of Understanding between MoWCSW and NHRC at the premises of the NHRC on 29th August 2002. The Commission has appointed National Rapporteur on Trafficking in Women and Children (NRT) under the direct supervision of its Chairperson.

The objectives of the ONRT is to bring about conceptual clarity on trafficking and related vulnerabilities (illegal migrant status and exposure to HIV/AIDS); monitor the incidence of trafficking and thereby galvanize public opinion; 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.

Accordingly, the ONRT is responsible for following activities:

4.8.1 Developing Reporting System

- Develop indicators for situation of trafficking of human being in Nepal;
- Determine focal person in every district of Nepal to collect the information on trafficking as according to indicators;

- Development of checklist to monitor trafficking in human beings (for Protection division);
- Develop and maintain a comprehensive and up-to-date national database on trafficking in human beings, especially of women and children and on related human rights violations of women and children; and
- Prepare and publish annual thematic reports on the state, scope and development of the situation of trafficking in human beings and issue recommendations to all stakeholders.

4.8.2 Monitoring and Investigating

- Solicit, receive and investigate individual and situational complaints of human rights violations against women and children, including in the context of trafficking in human beings within, to and from Nepal;
- Monitor and evaluate the situation of victims or potential victims of trafficking in human beings within and to Nepal, and when appropriate, take action;
- Monitor and evaluate the situation of Nepalese women and children, victims or potential victims of trafficking in human beings or of sexual or other forms of exploitation in the context of migration, in countries of transit and destination, including through visits to the countries in question, and when feasible, in cooperation with national authorities; and
- Monitor, evaluate as well as publish information and data about emerging issues, such as new forms and methods of trafficking in human beings or new forms of human rights violation of women and children.

4.8.3 Monitoring and Reviewing National Policies, Plan and Laws

- Monitor and evaluate the implementation of the National Plan of

Action against Trafficking in Children and Women;

- Monitor and evaluate the implementation of national legislation on trafficking in human beings in Nepal and other Nepal's international obligations to eliminate trafficking in human being;
- Promote and advocate for the signature and ratification, by the Nepal government, of regional and international instruments related to trafficking in human beings;
- Initiate and carry out legal action in the appropriate cases where national laws and policies may have a negative or discriminatory impact on the rights of persons affected by trafficking in human beings within, to and from Nepal; and
- Intervene on the side of the victim in court cases concerning trafficking in human beings, especially of women and children, in close collaboration with the Legal Division.

4.8.4 Developing Network and Coordination

- In execution of its responsibilities, cooperate with all national stakeholders, including with relevant government agencies, non-governmental organizations, international organizations, and other parts of civil society, as appropriate;
- Partake in/initiate, in collaboration, a regional network of national and/or regional bodies responsible for the monitoring of trafficking in human beings, especially women and children;
- Monitor, evaluate and share information about the state, extent and development of the situation of trafficking in human beings, especially of women and children, as and, when appropriate, initiate/partake in joint investigations of individual complaints

of victims of trafficking in human beings, in collaboration with national and regional bodies in the region of South Asia;

- Initiate, when appropriate, joint actions to highlight a particular situation involving trafficking in human beings, especially of women and children, in collaboration with national and regional bodies in the region of South Asia;
- Liaison with the United Nations Special Rapporteur on Trafficking in Persons, especially in Women and Children, the Special Rapporteur on Violence against Women, other appropriate United Nations bodies, as well as with other National Reporters on Trafficking in Human Beings in order to exchange information and, in appropriate cases, collaborate on joint activities;
- When appropriate, and in a situation where individual or group human rights have been violated in the context of trafficking of human beings, especially of women and children, and when no national remedy is available or all national remedies have been exhausted, initiate a complaint to the United Nations Special Rapporteur on Trafficking in Persons, especially in Women and children;
- Collect, compile and make available, data and research on the state, scope and development of the situation of trafficking in human beings, especially of women and children within, to and from Nepal;
- Develop and continually update common national indicators and a confidential, non-identifiable case reporting system on trafficking in human beings; and
- Continue the work to set up a national reporting system on trafficking in

human beings in collaboration with all national stakeholders.

Combating trafficking is the strategic concern of NHRC. Out of the eight strategic objective of the Strategic Plan (2004 – 2008) of the Commission, objective four and five addressed the trafficking issues. Strategic objective four states "To help improve the legislative and regulatory mechanisms for control and cessation of: a) domestic and dowry related violence against women and b) trafficking of women" and Strategic objective five states "To help improve legislative, monitoring and enforcing arrangements for the elimination of violence against children in the form of trafficking, abuse, exploitation and the use of children in conflict."

The Commission has established Policy Steering Committee against Trafficking under the chairpersonship of Honorable chairperson of NHRC with an objective to provide policy directions and to generate policy level commitment in combating trafficking. It comprised of high level representative from MoWCSW , UNDP and UNIFEM as members.

Further, to develop effective network with GOs and NGOs, to secure effective implementation of the national trafficking related plans and programmes, and to provide other technical support Technical Committee against Trafficking has been formed under the coordination of the National Rapporteur.

The Technical Committee has members with representatives from government including MoWCSW, MoLTM, MoFA, Office of Prime Minister and Council of Ministers, and Women Police Cell. The programme officer of the ONRT acts as member Secretary of the Committee. Both of these committees have provision to invite concerned institutions and experts.

By establishing ONRT, NHRC has strengthened its institutional capacity to deal with human rights concern of vulnerable groups for trafficking and trafficked survivors specially women and children. NHRC is concerned with Palermo Trafficking Protocol and the United Nations High Commissioner's Recommended Principles and Guidelines on Human Rights and Human Trafficking in responding to the challenges of trafficking issues. Therefore, the policies and programs of NHRC to combat trafficking in person focusing on women and children are guided by these protocols and guidelines in addition to national policy and National Plan of Action of HMG/N on trafficking. Some of the activities carried out by ONRT are presented below:

1. In consultation with concerned government, non-government organization, donors, INGOs working in the issues of trafficking, a comprehensive definition suitable in the Nepalese context has been developed and is recommended to the HMG/N. The MoWCSW is working to establish the proposed definition as working definition of Nepal.
2. The ONRT-NHRC monitored two districts of Nepal for collecting general information in regard to the situation of women and children. It investigated cases of trafficked persons. The detail investigation on the returnees from Indian circus- has been made under the request of NGOs and civil societies. It has recommended the government for taking necessary steps to rehabilitate them and also to make provisions to control such activities effectively in the future.
3. NHRC/ONRT has developed institutional linkage at national, regional and international levels to deal with trafficking as cross border and

international issues of concern. In this context, at the national level ONRT has organized different workshops and consultation meetings with the participation of government, national and international non government organizations and donors in its program activities. ONRT has also taken part in consultations organized by government bodies to develop different plans and policies regarding trafficking and trafficked person. It has also taken part in workshops, seminar, meetings; trainings organized by other national and international non government and, donor organizations. At Regional level, ONRT had participated in the South Asian regional conferences and workshops organized by International Organization of Migration (IOM), UNIFEM, South Asia Regional Equity Programme (SARI/Q) and established institutional working relation accordingly.

The Commission has included the activities of ONRT in trafficking as the

part of its annual report since establishment of ONRT. Accordingly, the establishment of ONRT and its achievement so far made in developing the linkage to institutionalize the reporting system has been included in the annual report of the NHRC.

In addition to the continuation of its regular activities, NHRC publishes National Report on Trafficking as one of its regular publications. It will be an analytical report on trafficking to provide way forward for enhancing the status of women and children who are vulnerable to and survivors of the trafficking in person.

4.9 Strengths, Weaknesses and Suggestions

Based on the Consultation Workshop in five development regions with concerned representatives of GOs, NGOs and experts working for combating trafficking, following Table 4.2 has been developed. The table presents strengths, weaknesses and suggestions in regard to anti-trafficking activities launched by various agencies in Nepal.

Table 4.2: Strengths, Weaknesses and Suggestion of Anti Trafficking Activities

SN	Activities	Strengths	Weaknesses	Suggestions
1.	Prevention	<ul style="list-style-type: none"> -Development of Policies -Implementation of awareness programme -Mobilization of I/NGOs/private sector -Coordination among the stakeholders -National laws against trafficking -Ratification of International Conventions like CEDAW, CRC, MDG, SAARC -Establishment of NHRC/ONRT -Identification of Sensitive Areas 	<ul style="list-style-type: none"> -Weakness in Implementation due to ineffective machinery and political commitment -Lack of networking at the VDC level in the district and Strong Networking of pimps and traffickers -Not effective to make interventions due to the current conflict - -Lack of effective implementation of national laws as it is not in priority -Ineffective Implementation Machinery - -Inaccessibility to the affected and sensitive areas -Risky -Lack of policy and committed organizations to address the issue 	<ul style="list-style-type: none"> -To be made effective within the country -All the VDCs need to be mobilized for awareness creation - - To be strengthen. -Focus should be given to the implementation of national laws -Implementation of international conventions should be given priority -To be made effective - -Steps to be taken to have dialogue with foreign countries
2.	Rescue	<ul style="list-style-type: none"> - - 	<ul style="list-style-type: none"> - - 	<ul style="list-style-type: none"> - -

		<ul style="list-style-type: none"> - -Surveillance system at the important points along Nepal-India border -Record keeping system at the border points -System of repatriation of the victims -Establishment of organizations/institutions to facilitate rescue 	<ul style="list-style-type: none"> -Lack of coordination mechanism at the national and international levels to facilitate the process of rescuing -Lack of effective coordination with civil society and stakeholders -Not systematic -Lack of systematic mechanism to enable repatriation -Release of the accused on bail/deposit and also their absconding -No effective networking for rescue 	<ul style="list-style-type: none"> -Develop the system of coordination and rescuing within the country and broader areas -Coordination mechanism should be developed with the countries of destination - -Capacity to be built -Organizations/individuals involved in rescue activities should be given due recognition. Besides, the victims should be kept in rehabilitation centres by engaging them in productive employment opportunities -Networking for rescue to be intensified
3.	Rehabilitation	<ul style="list-style-type: none"> - -Lacks Human Rights Approach. -Coordination with GOs/ NGOs -As per the provision made in the policy, some NGOs have established rehabilitation centres -Development regarding rehabilitation is more a paper work 	<ul style="list-style-type: none"> -Costly Affair because of high operations costs -Limited number of Rehabilitation Centres -Lack of clear-cut policy on rehabilitation centres -No adequate progress in the establishment of rehabilitation centres & also lack of guidelines. Besides, sustainability of the existing rehabilitation centres questionable as they are donor driven -No rehabilitation centre in government sector. 	<ul style="list-style-type: none"> - -Rehabilitation centres should be established in various places -Clear-cut policy should be developed for establishing rehabilitation centres -Rehabilitation Centres should be established and run not haphazardly but in each Development Regions as per the need -The government should construct rehabilitation centres and provide alternative employment opportunities to the victims
4.	Reintegration	<ul style="list-style-type: none"> -Transfer of the amount received from the punishment of the traffickers to the victims -Existence of national policy on reintegration - - - - 	<ul style="list-style-type: none"> -Lack of policy and economic resources for launching reintegration programs -Despite the legal provision, it is not translated into practice -Lack of adequate legal measures regarding reintegration -Lack of responsible organization/institution to facilitate reintegration related activities -Lack of capable human resources to handle the case of reintegration -Patriarchal social structure and negative outlook of the community towards the trafficked survivors -Lack of effective coordination among organizations involved in anti-trafficking movement -Difficult geographical condition of the country 	<ul style="list-style-type: none"> -Effective steps to be taken to remove the bottlenecks -Gap in the policy and practice need to be bridged -Measures to be taken to frame National Policy on Reintegration - -Well-trained human resources should be prepared to handle the reintegration cases of the affected persons - - -
5.	Complain against Accused	<ul style="list-style-type: none"> -Coordination among organizations 	<ul style="list-style-type: none"> -Lack of wider publicity in the community about punishment related laws 	<ul style="list-style-type: none"> -Interactions at the community level and hunting against pimps/traffickers to be intensified

		<ul style="list-style-type: none"> -Establishment of Women Police Cell -Trafficking is taken as offence against state in law -Mention is made in the law regarding trafficking of women and girls for sex - Provision of complain at NHRC, District Police, Women Police Cell and at other organizations 	<ul style="list-style-type: none"> -Lack of provision of compensation to the informer -Chances of innocent persons falling in difficulties are greater -The law is silent on human trafficking as a whole -Lack of physical facilities with the organizations. There is also a lack of system at most of the organizations to maintain confidentiality. Also, these organizations are donor driven. 	<ul style="list-style-type: none"> -Provision should be made for compensation to the informer -Save innocent persons from any trouble -New law should be made to incorporate the human trafficking -Efforts should be directed to provide physical facilities to the organizations and at the same time enhance their capacity
6.	Legal Action and Penalty	<ul style="list-style-type: none"> -It is easier to bring the accused in the net -Provision of 20-Year Jail term to the accused -Burden of proof rests on defendants -Government takes up the trafficking cases as plaintiff -Extra-territorial jurisdiction -Separate Act and anybody can make complaint - - - 	<ul style="list-style-type: none"> -Complicated nature of legal system and lack of information to the victims about their legal rights -Lack of congenial environment to initiate court proceedings to give punishment to the perpetrator -Lack of provision of fine on the accused and the exploitor -Lack of voice from the victims and political pressure in favor of pimps/traffickers -Lack of initiative to make the trafficking related problem public -The Act not well defined -Lack of provision to give compensation to the victims -Lack of effective implementation of the patriarchal legal system -Drop out of the cases by the victims during court proceedings 	<ul style="list-style-type: none"> -Stakeholders should make the community aware of information on this issue - -Legal provision against the traffickers/pimps should be made more effective - - -The victims need to be given compensation as per the law -The machineries responsible for the implementation of laws should be made effective - -
7.	Monitoring and Evaluation of National Policy, Action Plan and Activities	<ul style="list-style-type: none"> -Mention is made in the National Action Plan - -National Policies and Plans of NHRC till the year 2008 - 	<ul style="list-style-type: none"> -Lack of publicity of the outcomes of monitoring and evaluation activities -Lack of clear-cut policy -Weak implementation machinery -Lack of networking at VDC/DDC levels 	<ul style="list-style-type: none"> -Exchange of information through coordination and networking among GOs, NGOs and stakeholders -Clear-cut policy should be made -Wider publicity to be given to activate the implementation machinery -

Source: Based on the reports collected from the participants of the Regional Workshops organized in different Development Regions of the country.

4.10 Challenges

A number of government and non-government organizations have started working against trafficking. Different networks, including United Nations Anti-Trafficking Task Force, National Network against Girls Trafficking, and Alliance against Trafficking in Women have been

formed to make joint efforts against trafficking. As a result of the interventions made by GOs, NGOs and donor agencies/INGOs in the past for combating trafficking, there have been certain achievements in raising awareness against trafficking in human beings. However, the implementation and effectiveness of the National Plan of Action was weak, which

is a challenge to the government in combating trafficking women and children. Major challenges encountered in the implementation of Plan of Action against trafficking are:

- Lack of effective co-ordination;
- Focus given too narrowly on the sexual exploitation of women and children and the issue like trafficking for labour exploitation is overlooked;
- Insufficient implementation of international instruments;
- Weak institutional capacity of the government machinery for policy and program implementation;
- Lack of effective law enforcement machinery;
- Less effective institutionalized cooperation with civil society and other stakeholders;
- Weak service delivery for marginalized and Dalit communities;
- Feminization of poverty and marginalization of rural women;
- Lack of transparency among the NGOs in regard to the sources and use of their resources;
- Lack of rights perspective in programme;
- Lack of programme to address the demand-side issues;
- Lack of policy on rescue, rehabilitation and reintegration;
- Prevalence of discriminatory legal provisions including women's right to citizenship.
- Low participation and support of men in gender and women's issues;
- Lack of family and community support to increase the psychological status of women;

- Subordination of women in social and economic activities;
- Human Rights perspective lacking in protecting children and women's rights;
- Weak monitoring and evaluation to measure the progress of National Plan of Action; and
- Least effort to mobilize political parties' support against trafficking.

4.11 Key Lessons Learned

Many lessons have been learned from various initiatives taken so far in Nepal to effectively combat trafficking in women and children of Nepal. Some of the crucial lessons to be followed in the immediate future are enumerated as follows:

- The Trafficking in Human Beings Act 1986 was progressive as it brought extraterritorial jurisdiction and shifting the burden of proof on the trafficker. However, it is gender blind and rights blind. It lacks measures for rights of victims like compensation, victim witness protection, counseling, legal representation and rehabilitation. As such, the law should be reformed considering the sensitivity of survivors and victims rescued from trafficking.
- Since trafficking constitutes three key issues like origin, destiny and repatriation, the law needs to respond to prevention, protection and repatriation of survivors of trafficking.
- The government and other agencies should work as facilitator; while the NGOs, CBOs, INGOs, donor agencies and private sector should implement anti-trafficking initiative programmes.
- Implementation and effectiveness of the National Plan of Action was weak, which is a challenge to the government in combating trafficking women and children.

- The long-term solution of trafficking in women and girls lies in sustained economic growth of the region that supply them on one or the other form of trafficking by implementing effective tools of poverty alleviation and universal education.
- Sustainability of the organizations engaged in anti-trafficking movement, particularly those involved in rescue, repatriation, rehabilitation and reintegration is questionable as many of them do not have resources of their own and they are donor driven.
- The NGOs, CBOs, media and other agencies involved in anti-trafficking movement should be empowered through orientation programs, capacity development, incentives and awards. The media is very effective tool to raise the awareness and disseminate anti-trafficking message to the target population.
- The annual budget as made available to the trafficking-prone districts is almost negligible (NRs. 25,000/district) (ASMITA, 2005). Adequate budgetary support needs to be given for anti-trafficking activities.
- Multi-media channels and IEC materials such as audio-visuals, posters, pamphlets, street dramas, essay competition, etc. are effective tools to combat trafficking (MoWCSW and UNS, 2003). Similarly, the cassettes and posters developed for sensitizing the transport workers against indulging in sex trade are also useful.
- Since trafficking is not only internal phenomenon but international in character and at the same time it is complex in nature, effective coordination and networking among the stakeholders within the country and at cross-border level needs could be effective in reducing trafficking in women and girls.
- Joint efforts must be initiated among the countries in South Asia for sharing their experiences to reduce the magnitude of trafficking in women and girls in the region effectively.

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Legal Framework against Trafficking

5.1 Historical Development of Anti-trafficking Law

Law is a norm, which governs the social life. All three organs of the state have certain responsibility regarding the law. Legislative branch is entrusted with formulating the law of the land, executive branch executes and the judiciary adjudicates. The over all function is to maintain law and order of the land. Law plays the pivotal role to combat any crime as it formally declares any act as crime and imposes punishment against such acts. Law restricts people to commit crimes and provides access to social justice.

Human trafficking is an issue of violation of human rights; but legal instruments internationally have developed very late to address this issue. In 1749 AD, human trafficking was declared as an offence and only from then state mechanism is officially accountable to prevent trafficking and promoting the rights of trafficked persons according to existing legal framework.

The anti-trafficking legislation in Nepal has a long history. The legal history of trafficking started before the codification or the first Country Code 1853 AD, and after the codification. The period before the codification is also known as the period of unwritten law when the criminal laws and offences were regulated by the Hindu scripture and established customs and practices. Human trafficking was declared an offence for the first time in 1749 AD during the reign of King Rana Bahadur Shah.

The first Country Code, enacted in 1853 AD was the first written law of the country. It prohibited the slave trade,

human trafficking and separating children from their mothers and selling them. FWLD and UNIFEM conducted study on effectiveness of existing laws and institutional mechanism to combat trafficking of women and children in Nepal 2002 and also had been updated in 2005. The study recommends that formulation of new trafficking bill with Human Rights perspective has to be made. To be confirmed

5.2 National Laws on Anti-Trafficking

The national laws that directly govern trafficking issues include a chapter on Trafficking in Human Beings of Country Code, 1963 and the Human Trafficking (Control) Act, 1986.

The new Country Code 1963 devotes a separate chapter on the offence of human trafficking. The Code prohibits trafficking or taking a human being beyond the frontiers of the kingdom for the purpose of trafficking. The provisions contained in the Chapter on Trafficking of Human Beings in the Country Code are applicable so long as there are no other laws specifically dealing with the same subject. After 1986, when the Traffic in Human Beings (Control) Act was enacted, many of the provisions of this Chapter became inoperative. Only provisions not specifically dealt with in the Act remained valid for enforcement.

A specific law to combat trafficking in human beings was enacted in 1986 because the provisions of the prevailing laws were inadequate to deal with the rise in trafficking offences. Major features of the Act can be enumerated as follows:

Criminalization of human trafficking: The Act prohibits the act of trafficking.³

Definition of human trafficking: According to the Act, *trafficking is an act of selling human beings with any motive, to take away any person abroad with intent to sell, to compel any woman to engage in prostitution through allurement or enticement, deceit, threat, intimidation, pressure or otherwise, and to hatch a conspiracy of committing any of the acts mentioned in the foregoing clauses, or to assist in or abet such acts, or attempt to engage therein.*⁴

Severe punishment for commission of offence: The Act provides for severe punishments for the offence of trafficking. Traffickers may be punished with 10 to 20 years of imprisonment. Similarly, a person who takes another person outside the country with the intention of selling is liable to a punishment of 5 to 10 years of imprisonment. Any person compelling any woman to engage in prostitution shall be punished with 10 to 15 years of imprisonment. A person who conspires to trafficking is punishable by up to five years of imprisonment.⁵

Non-bailable Offence: The Act states that irrespective of anything contained in current law, the court can keep an accused arrested under this Act in custody during the course of trial, if adequate and proper grounds exist for remanding and if government attorney has any argument in the same respect.⁶

Extra-territorial jurisdiction: One of the significant provisions of the Act is its extra-territorial application. Even if a person has committed an offence

punishable under the Act outside the Nepal, s/he can be prosecuted and punished under this Act as if s/he had committed the crime within the country.⁷

Burden of proof: The other major aspects of this Act are that it dilutes, though only to a limited extent, the well-established principle of the presumption of innocence until proven guilty. The Act shifts the burden of proof to the accused when trafficking involves cross-border operation and when they are persons other than guardians or close relatives.⁸

No time limitation to file case: Trafficking of human being is recognized as a crime against state and considering the seriousness of the crime, there is no time limitation to file the case against offenders.

Any one can lodge complaint: The Act States any person who receives information that any one has engaged in an act of trafficking in human beings or is planning to do so can lodge complaint at any police office.⁹

Weaknesses of the Act: The Preamble to the Human Trafficking (Control) Act, 1986 lacks a human rights perspective. The Preamble states that the Act has been enacted to control the offences of traffickers in order to maintain morality in society. Weaknesses of the Act are as follows:

Narrow definition of trafficking: The Act constitutes the offence of human trafficking, but by relating it to commercial sex work only, it misses many other aspects of human trafficking. Because of this narrow definition, survivors of trafficking other than sex workers are deprived of legal and other

³ Section 3 of Trafficking in Human Beings (Control) Act, 1986.

⁴ Section 4 of Trafficking in Human Beings (Control) Act, 1986.

⁵ Section 8 of Trafficking in Human Beings (Control) Act, 1986.

⁶ Section 10(1) of Trafficking in Human Beings (Control) Act, 1986

⁷ Section 2 of Trafficking in Human Beings (Control) Act, 1986.

⁸ Section 7 of Trafficking in Human Beings (Control) Act, 1986.

⁹ Section 5(1) of Trafficking in Human Beings (Control) Act, 1986.

remedies, resulting in violation of their rights.

Wide discretionary power to judges: The Act confers wide discretionary power on judges to punish offenders of trafficking. The act is silent as to what might be grounds for more severe sentences. Therefore, punishment can be manipulated.

Prior approval of the court: The Act has diluted the normal police and government attorney's power of prosecution. Under the State Cases Act, 1991, the police can conduct an inquiry and investigation only after filing an application at the nearest District Court and getting the court's order to proceed. This provision appears to have been included to check abuse of the stringent rules of evidence. However, it has often been criticized for insulating offenders from prosecution because the delay allows culprits to escape before the court issues an order.

Lack of victim/witness protection policy: The Act does not provide protection to victims and witnesses from threat or harm from traffickers. In the absence of such protection, victims view court proceedings as a potentially harrowing experience and are, therefore, likely to be reluctant witnesses.

Limited burden of proof: In legislation, the burden of proof shifts on victim only when the accused is a stranger and the victim's statement is corroborated. In many cases, the trafficker is a relative or a close friend of the victim. This provision is vague in the sense that it does not specify exceptions to this rule, i.e. taking a girl or a woman by her guardians or close relatives to another place or across the border for her benefit such as study and treatment.

Reconfirmation of victim's statement: The Act also requires verification of the

statement of the victim in the court. This results many a time in the failure of cases as the victim may fail to appear in the court or sometimes may turn hostile.

Lack of compensation: The law does not provide for compensation for victims/survivors of trafficking.

Denial of right to appeal: Trafficking being an offence against state, prosecution is brought by government attorneys. Victims are not entitled to file an appeal. Even if s/he is not satisfied with the judgment of the court, it is still the decision of the government attorney whether or not to file an appeal. Even though the victim is critical to the prosecution, the victim or the informer is merely a witness on behalf of the government attorney and not a party to the case.

5.3 Trafficking in Human Beings (Control) Bill, 2001

The existing law is neither effective nor human rights-sensitive. Therefore, the need of a comprehensive, effective and human rights-sensitive laws was urgently needed. The MWCSW had prepared a new Bill incorporating the concern raised by the civil society. This Bill was a welcome step towards effectively combating the crime; however, the Bill has lapsed due to the dissolution of the House of Representatives. The following are the salient features of the lapsed Bill:

Unified single law: The Bill ends the trivial process of consulting two trafficking laws, viz., the Chapter in the Country Code and the 1986 Human Trafficking (Control) Act.

Right to privacy: The bill accords importance to the protection of the privacy of the victims of trafficking by prohibiting the media from publishing information relating to the victim without his or her consent. To protect the privacy of victims,

the bill provides that in-camera hearings should be allowed if the victim requests it.

No reconfirmation of statement of victims: The bill proposes a new provision that determines that once the victim gives her or his statement in court, she or he need not reconfirm it in the court. This is to safeguard victims from harassing treatment in the court.

Right to self-defense: Right to self-defense is yet another new concept proposed in the bill. Under this provision, a woman or child who is going to be trafficked, under reasonable belief that she or he would be trafficked if something is not done then and there and there is no possibility of getting help does something in self-defense and the trafficker is injured or killed thereof, it would constitute no offence.

Rehabilitation: The bill provides for a rehabilitation fund and the creation of rehabilitation centres. The government is made accountable to ensure establishment of rehabilitation centres, which is another notable feature of the bill.

5.4 Weaknesses of the Bill

The proposed lapsed Bill, though a welcome step towards for combating the crime lacks the human rights perspective. A few lacunas still exist in the Bill, which are described below:

Preamble focuses on moral values: The Bill, as in the existing Act, stipulates in its Preamble that its purpose is to control the commission of the act of trafficking and other related acts of sexual abuse and to maintain good conduct and morals of general people by rehabilitating victims.

Narrow definition of trafficking: The Bill does not include other forms of trafficking in its definition. It proposes to criminalize only the acts of selling and purchasing of

human beings, but not the acts of transportation, transfer and harbouring of a human being for the purpose of trafficking. Similarly, the sale and purchase of human beings may be committed by use of threat or fear or misrepresentation, or misuse of power and authority, but the Bill ignores these aspects.

Lack of conceptual clarity: Acts such as voluntary prostitution and visiting prostitutes have been defined as trafficking despite clear differences between them in terms of their intent and harm. By linking trafficking with prostitution, the Bill undermines the fact that trafficking is a human rights offence.

Criminalization of voluntary prostitution: The Bill deals with the act of voluntary engagement in sex work as synonymous with trafficking in human beings. Such criminalization of prostitution is a violation of the right to work and earn a livelihood. It violates individual freedom. Criminalizing prostitution will not protect the rights of either trafficked women or sex workers.

Continuation of prior court approval: The Bill proposes to continue the present requirement of court approval before launching an investigation into a trafficking case. Under the Constitution, the Attorney General makes the final decision whether or not to initiate proceedings in the state cases. This provision of the Bill confers power on the district court. If the court does not allow police to go ahead, there can be no prosecution. Furthermore, the requirements of the court's prior approval may result in the disappearance of culprits and loss of evidence. The delay may be costly for the prosecution.

Arbitrary power to police: In the name of controlling and investigating into the cases of trafficking, the Bill invests the police with sweeping powers without any controlling mechanism. This may result in

the violation of the rights to privacy of persons without any valid or rational justification.

Lack of victim and witness protection policy: The low number of reported trafficking cases is often attributed to the lack of protection and support policies and programme for victims and witnesses. This Bill has no provision for providing support to victims, thus ultimately rendering them unable to protect their rights.

No mandatory requirement for establishing rehabilitation: Another serious lapse in the Bill from human rights perspective is the absence of a mandatory requirement to establish rehabilitation centres for victims. The Bill provides that the government may, if necessary, establish rehabilitation centres for women who have no homes and families. This clause leaves the rehabilitation process not as an obligation of the state but as a discretionary feature. Even if the government establishes rehabilitation centres, there is no provision for the protection of the human rights of the victims living in rehabilitation centres.

Lack of social rehabilitation provision: The Bill does not identify what constitutes rehabilitative support. Rehabilitation is not only providing a victim with a place to live in and food to eat, it is a long process of socialization. Counseling, health service and treatment, legal service, skills training and employment opportunities have to be included.

Compensation is based on fine: The Bill proposes to provide compensation equal to half of the amount of fine imposed on the offender. This compensation is not adequate for the victims for the physical and mental sufferings undergone by them. If there were several victims, the amount of compensation would be negligible. Furthermore, it is irrational to link compensation to the amount of fine

imposed because if the offender can not pay a fine and is imprisoned in lieu thereof, the victims will not receive any compensation.

Lack of victimology perspective: Creating a supportive and enabling environment for women, children and other vulnerable groups is essential for the effective enforcement of law and policy. The Bill, however, lacks provision for care and support of such groups. The law is only focused on controlling the crime and punishing the accused. It ignores the aspects of victim's dignity, privacy, care and support.

5.5 Other Laws relating to Trafficking

In addition to the chapter on trafficking in human beings in the Country Code and the Human Trafficking (Control) Act, 1986 which are the specific laws to deal with the offence of trafficking, there are other laws also that directly or indirectly affect trafficking or victims of trafficking.

Constitution of the Kingdom of Nepal, 1990: The Constitution prohibits trafficking in human beings, slavery and serfdom or forced labour in any form. Any contravention of this provision is punishable by law.

Foreign Employment Act, 1986: Section 12 of the Foreign Employment Act, 1985 limits migration, especially for women. It says: *Notwithstanding anything mentioned elsewhere in this Act, the license holder shall not provide foreign employment to children and to women without the consent of their guardians. For employment in foreign countries, Nepalese women require approval from their guardians and the government.* This provision was incorporated to protect Nepalese women from exploitation and violence in foreign countries. However, the government lifted the restriction on women recently going to Gulf countries in the organized sector.

Labour Act, 1991: The Labour Act, 1991 defines an enterprise as any factor, organization, association, firm, or a group thereof established under the prevailing laws for the purpose of operating any industry, profession, or service where ten or more workers or employees are engaged. It does not apply to those organizations or enterprises that have less than 10 employees.

Children Act, 1991: The Children Act, 1991 stipulates that no one shall engage or use a child in an immoral profession or take photographs of a child for an immoral purpose. The Act also provides that no child shall be engaged in work that causes adverse impact on her/his life or health.

District Court Regulation, 1995: The amendment of District Court Regulation Act, 1995 has introduced provision of in-camera hearing. cases of child rape, trafficking in persons, divorce and other cases that the court declares as not appropriate to be seen in open court. Earlier experience with open court is that it causes further victimization of victims due to inherent social stigma. Now, in-camera hearing will provide safe and victim-friendly environment.

Chapter on Homicide of Country Code, 1963: One of the most traumatic effects of trafficking and the resulting sexual exploitation is unwanted pregnancy. The Eleventh Amendment to the Country Code has allowed to perform abortion in some certain condition, such as; abortion up to 12 weeks of pregnancy upon pregnant woman's voluntary consent, abortion up to 18 weeks in case the pregnancy is due to rape or incest, and abortion with the advice of medical practitioner at any time in case any pregnancy poses danger to the life of the pregnant woman or to her physical or mental health or it leads to the birth of a disable child. Sometime the victim of trafficking requires abortion for unwanted

pregnancy however; abortion law does not allow abortion for that reason, even if she is a HIV positive.

Citizenship Act, 1963: According to the Citizenship Act, only a father or a husband can attest Nepali citizenship. This legal provision highlights the second-class status of women in Nepal. Because children born to trafficked women are often not in a position to establish paternity, they are left stateless by Nepal's discriminatory citizenship law.

5.6 International Laws on Anti-trafficking

Trafficking is national as well as transnational issue. Therefore, national, regional and international efforts are needed to control and combat trafficking. Nepal has ratified or acceded to 16 international human rights instruments and signed three international human right instruments. Human rights are provided in a number of international instruments; however, the analysis under this section is limited to instruments ratified by Nepal.

Slavery Convention, 1926: Nepal acceded to the Slavery Convention, 1926 on 7 January 1963. The Convention defines slavery as the status or condition of a person over whom any or all of the powers attached to the right to ownership are exercised.¹⁰ Similarly, the Convention defines slave trade which includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; the acquisition of a slave with a view to selling or exchanging him; disposal by sale or exchange of a slave acquired with a view to being sold or exchanged and trade and transport of slave.¹¹ The Convention obliges state parties to prevent and suppress slave trade

¹⁰ Article 2 (1).

¹¹ Article 2 (2).

and to prevent compulsory or forced labour.¹²

International Covenant on the Elimination of All Forms of Racial Discrimination, 1965: Nepal acceded to the International Covenant on Civil and Political Rights on 30 January 1971. The Convention obliges state parties for effective protection and remedies against any act of racial discrimination, which violates one's human rights.¹³

International Covenant on Civil and Political Rights, 1966: Nepal ratified the International Covenant on Civil and Political Rights on 14 May 1991. The Convention obliges state parties to prevent from any cruel, inhumane or degrading treatment¹⁴, to prohibit on slavery and servitude¹⁵, to guarantee right to liberty and security of person; no one shall be subject to arbitrary arrest or detention¹⁶ and to ensure freedom of movement.¹⁷

International Covenant on Economic, Social and Political Rights, 1966: Nepal acceded to the International Covenant on Economic, Social and Political Rights on 14 May 1991. The Convention provides right to do work that one freely chooses under conditions protecting fundamental freedoms of the individual¹⁸, right to just and favourable conditions of work¹⁹, right to marriage with free consent²⁰, right to adequate standard of living, including food, clothing, housing²¹ and Right to physical and mental health.²²

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979: Nepal ratified

Convention on the Elimination of All Forms of Discrimination Against Women on 22 April 1991. The Convention defines discrimination against women and obliges state parties to abolish discriminatory laws, regulations, customs and practices.²³

The Convention also obliges state parties to take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation or prostitution of women.²⁴ The Convention provides right to free choice of employment²⁵, right to healthcare and services²⁶ and right to freely choose a spouse and minimum age for marriage.²⁷

In the Concluding Comments on Second and Third Periodic Report (Combined) of Nepal on CEDAW Convention, the CEDAW Committee has urged the Government of Nepal to intensify its efforts to address trafficking in women and girls. The Committee has recommended that its anti-trafficking strategy should include measures of prevention, the prosecution and punishment of perpetrators and increased international, regional and bilateral cooperation. The Committee has requested Nepal government to provide in its next report information about the legal and actual situation with respect to trafficking in women and girls.

Convention against Torture and other Cruel, Inhumane and Degrading Treatment and Punishment, 1984: Nepal acceded to the International Covenant on Civil and Political Rights on 14 May 1991. The Convention defines torture as an act where severe pain or suffering, physical or mental, is intentionally inflicted for purposes, including punishment, intimidation or coercion by person acting in official capacity.²⁸ The Convention obliges state parties not to expel or return of a person to another state if substantial grounds exist for believing she would be in danger of torture.²⁹ The Convention also

¹² Article 2 and 3.

¹³ Article 6.

¹⁴ Article 7.

¹⁵ Article 8.

¹⁶ Article 9.

¹⁷ Article 12.

¹⁸ Article 6.

¹⁹ Article 7.

²⁰ Article 10.

²¹ Article 11.

²² Article 12.

²³ Articles 1, 2 and 3.

²⁴ Article 6.

²⁵ Article 11.

²⁶ Article 12.

²⁷ Article 16.

²⁸ Article 1.

²⁹ Article 3.

provides that alleged victims of torture have the right to complain to and have her case promptly and impartially examined by competent authorities; complainant and witnesses shall be protected against any consequential ill treatment or intimidation and right to compensation.³⁰

Convention on the Rights of the Child, 1989: Nepal ratified the Convention on the Rights of the Child on 14 September 1990. The Convention obliges state parties to provide protection against physical or mental violence, injury, abuse, neglect or negligent maltreatment or exploitation, including sexual abuse of child³¹, economic exploitation or performing any work likely to be hazardous, interfere with education or harmful to child's physical, mental, spiritual, moral or social development³², all forms of sexual exploitation and sexual abuse³³, abduction, sale or trafficking in children for any purpose or form³⁴, all other forms of exploitation prejudicial to child's welfare³⁵ and torture or other cruel, inhumane or degrading treatment or punishment, unlawful or arbitrary deprivation of liberty.³⁶ The Convention obliges state parties to promote the physical and psychological recovery and social reintegration of a child victim.³⁷

Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2000: Nepal signed the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography on 8 September 2000. The Protocol also defines sale of children as any act or transaction whereby a child is transferred by any person/s to another for

remuneration or other considerations³⁸, child prostitution as use of a child in sexual activities for remuneration or other considerations³⁹ and child pornography as any representation of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.⁴⁰ The Protocol prohibits the sale of children, child prostitution and child pornography⁴¹ and obliges state parties to criminalize sale of children, including offering, delivering or accepting a child for purposes of sexual exploitation, transfer of organs for profit and forced labour.⁴² The Protocol also obliges state parties to protect the rights of child victims in criminal justice process: in recognition of their special needs, especially as witnesses; in keeping them informed at all times of all things; providing support services; protecting privacy and identity of the child; providing for their safety and that of their family where appropriate and avoiding unnecessary delay in granting compensation.⁴³

ILO Convention No. 182 on the Worst Forms of Child Labour, 1999: Nepal ratified the ILO Convention No. 182 on the Worst Forms of Child Labour on 13 September 2001. The Convention defines worst forms of child labour which includes all forms of slavery or practices similar to slavery, including trafficking.⁴⁴ The Convention obliges state parties to prohibit and eliminate worst forms of child labour⁴⁵, to design and implement programs of action to eliminate, as a priority, worst forms of child labour⁴⁶, to launch education program to prevent child labour, taking into account the special

³⁰ Articles 13 and 14.

³¹ Article 19.

³² Article 32.

³³ Article 34.

³⁴ Article 35.

³⁵ Article 36.

³⁶ Article 37.

³⁷ Article 39.

³⁸ Article 2(a).

³⁹ Article 2 (b).

⁴⁰ Article 2 (c).

⁴¹ Article 1.

⁴² Article 3.

⁴³ Article 8.

⁴⁴ Article 2.

⁴⁵ Article 1.

⁴⁶ Article 6.

situation of girls⁴⁷ and to enhance international cooperation and/or assistance including development, poverty eradication programme and universal education.⁴⁸

⁴⁷ Article 7.

⁴⁸ Article 8.

SAARC Convention for Preventing and Combating Trafficking in Women and Children for Prostitution, 2002: Nepal has ratified SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002 in November 1, 2005. The SAARC Convention defines trafficking as the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking.⁴⁹ Further, the Convention criminalizes all attempts at trafficking as well as assisting an act of trafficking.⁵⁰ The Convention provides for courts that have jurisdiction over trafficking offences to take into account the factual circumstances that make the commission of such offences particularly grave. These are the involvement in the offence of an organized criminal group to which the offender belongs; the involvement of the offender in other international organized criminal activities; the use of violence or arms by the offender; the fact that the offender holds a public office and that the offence is committed in misuse of that office; the victimization or trafficking in children; the fact that the offence is committed in a custodial institution or in an educational institution or social facility or in their immediate vicinity or in other places to which children and students visit for educational, sports, social and cultural activities, or in the case of previous convictions, particularly for similar offences, in the territory of a member state or any other country.⁵¹

Provision for protecting victims' confidentiality is provided in the Convention. It recommends giving victims access to translators, legal assistance, counseling and support.⁵² The Convention

facilities sharing of evidences and statements of witnesses, documents and records, statements and records of suspects, location and identification of person(s) or objects, delivery of property, including lending of exhibits and information regarding search and seizures. It makes the requested state party liable to promptly execute requests for assistance in the manner requested by the requesting state or to inform the requesting state in case of its inability to execute whole or part of the request for assistance and explain reasons for such failure.⁵³ The Convention treats trafficking as an offence covered by an extradition treaties concluded or to be concluded between member states. It also provides that in the states where extradition is not permitted under law, offenders shall be prosecuted and punished by the national court.⁵⁴ The Convention requires providing training and assistance to officials to ensure effective enquiry, investigation and prosecution of offence and sensitization of law enforcement agencies and the judiciary.⁵⁵ The Convention obliges state parties to develop modalities for repatriation through mutual understanding. State parties are required to provide suitable care and maintenance during the repatriation of the victim and to ensure legal advice and healthcare facilities.⁵⁶

Under the Convention, state parties are obliged to establish protective homes or shelters for the rehabilitation of victims, guarantee legal advice, counseling, job training and healthcare facilities for victims. It also obliges state parties to authorize NGOs to establish protective homes or shelters with minimum standards for suitable care and maintenance and encourages NGOs to work on areas aimed at prevention, intervention and rehabilitation, and assist victims in getting

⁴⁹ Article 1 3.

⁵⁰ Article 3.

⁵¹ Article 4.

⁵² Article 5.

⁵³ Article 6.

⁵⁴ Article 7.

⁵⁵ Article 8 (1) and 8 (2).

⁵⁶ Article 9 (1).

justice.⁵⁷ The Convention obliges state parties to enter into bilateral agreements for cooperation to interdict traffickers in women and children and exchange information regarding the agencies, institutions and individuals involved in trafficking, information to identify methods and routes used by traffickers, information on offenders, finger prints, photographs, methods of operation, police records and records of conviction.⁵⁸ The Convention obliges state parties to make economic development efforts in trafficking prone areas and build awareness against trafficking through the use of media. It also obliges state parties to prohibit the projection of negative image of women.⁵⁹ The Convention shall establish a Regional Task Force, which will facilitate state parties in the effective implementation of the Convention. The task force shall also periodically review the implementation of the Convention.⁶⁰

5.7 Enforcement Mechanism of Anti-Trafficking Laws

After the enactment of the State Case Act, 1992, the Nepalese Criminal Justice System adopted an adversary legal system as a law enforcement mechanism. This system constitutes three important organs of the state; police for investigating the facts relating to a crime; government attorneys, for prosecuting the case legally; and Court, as a neutral body for adjudicating the case. Members of civil society can also play an important role in collecting evidence and apprehending alleged traffickers, although the law does not specifically provide for such a role. The key enforcement agencies of anti-trafficking law are as follow:

5.7.1 Police (Investigation)

The police are the first actor in the process of enforcement. It investigates the crime under the direction of the government attorney. To initiate an investigation, the first step is the registration of a First Information Report (FIR) with the police. Thereafter, the police have to obtain permission from the nearest district court to initiate an investigation. If the court grants permission, which in most cases it does, the police start the investigation process.

5.7.2 Government Attorney (Prosecution)

Government attorneys are agents of the Attorney General. The Constitution of the Kingdom of Nepal, 1990 invests the Attorney General with the final authority to decide whether or not to prosecute a case. To exercise this power, the Attorney General or his subordinate government attorneys have the authority to direct investigators, file charge-sheets with supporting evidences or even to refer the case back to investigators for collection of further evidence. The government attorney may direct the investigating officer during the investigation, or the police itself may request the government attorney for legal advice. The police record the statement of the accused in writing in the presence of the government attorney. The government attorney then reviews the evidence collected by the police. After examining the case and evaluating the evidence collected by the police, the government attorney frames a charge sheet and files it with the appropriate court.

5.7.3 Court (Adjudication and Execution)

Court involvement in trafficking cases begins when the police approaches to court for getting approval for investigation. Once the approval is given, the police investigates the case and the charge-sheet is filed with the court. After a charge-sheet is filed in the court, the court records the

⁵⁷ Article 9 (3), 9 (4) and 9 (5).

⁵⁸ Article 8 (5).

⁵⁹ Article 8 (8).

⁶⁰ Article 8 (3).

statement of the accused and the lawyers of the parties begin pleading for an order of remand or bail for the accused. On the basis of initial facts, the court issues an order either granting bail or keeping the accused in judicial custody. Thereafter, the court begins the process of reconfirming the statement made to the police, which provide an opportunity for the parties to present their witnesses. In between, the court may issue various types of orders according to the requirement. During the trial, government and defense attorneys present witnesses. After completion of the due process, the court delivers a verdict with the provision of appeal in the higher court, if any party is dissatisfied with the verdict made by that court. The bailiff (*Tahasildar*) executes the verdict although either side has the right to appeal.

5.8 Enforcement Status of Anti-Trafficking Law

Under reporting of trafficking cases: Data suggest that about 12,000 (KC et al., 2001) girls below 18 years are trafficked from Nepal to India every year. However, only a very small number of these cases are reported to the police. This problem is compounded because police claims the evidence is insufficient or unreliable and is reluctant to register the FIR. The nationwide crime report register of the police department shows that the number of registered trafficking cases never exceeds 150 per year (Table 5.1).

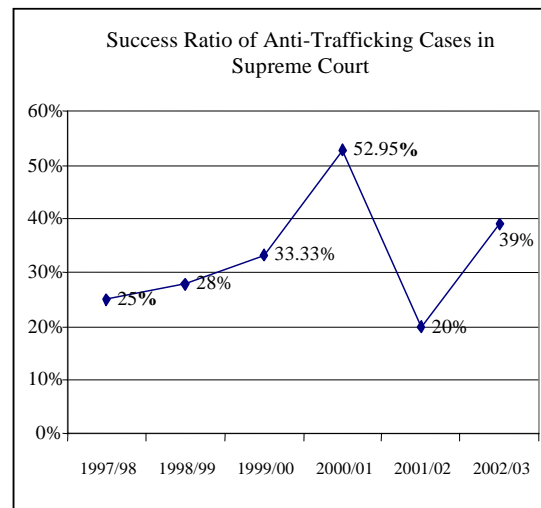
Table 5.1: Trafficking Registered at Police

S.N.	Year	No. of cases registered
1	1993/94 (2050/51)	102
2	1994/95 (2051/52)	150
3	1995/96 (2052/53)	133
4	1996/97 (2053/54)	117
5	1997/98 (2054/55)	130
6	1998/99 (2055/56)	110
7	1999/2000 (2056/57)	125
8	2000/2001 (2057/58)	92
9	2001/2002 (2058/59)	40
10	2002/2003 (2059/60)	54
11	2003/2004 (2060/61)	46

Source: Annual Reports of Attorney General's Office, 1993/94-2003/04.

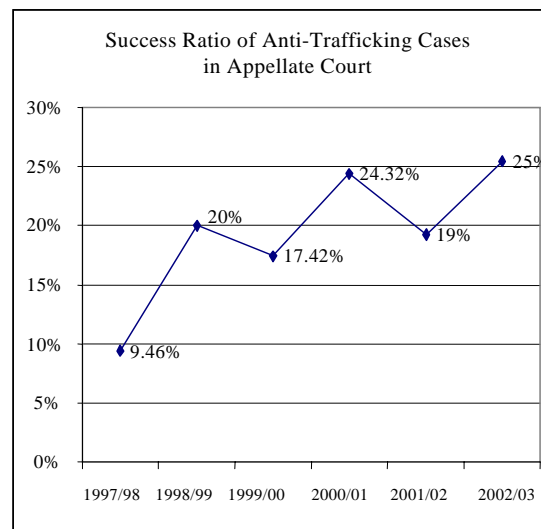
Reporting to Police: According to a recent study conducted by Public Attorney Office, the victims lodge 45 per cent of FIR's and the relatives lodge 55 per cent. Complainants lodge FIR within 15 days to seven and half years, after the offence occurs. Unfortunately, victims are able to provide evidence of trafficking in only 15 per cent of the cases.

Figure 5.1: Success Rate of Anti-trafficking Cases in the Supreme Court



Source: Annual Report of the Office of Attorney General, 1996/97 to 2003/04.

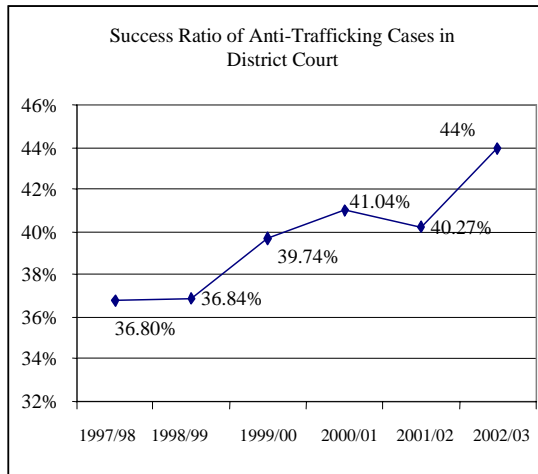
Figure 5.2: Success Rate of Anti-trafficking Cases in Appellate Court



Source: Annual Report of the Office of Attorney General, 1996/97 to 2003/04.

Low conviction rate: The conviction rate is very low and the majority of cases result in an acquittal or a dismissal. Figures 5.1, 5.2 and 5.3 show the outcome of trafficking cases in the Supreme Court, the Appellate Courts and the District Courts (Annex 3a, 3b and 3c).

Figure 5.3: Success Rate of Anti-trafficking Cases in District Court



Source: Annual Report of the Office of Attorney General, 1996/97 to 2003/04.

5.9 Judicial Pronouncements in Trafficking Cases

In this section, attempt has made to look at few major decisions of the Supreme Court in cases relating to trafficking. However, the analysis shows the conceptual confusion and inconsistent approach of the Supreme Court in trafficking cases. The Supreme Court often contradicts its own pronouncements and precedents in approaching trafficking cases.

Inconsistent standard of proof: The Supreme Court has not established a consistent standard of proof in trafficking cases. In several instances, the Court held, is not necessary to prove the victim was taken abroad and sold to establish guilt.⁶¹ Rather, the Court held that it is sufficient to show that a victim was taken from one

place to another to establish the offence under No. 1 of the Country Code Chapter on Trafficking in Human Beings.⁶²

However, in a contradictory ruling, the Court has held that the prosecution must prove the defendant took the victim abroad with the intent to sell her.⁶³ In Nepal government vs. Om Prasad Bishwakarma, the Court applied this standard but failed to clarify how much evidence is needed to establish foreign transport and intent.⁶⁴ In Bishwakarma's case, a man took a woman to India, promising to marry her. He returned to Nepal and left the woman in India. The Court ruled that, although the defendant transported the victim abroad, the evidence was insufficient to establish the intent to traffic. Thus, the defendant was convicted only of attempted trafficking.

Corroboration required despite shift in burden of proof: As discussed earlier, a serious problem to effective implementation of anti-trafficking law is minimal report of cases to the police. A number of Supreme Court decisions suggest that the Court is trying to create pleasant atmosphere making easier for a victim to come forward for reporting and prove her case. In one case, the Court ruled that the victim in a trafficking case should be given the benefit of doubt.⁶⁵ For example, if the defendant's testimony contradicts the victim's statement, the burden is on the defendant to prove the claim.⁶⁶ The Court extended this principle when it held that a defense of "false

⁶¹ HMG/Nepal vs. Gopal Prasad Dahal, SCB 1997 (2054), Vol. 6, No. 15, p. 8.

⁶² HMG/Nepal vs. Bakatu, NKP 1988 (2045), Vol. 11, p. 1163.

⁶³ HMG/Nepal vs. Habib Miyan, NKP 1988 (2045), Vol. 6, p. 534.

⁶⁴ HMG vs. Om Prasad Bishwakarma, SCB 1997 (2054), Vol. 6, p. 12.

⁶⁵ Durga Dhimal vs. HMG/Nepal, NKP 1997 (2054), Vol. 3, p.332.

⁶⁶ Narayan Prasad Giri vs. HMG/Nepal, SCB 1996 (2053), Vol. 5, Ram Krishna Tamang vs. HMG/Nepal, SCB 1996 (2053), Vol. 5, p.9, Dek Prasad rizal vs. HMG/Nepal, SCB 1996 (2053), Vol. 5, p.6, Wangchen Lama vs. HMG/Nepal, NKP 1990 (2047), Vol. 7, p. 533, HMG/Nepal vs. Panchamaya Biswakarma, SCB 2003 (2059), Vol. 17, p.15, Indira Khatiwada vs. HMG/Nepal, SCB 2000(2057), Vol. 7, p. 1.

complaint” must be logical and reasonable.⁶⁷

Unfortunately, the Court undermined its own decisions in several contradictory rulings. For example, although victims of trafficking “should be given the benefit of the doubt,” a defendant can not be convicted on the basis of an uncorroborated statement from the victim.⁶⁸ In another case, the court failed to accept a confession corroborated by the co-defendant as sufficient evidence for a conviction.⁶⁹ The Supreme Court has further contradicted this principle by holding that although victims of trafficking are intended to be given the benefit of doubt; however, one can not be convicted merely on the basis of doubt.⁷⁰

However, in most recent reported judgment, the court held that Traffic in Human Beings (Control) Act, 1986 is special Act so special provision of burden of proof i.e. burden of proof lies on accused, made by the Act was attracted in trafficking case rather than general provision of Evidence Act.⁷¹

Delaying in lodging FIR is ground to avoid justice: Considering the specific nature of crime, law does not limit time or *locus standi* for filing a FIR of the incident of trafficking. In the context of low reporting of crime, it is quite essential for the law enforcement agencies to encourage lodging the FIR of the trafficking. However, contrary to legislative motive, the court has very miserable approach in this regard. For example, the court has declared accused innocent on the ground that victim took years for lodging

complaint against accused after coming back to Nepal and she has no reliable justification to taking that long time for reporting.⁷²

Evidentiary value of victim’s original statement depends on confirmation: The reasons victims frequently change their testimony when they appear in open court have been discussed previously.⁷³ Some of these reasons include long delays before trial, threats from the trafficker and family pressure. Perhaps appreciating these difficulties, the Supreme Court ruled that charges against a defendant can not be dropped simply because the victim changed her statement. The inconsistent statement given in court must be factually supported before it will be accepted as evidence.⁷⁴ However, a significant procedural obstacle remains. In Nepal government v. Raju Tamang, the court held that unless a victim gives a statement in court, her original statement couldn’t be admitted as evidence.⁷⁵ By employing this requirement, the court creates procedural loophole that allows offenders to avoid penalty.

In trafficking case, the victim needs to be reconfirmed her statement herself during trial. Often because of the long delay between the FIR and the commencement of trial, inconsistencies between victim’s statement may arise; intentionally due to threat and intimidation or unintentionally due to in time being losing remembrance of detail of information. However, the Court has held that any inconsistency in the statement a victim gives during the investigation and her statement at trial is treated as false testimony and is

⁶⁷ Krishna Bahadur Biswakarma vs. HMG/Nepal, SCB 2000 (2053) Vol. 7, p. 17.

⁶⁸ HMG/Nepal vs. Indra Prasad Mainali, SCB 1998 (2055), Vol. 7, p. 2.

⁶⁹ Shayam Pariyar vs.HMG/Nepal SCB 2000 (2057), Vol. 9, p.15.

⁷⁰ Gopal Tamang vs. HMG/Nepal, SCB 2000 (2057), Vol. 9, p. 11.

⁷¹ Pasang Dawa Tamang vs. HMG/Nepal, NKP 2000 (2057) Vol. 3.4, p. 188.

⁷² Ganga Bahadur Tamang vs. HMG/Nepal, SCB 2001 (2058), Vol. 18, p. 7.

⁷³ Recent amendment in District Court Regulation made hearing of trafficking cases in camera bench.

⁷⁴ Nirmal Lama vs. HMG/ Nepal, SCB 1998 (2055), Vol. 7, p.13.

⁷⁵ NKP 1989 (2046), Vol. 4, p. 399.

inadmissible in court.⁷⁶ This decision creates an impossible dilemma for a trafficking victim already terrified to face a potentially hostile and threatening court.

A general quantitative analysis of Supreme Court judgments indicates following judicial trend and patterns:

International human rights instruments ignored: As has been emphasized several times in this study, Nepal is obligated to comply with several international treaties and conventions. Our analysis shows that, despite their applicability, the justices failed to rely on any of these instruments as authority when deciding a trafficking case. In addition, none of the legal representatives for the victim or the accused brought international human rights instruments to the attention of the court in representing their clients.

Precedent ignored: Every Supreme Court decision contains a section indicating whether the court relied on a previous decision in deciding the current case. Despite earlier cases on point, in 23 decisions, the Court did not cite its own precedent. In only one judgment, the court cited its precedent applied in decision.⁷⁷ This failure to build upon precedent produces inconsistent and contradictory decisions that rob the law of the predictability required ensuring compliance with the law.

Government attorneys fail to appear: One of the most shocking discoveries of the analysis is that the Supreme Court delivered a verdict without a government attorney present in 22 per cent of the trafficking cases it heard. Because the government attorney is the victim's attorney, both the victim and the state were without legal representation. On the other

hand, a defendant may select an attorney who will be experienced and highly paid. Inevitably, without an attorney to prosecute the case, the defendant is acquitted

5.10 Challenges and Recommendations in Law Enforcement

All key enforcement organs (police, government attorney and court) have their own role and responsibilities in the enforcement of law; however, their role and responsibilities are so interrelated that the failure of one organ affects the functioning and performance of another. Poor investigations result in a lack of evidence and hurried prosecutions produce flawed results. As a result, these organs blame one another for non-fulfillment of their responsibilities and poor performance without looking at their own weaknesses. The problems associated with the law enforcement system are procedural and conceptual problems that create challenges for effective law enforcement and impede execution of judgments. Moreover, there are gaps and weaknesses in the law enforcement mechanism, some of which are as follows:

Low Reporting: It is estimated that a large number of girls/women are trafficked from Nepal to India each year, whereas only a negligible number of cases are reported to the police. This problem is compounded because the police themselves are reluctant to register FIRs, ostensibly due to lack of evidence or reliability. The crime report register of the police department shows that the number of trafficking cases registered by police never exceeds 150 in a year.

Social acceptance: Another vital reason for low reporting of trafficking cases is people's tendency of not considering trafficking as an act to be reported. In some areas of Nepal, trafficking in people has been established as a customary

⁷⁶ In *Dhansingh Negi vs. HMG/Nepal*, NKP 1996 (2053), Vol. 11, p. 789, the Court held that inconsistent statement given to the police and the court was inadmissible.

⁷⁷ *Pasang Dawa Tamang vs. HMG/Nepal*, NKP 2000 (2057) Vol. 3,4, p. 188.

enterprise and, therefore, is socially accepted. In some districts, particularly in rural areas, parents take pride in sending their daughters to India to earn money in whatever manner.

Lack of scientific investigation system:

The investigation system applied to trafficking cases is out of date and perfunctory. In totality, the whole investigation system is confined to the FIR, the statement of the victim, and, if available, the statement of the accused. Each case presents different needs for evidence collection, but no innovative tools are being applied in these investigations. There is no systematic treatment of the information acquired during one investigation to the next.

Lack of training:

Training is an effective strategy to develop the capacity of the employees of an organization. Unfortunately, police personnel lack training in the specific issues related to crimes such as trafficking in human beings. Also, there is no specific issue related to crimes such as trafficking in human beings. Also, there is no training for government attorneys, which would have helped them to develop expertise in specific areas. Training is also lacking in human rights norms and practices and gender sensitization, which would have otherwise helped them to look into the cases seriously. Even though judges are now participants of some of these training programmes, no training is organized for the administrative staff that is directly involved in adjudication.

Based on accused persons' statement only:

The crime investigation system in Nepal, including in trafficking cases, is limited to the accused person's statement. Normally, the investigator arrests the accused and extracts his or her statement. The investigator pursues the statement of the accused rather than investigating and collecting independent evidences. As a

result, primary and independent evidences become stale and unavailable and at the time of prosecution cases are solely based on the accuracy of the statement of the accused.

Lack of victim and witness protection policy:

The victims and witnesses sometimes become hostile due to intimidation by the accused and fear. Their hostile statements have negative impact on the prosecution and help in bringing 'not guilty' verdicts. One reason for victims and witnesses turning hostile is lack of a security policy for them. Because of this, in trafficking cases, a number of victims and witnesses become reluctant and hostile.

Pressures on government attorney:

Political pressure, social pressure and threats and danger from traffickers are the major challenges that government attorneys face in their day-to-day work. Threats to their life and property from traffickers put pressure on government attorneys, their families and relatives, which ultimately affects their working ability.

Lack of commitment:

Government attorneys do not appear in courts in 23 per cent of the trafficking cases, which results in the acquittal of the accused. The reason for not appearing is that either they have not prepared the case thoroughly or they have been manipulated by outside parties. Government attorneys show little initiative to ensure that trafficking cases are prosecuted effectively and in time. They do not ensure that appropriate pleadings are filed, that due process of law is followed, that witnesses are prepared, or that they produce sufficient evidence to achieve a conviction.

Lack of victim friendly perspective:

Government attorneys represent the victim. However, they rarely interact with the victim. Government attorneys are often

not informed about the extension time for police custody, which may hinder the prosecution. The whole legal prosecution of trafficking cases focuses on crime and ignores the victimology perspective.

Lack of coordination between police and government attorney: As police investigate the crime, information should be provided to government attorney so that they can effectively argue in court. There should be adequate consultations between the police and the government attorney. Unfortunately, the police and government attorney rarely interact with each other. To the detriment of the victim, both appear unwilling to listen to or help one another. Indeed such a lack of communication often results in failure to achieve a conviction.

Insufficient evidence: The failure of the courts to execute justice is partly due to poor investigations that produce insufficient evidence. Police and government attorneys must focus on evidence collection and case preparation before bringing a case to court. There is lack of system for collecting evidences in the country of destination through cross border police collaboration.

Outdated techniques: The justice personnel use outdated techniques for trying cases of trafficking. Such personnel should be updated on the new scope that the crime takes and the international instruments that enhance the fight against trafficking and that have been ratified by Nepal.

Inadequate resources: Nepalese judiciary is crippled by a shortage of adequate, efficient and capable human resources. Reference materials, logistical support and infrastructure are also inadequate to support a well-functioning judiciary. Maximum budget allocated for judiciary does not go beyond one per cent of the total national budget.

Lack of special procedure: Trafficking is an organized crime; thus, it needs a special procedure to speed up the trial process and trained judges who understand the intricacies of trafficking. A special court has been in operation without special procedure, problem present in regular court were also present with special court. The emphasis while establishing special court should not be on the name of the court but on procedures that it applies.

Delay in finalization of cases: Delay in trial has become common place in the Nepalese judicial practice. Though the Country Code provides that a case in the trial court has to be completed within one year after submission of the statement of defense, this time limit is violated in most cases. It often takes years to decide a case even at the trial level. Delay in a court system naturally impairs the evidence produced in court. The victim becomes hostile or sometimes does not follow up and does not appear in the court.

Reconfirmation of victim's statement: Current law requires that victims reconfirm their statement in court. However, many victims or whoever files the complaint, disappear once the FIR is lodged. This has caused difficulty in reconfirming the statement.

Hostile victims and witnesses: Victims and witnesses sometimes become hostile or change their statement. One reason for this is inadequate police protection from threat and intimidation. Without the cooperation of victims and witnesses, effective investigation and prosecution of trafficking crimes is virtually impossible. Victims feel abandoned by their families, police, prosecutors and the courts during the trial. False promises of love or marriage from traffickers can also make a victim change her statement. Giving a statement is particularly traumatic and a victim may change her statement to avoid going to a trial. A smaller portion of

respondents believe victims are so demoralized by the experience of being trafficked, that they often lack confidence to withstand a trial.

Poor coordination between law enforcement agencies of Nepal and India: Trafficking is a trans-border crime. It needs collaborative efforts from police in country of origin, country of transit and country of destination. No collaboration or bilateral mechanism has been developed among law enforcers for prevention, investigation, rescue and reintegration.

Ambiguous charge sheets and multiple defendants: A well-prepared charge-sheet is essential to prosecuting a trafficking case. It should be based on a clear claim and supported by direct evidence. However, in practice, the claim portion of the charge-sheet is often vague because of time constraints and haphazard reporting of claims. Trafficking prosecutions often involve multiple defendants and accessories. When there are multiple defendants, the prosecution faces a substantial challenge in proving the charges against each one.

Minimum sentences: The sentence for trafficking is 20-20 twenty years, allowing judges to exercise broad discretion in sentencing. According to a study conducted by Attorney General's Office, prosecutors requested a maximum punishment of twenty years in ninety percent of trafficking cases. However, the judgment analysis conducted for that study indicates that trial judges administered the maximum sentence in only 38.5 per cent of cases. Appellate courts affirmed the maximum sentence of the lower court in only ten percent of trafficking cases and never enhanced the trial court sentence. This trend shows that the objective of severely punishing traffickers remains unmet.

No mechanism to deliver summons in foreign territories: Trafficking is an organized crime and a trans-border problem that requires coordination and support on an international level. The Traffic in Human Beings (Control) Act provides for extraterritorial jurisdiction. In most human trafficking cases, the accused and the witnesses live in a foreign country. However, the Act does not provide a specific procedure for issuing and serving a summons in foreign countries. Because of these legislative and administrative gaps, trafficking defendants can not be properly brought within the jurisdiction of Nepali courts.

Judgments not executed: Timely execution or non execution of judgments is another challenge. After the trial, a defendant free on bail may flee, often aided by an organized network, before the judgment can be executed. Lack of court police and no system of monitoring and follow-up with the offenders, open border with India, false name and addresses are some of the cases of non-execution of judgment.

5.11 Recommendations

Amend anti-trafficking laws and policy in line with ratified international human rights instruments: Domestic laws, policies and programs should incorporate relevant provisions of ratified international human rights instruments. For example, General Recommendation 19 of CEDAW Committee identifies new forms of sexual exploitation such as sex tourism, importing of people from developing countries for sexual exploitation under the pretext of employment as domestic help, and forced marriages between women from developing countries and foreign nationals.

Make trafficking an extraditable offence: The existing extradition treaty of 1953 between Nepal and India needs to be reviewed to include trafficking in human

beings as an extraditable offence and the treaty provisions should be enforced. Nepal should also negotiate extradition treaties with other countries of destination to ensure extraterritorial jurisdiction.

Reform anti-trafficking laws from human rights perspectives: Although Nepal enacted an anti-trafficking act in 1986, the law has been ineffective because of several inherent weaknesses. As discussed above, the Act treats trafficking as a failure of moral values rather than as an egregious violation of women's human rights. The law focuses on crime prevention but ignores the victim's perspective and omits provisions for rehabilitation or reintegration. A new Act that effectively addresses the complex crime of trafficking and recognizes the impact on the rights of women should be passed.

Adopt a comprehensive definition of trafficking: The definition of trafficking in the proposed anti-trafficking bill is not comprehensive. Even the definition in the Protocol to the UN Convention against Transitional Organized Crimes does not incorporate acts that are fundamental to the organized crime of trafficking. For example, the definition in the Protocol does not include knowingly financing an act of trafficking as a crime, particularly the crucial act of purchasing the victim.

Compensation to survivors: As the law does not ensure adequate compensation for victims, it should be amended to provide compensation to survivors beyond the amount the perpetrator is fined. State compensation should cover rehabilitation and incentive for the survivors to assist in the prosecution of cases.

Improve court procedures: Trial procedures need to be implemented to ensure that cases proceed expeditiously. For example, permitting investigation without prior court approval and effective measures for domestic and international

service of summons would substantially reduce the time required to investigate and try trafficking cases.

Provide assistance to victims and witness: The existing law does not include a provision that protect victims and witnesses from threats and intimidation that are frequently associated with organized crimes such as trafficking. This protection should include non-disclosure of the victim's and witness' identity, a safe place to stay during investigation and trial, and counseling and health services. Information on victim's rights, available protection and legal proceedings should be in a form that is easily understood by all victims.

Allow conditional right of appeal for victims: Data indicate that many government attorneys fail to effectively pursue trafficking cases. If a government attorney fails to appear in court or to properly file an appeal, the victim should be allowed to appeal on her/his own behalf.

Eliminate discriminatory laws: Discriminatory laws reinforce women's subordinate position and increase their vulnerability to trafficking. Government intervention should address the factors that increase vulnerability to the trafficking including inequality and all forms of discrimination. There are many discriminatory laws in Nepal and eliminating them will indirectly help to combat trafficking. For example, a woman still does not have the right to attest citizenship to her children.

Ratify human rights instruments designed to combating trafficking: International human rights instruments dealing with trafficking, particularly the UN Convention on Transitional Organized Crimes and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,

needs to be ratified without reservation or delay. The Optional Protocol to CEDAW needs to be ratified to ensure an effective complaint mechanism.

Comply with reporting obligations and implement recommendations: Most international instruments require a state party to report on the implementation status of the Convention. The government of Nepal needs to submit its periodic reports on time and or implemented the recommendations of the treaty bodies under CEDAW, ICCPR, ICESCR, CRC and CERD, specially concluding comments of these instruments.

Amend the SAARC Convention: The SAARC Convention against trafficking should expand its definition of trafficking and clearly delineate the responsibilities of countries of destination in the prevention, monitoring, rescuing, rehabilitation and repatriation of trafficking victims. The Convention must also provide for a treaty body to supervise and ensure effective implementation of the Convention. It should appoint a regional rapporteur to monitor the implementation of the Convention and coordinate with other international and national rapporteurs on the issue of trafficking.

Facilitate reporting: Since reporting of trafficking cases is a great challenge for law enforcement, the government should create an environment that encourages reporting. Community members should be informed that trafficking is a violation of human rights and not a reason for shame and social stigma. Police must cooperate with victims and demonstrate gender sensitivity. It is also essential to maintain the confidentiality of third parties who report trafficking.

Improve evidence collection: Insufficient evidence and poor preparation of the case on part of government attorney and police results in low conviction rates. They must

increase cooperation to improve investigation, evidence collection and case preparation before bringing the case to court. Physical and mental health reports should be collected as evidence of trauma and sexual exploitation associated with trafficking. Documents from foreign countries, such as an official letter from a foreign embassy verifying that a woman was trafficked, should be made admissible.

Frame clear charge-sheets: An ambiguous charge sheet makes the case weak. Government attorneys should be trained to frame the charge in clear, specific language. The existing approach of prosecuting multiple defendants based upon a single charge sheet should be changed so that a clear specific charge sheet is prepared for each defendant.

Establish women police cells in every district: Nepal Police should establish women's cells in every district to encourage reporting of trafficking offenses and ensure effective investigation of trafficking cases. These cells should have adequate authority and structure to initiate trafficking investigations.

Develop a consistent judicial approach: Courts decisions should be based on established precedent to guarantee a consistent approach in deciding trafficking cases that are heinous crime against women and children. In almost all cases, perpetrators received minimal sentence of ten years of imprisonment, although the law provides for a sentence of ten to twenty years. Minimum sentences mitigate the seriousness of the crime and are not effective deterrents. The court should impose the maximum penalty based on objective sentencing guidelines.

Provide appropriate training: Training develops skills and knowledge, improves job satisfaction and motivates employees. Law enforcement personnel must receive training on human rights and the

relationship of gender-based violence to trafficking. Government attorneys and judges should be educated about the domestic application of international human rights instruments and sensitize court officials, including judges, to gender issues and established human rights norms.

Control corruption: Corruption is rampant, particularly in law enforcement. Concerned authorities should take prompt action to stop corruption enforce trafficking laws and redress the harm caused by corrupt officials. The Anti-corruption Act of 1960 should be rigorously enforced with a focus on presumed offences.

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CHAPTER 6

Media and Trafficking

6.1 Background

Media plays crucial and proactive roles in social, cultural, economic and political transformation by providing information based on research, opinion, events and other activities. Media is an effective mechanism for creating mass awareness. If exercised properly, it may even generate public opinion and bring about behavioural change among the target population. It may work for people's right to correct and help promote human rights. The Constitution of any democratic country normally guarantees people of their rights to information and freedom of expression. The Constitution of Kingdom of Nepal, 1990, under the Fundamental Rights, part 3 guarantees the right to freedom of opinion and expression, the right to press and publication and the right to information. Right to information states that every citizen shall have the right to demand and receive information on any matter of public importance.

Trafficking has become a grave concern for everyday newspapers, television and radio programme in the country. Media generally cover news of trafficked girls, circus children, punishment to traffickers, workshop/seminar and training programme of GOs and NGOs, editorials, columns, feature articles, tele-serials, documentaries and legal issues to combat trafficking.

The print media like newspapers, journals and electronic media such as radio/FM

broadcast news, case stories information, interaction with related stakeholders which helps to provide information on the gravity of the situation of trafficking, challenges and efforts made to resolve the problems. Similarly, the TV programs in addition to news and events even show the documentaries and serials on trafficking issues. Such coverage made by print and electronic media provides access to information, helps to enhance the awareness of the people in general and works as advocacy tool to sensitize the policy makers on the depth of the trafficking in person issues. The media also inform citizens on the adverse affect of trafficking by exposing clandestine trade, menace of trafficking, opinion building against trafficking and advocate for protection, prevention and rehabilitation of survivors of trafficking in person.

After the restoration of multi-party democracy in 1990, the Nepal Government adopted Information and Communication Perspective Policy, 2059 BC by involving private sector print and electronic media. The policy states that radio, television, and internet communication system would be extended throughout the country and private sector would be encouraged as partners for development. The government proposed to mobilize private sector for news collection, edition and dissemination of information. Radio and television broadcasting would embrace competitive development approach.

The Press Council Nepal (PCN) reported that 2,038 newspapers were registered till July 2004. There are six television channels in the country, including two in the public and four in the private sector. In addition, 46 FM radio stations have been in operation in the country. In dealing with emerging issues, these media have covered women development including trafficking issues.

6.2 Coverage in Print Media

One study (PCN, 2005) reported that of the 12 critical areas identified in the print media, violence against women constituted almost one-fourth (24.3%) coverage, while the coverage of news on trafficking in women and girls included only 1.5 per cent. Mostly published in Nepali language, Nepali print media broadly cover issues like open border and trafficking, policies and measures to stop trafficking, trade in women and awareness programme like street drama.

In 1997-98, ASMITA conducted a survey in cooperation of Action Aid Nepal and other agencies by selecting 100 newspapers, magazines and journals published from Nepal and a few from foreign countries covering the period 1987 to 1997 to identify the extent to which they were able to address TIP issues. Of these print media, 85 were in Nepali and the remaining 15 in English. An analysis of the 1,264 materials from these print media revealed that 68 per cent of them were in the form of news; while 9 per cent were field reporting. The Nepalese media had greater coverage on trafficking in women and children than in other cases, apart from prostitution. Foreign media overwhelmingly (77% of 186 materials) focused on prostitution and child prostitution (Pant, 1999).

OXFAM reported has become more responsible and comprehensive in their reporting of trafficking related cases. Until 1990s, trafficking was equated with women and girls returning from India but now they have undertaken issues like prevention and prosecution. There is a growing perception in the media that the trafficking of women and children is not due to poverty alone but the result of complex socio-economic problems like ethnicity, discrimination, family breakdown, lack of education and the armed conflict (Pearson, 2004).

A collection of different press clippings by ONRT-NHRC, Jan-Dec 2004, reveals that the Nepalese media have been able to cover different aspects related to trafficking in women and children. These clippings were extracted from Daily newspapers *Kantipur*, *Gorkhapatra*, *The Himalayan Times*, *Rajdhani*, *Space Time* and *The Kathmandu Post*. Some clippings highlight on the status of trafficked women and girls, while others include the issue of women and children being vulnerable to trafficking even in the hands of parents and relatives. The awareness against trafficking has been enhanced in the country. Other issues are related to rights of migrant women and their safety during migration. The Media laid heavy emphasis on internal conflict, displacement, human trafficking and child abuse. The clippings also show the need for effective legal provision for preventing and combating trafficking in person. The ratification of SAARC Convention and need of effective implementation also has been the concern expressed in some of the clippings.

6.3 Coverage in Electronic Media

The electronic media including radio, TV and cinema are popular means of entertainment and information to the people of Nepal. With 52 per cent of literacy rate, difficult geophysical terrain, gender discrimination and prevailing socio-cultural norms in Nepal, electronic media create an environment to fight against trafficking in person at the grassroots level. Increasing involvement of private sector in establishing FM radios and TV channels has intensified access to information even in the remote districts of Nepal.

In terms of coverage, the radio/FM provides services to the almost entire population of Nepal. Radio Nepal provides access to general population through short waves service and through medium wave and FM. The services have been rendered

with the establishment of 11 sub-centres in different part of the country.

More than 44 per cent of the Nepalese population from Mechi in the east to Mahakali in the west has access to Nepal Television (Wont et al., 1999). Other electronic channels cover additional population. Besides, the use of emails/internet has grown among the youths and professionals working in various fields. These groups of people also use various web sites that include advocacy, training and research materials related to armed conflict and its impact on human trafficking.

In addition to event news, TV and radio broadcast, tele-serials and issue based documentaries, organizations like Nepal Television, Radio Nepal, Nepal Police, Film Industry, UNICEF, UNDP, Canadian Broadcasting Corporation, and NGOs like Rastriya Seva Kendra and WOREC have prepared different audio-visuals to support the media in their efforts to create anti-trafficking movement in the society. The audio-visuals in general are prepared in Nepali.

Radio Nepal broadcast programme namely *Sabdhanima*, *Sathsath*, *Nari Sansar*, *Sachetana*, *Chelibeti* and other issue based packages related to trafficking in person.

Radio Sagarmatha FM has been broadcasting weekly radio programme (*Saha Asttito*) since 2002 onwards with the support of OXFAM. The programme covers 60 per cent districts of the country through its networking with local FM radios. The objective of the programme is to focus on the issues of gender equality, social justice and women's rights. The programme covers different issues on trafficking especially of women and children with reference to news, case studies, experience of women activists for combating trafficking, and decision of the supreme courts on trafficking. The

programme also broadcasts analytical themes in changing structure of trafficking, folk songs related to trafficking and activities implemented by NGO/GO to combat trafficking.

Nepal TV has prepared and broadcasted tele-serials like *Nirdosh Kaidi*, *Jivan Yatra*, *Thuldhungaki Chameli*, *Jagriti* and *Aekaapa*. Similarly Kantipur TV Channel broadcast issue based documentaries. The documentary on returnees of circus children can be cited as an example in this respect.

The Kantipur TV has an on-aired programme and documentaries related to trafficking for both sexual and non sexual purpose. In addition to on-airing documentary related to circus children, it has organized interaction programme with rescued circus children from India to expose their slavery like condition while working at different circus centres. It has also on-aired interaction programme with different persons who have sold their kidneys for the sake of their livelihood.

The TV Channels also broadcast the audio-visuals prepared by organizations like Nepal Police, Film Industry, UNICEF, UNDP, Canadian Broadcasting Corporation, and NGOs like Rastriya Seva Kendra and WOREC in their efforts to create anti-trafficking movement in the society.

As such, some examples of audio-visuals are Nepali Police: *Kathibara*, *Pahad Sakiyepachhi*, *Chheliko Aawaj*, *Byatha Cheliko*, *Beshyabritti*, *Jhapa Cheli*, *Aansu Yarsako*; Rastriya Seva Kendra: *Habigat*; WOREC: *Bedana Ra Mukti*; UNICEF: *Devi*; UNDP: *Raat*; and Canadian Broadcasting Corporation: *Selling of Innocents*.

In addition, such feature films as *Pratiksha*, *Cheli*, *Anyaya* and *Aekadeshama* have also been released.

Certain anti-trafficking messages with visual clippings on the screen of cinema halls have been visualized all over the country as it is a general event for a trafficker to take women and children to the cinema hall in the process of pursuing them for trafficking. However, most of the audio-visuals have identified the problems related to trafficking in person but they have not come out with effective solution to the problem.

Different agencies such as ABC Nepal, WOREC, HimRights/INHURED and ActionAid tried to create awareness in the society by developing cassettes and CDs with the collection of songs on issues related to domestic violence against women, human rights and also trafficking related issues. Name of some of the cassettes are: *Abhiyan/ABC Nepal*, *Cheliko Aawaj/ABC Nepal*, *Shakti/ABC Nepal*, *Chetana/ActionAid*, *Dhoka/HimRights/INHURED*, *Simana Pari/HimRights/INHURED*, *Hamro Nepal/Lila Nepal*, *Sanu Mul*, *Abhiyan/WOREC*, *Ukali Orali Sunne Patrika (Gharelu Himsa Bishesh)*, *Bhag 11*, and feature film *Chameli*, UNIFEM

6.4 The Contribution of Other Organization to Support Media

In recent years, there have been efforts on the part of the NGOs to give orientation to journalists to make them supportive of the anti-trafficking programme. In addition, articles in leading newspapers on Violence against Women and gender have been sponsored by such agencies (SAATHI, 2003). The organizations invites journalist and programmers as newsmakers of their activities, provide feature articles for the respective newspapers and journals. NGOs have also established a resource centre on trafficking issues as an instrument of information sharing among partners working for combating trafficking in person. The documentation centre of Ministry of Women, Children and Social

Welfare, the resource centre of NNAGT, the digital library of Terre des Hommes are some of the examples in this respect.

Sancharika Samuha, the NGO working for women empowerment through mobilizing media also includes trafficking in women and children as priority issues to deal with.

UNIFEM together with partnership of *Sancharika Samuha* made a media campaign and published collection of articles as *foreign employment for women – challenges and opportunities, 2003* for creating positive environment and safe migration for women in foreign employment. Since unsafe foreign employment and migration lead to trafficking, such a campaign also contributes in the effort to combat trafficking in women.

6.5 Situation Analysis

Media with its important contribution in combating trafficking in person has been playing the role of pressure group and also of watchdog. In fact, its involvement on the issues is not a one time activity. It needs regularity and involvement as a stakeholder to analyze trafficking in person from the perspective of human rights. The coverage of print and electronic media in Nepal reveals that the media played a sensitive role to raise the issue of trafficking in person. The major print and electronic media like *Gorkhapatra*, *The Rising Nepal*, *Kantipur*, *Himalayan Times*, *Annapurna Post*, Nepal TV and Kantipur TV have established gender issue desk. The desk works for different gender issues including trafficking in women and children and violence against women.

National policy on information and communication is inadequate to respond to an increasing number of private sector involvements in the media in term of their effective role to address social issues.

Survey of the media reporting conducted by the NGOs reveals that some of the media reporting lacks respect to the identity and dignity of women thus by violating rights to privacy as and when there is reporting on issues related to trafficking in women and girls and other such sensitive issues.

Most media take poverty as the root cause of trafficking and also accept the fact that trafficking in person is the result of a complex socio-economic problem like gender based discrimination, family breakdown, lack of education and the armed conflict.

Several media give emphasis to the trafficking in person for the purpose of sexual exploitation and largely ignore the fact that the trafficking in person is also carried out for their use in domestic and industrial work, circus and organ transplantation. Some of the reports even show lack of effort to differentiate between voluntary and forced prostitution.

Most of the information in the newspapers are the reported cases from other sources and are based on secondary information. There is a lack of research-based approach to collecting primary information in addition to news and event coverage in the issue of trafficking in person. Besides, media's involvement is more of an urban based, while the rural population, which is the vulnerable target of the traffickers, is not aware of all the media information.

Several studies show that participation of women in media provides a gloomy picture. There are only a few writers, reporters and editors among the women. Their number is limited among the contributors and columnists. Even among such women contributing in some of these sectors, the ethnic groups like Bahun-Chhetri dominate the scene. (PCN, 2062). Of the total 1,301 employees of print and electronic media sector, the male female

ratio was 90:10 (Pant, 1999). In the government run media sector such as in Radio, Television, *Rastriya Samachar Samiti* and *Gorkhapatra*, the women constituted only 12.19 per cent of the total employees (Wont et al., 1999). The presence of only around 10 per cent female workers in electronic and print media clearly demonstrates the dominance of males - a reflection of patriarchal society. The females working in the media sector are mostly lower level employees and their roles in decision-making process are not distinct. Nevertheless, female's involvement in the media sector has been gradually growing in the private sector. Involvements of women and girls have been increased in activities related to news making, reporting, announcing, broadcasting and editing. They have also been serving as photo journalists and are involved in preparing tele/feature films.

6.6 Challenges

- Formulate the media policy with strategic objective to cater the needs of public as well as of media stakeholders in dealing with social issues including women empowerment and combating trafficking in women and children in human rights perspective.
- Increase women's participation in media with gender perspective as a change agent at the grassroots level and decision making level to enhance the public awareness, generate public platform and establish advocacy mechanism to deal with socio-economic and politically marginalized issues of women empowerment and development as a concern of trafficking in women and children.
- Create opportunities to generate primary resource based research and studies in media in addition to secondary based information.
- Produce media professional and experts by providing training and

academic courses for qualitative intervention to protect human rights including the rights to privacy of survivors of trafficking.

- Develop media as a sector of investment to the private sector through provision of bank loans and other funds to overcome financial

constraints of the media as part of economic development.

- Establish media monitoring system at national and district level with provision of recognition for encouraging media partners for their roles in dealing with trafficking issues.

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Findings and Way Forward

7.1 Findings

This chapter presents the findings of each chapter of this report by presenting the situation and gaps related to concerned areas of the chapters. The concern for accepted definition of trafficking, impact of conflict on trafficking, effectiveness of legal provisions, plans, policies and programme and emerging contribution of media for creating awareness and sensitivity have been addressed strategically as findings of the report.

The way forward has been presented in this chapter as guideline recommendations for intervention that needs to be taken care in combating trafficking of women and children in Nepal. The way forward provides structural outline for legal strategies, formulation of policies and plans for mobilizing GOs, NGOs and Human Rights Organizations as an integrated partner to fight against trafficking of women and children. An overall strategy of this chapter is to link trafficking of women and children with human rights approach for the protection and promotion rights of the vulnerable, victims and survival of the people in trafficking.

- Trafficking in person especially of women in Nepal has its root in Lichhavi and Malla period. It flourished during Rana period in the form of recruiting village girls as dancers, singers, care takers and even as concubines. Trafficking during that period was internal trafficking and after the introduction of democracy in Nepal, trafficking of women and children started gradually crossing the border of Nepal to India. Nepal has been established as country of origin

and India has been a country to destination and transit. Since then, the country faced trafficking as internal and external problem of concern. The political change in 1990 with the re-establishment of democracy trafficking in person increased with range of structural changes in term of vulnerable groups, place of origin and country to transit and destination. The insurgency movement started in the country since 1996 and created more vulnerable situation for trafficking due to increasing insecurity and difficult livelihood options. Initiatives of GO the NGOs, INGOs and other human rights bodies were disturbed for they were not allowed to work freely in the rural and remote areas of the country from where the women and girls are trafficked.

- Over the years, there have been several changes in the modes of human trafficking. Initially, only women and girls used to be trafficked and that too mostly for sexual exploitation. But now apart from the women and girls, boys and men are also trafficked for different purposes other than sexual exploitation. Many of the people including men, women, boys and girls are trafficked for their use in factories, households, agricultural activities and more so for organ transplantation.
- Foreign employment opportunities also have created the possibility of trafficking of human beings. Evidences show that they recruit men and women for one purpose but allow them to be used for sexual exploitation and also the activities in which they have to live in slavery like conditions.

- Earlier the traffickers had to take the trouble of going to the rural and remote areas in their bid to tap the women and girls for trafficking. But now due to the mushroom growth of the cabin/dance restaurants, massage centres and hotels in the urban areas and district headquarters, the deal of trafficking of girls is carried out right at these places.
- With the diversification of market centres, the demand for the Nepalese women and girls has also soared up. Until recently, the metropolitan cities of India like Mumbai, Kolkata and Delhi used to absorb most of the women and girls trafficked from Nepal. But now apart from these cities other townships particularly across the border have started absorbing such women and girls. . Again, before India used to be the country of destination for many of the women and girls trafficked from Nepal. but now India has also become the country of transit, apart from the country of destination, as many of the women and girls use Indian soil for recruitment as domestics and sex workers abroad in Bangladesh, Malaysia, Kuwait, Qatar, Dubai, Korea, Thailand and Hong Kong.
- With the increase in the demand for the Nepalese women and girls, there has also been a corresponding expansion in the number of districts as prone to trafficking. Earlier only a few districts around the Kathmandu Valley like Nuwakot and Sindhupalchowk were known as district of origin centres for the trafficking of women and girls but now virtually there is hardly any district – be it in the Himalayan, hill or Tarai region – from where the women and girls are not trafficked. However, the government has declared 26 districts as trafficking-prone districts.
- The lack of conceptual clarity on trafficking remains as major concern. Trafficking for other various purposes other than sexual purpose still needs to be addressed strategically. In spite of the UN definition on trafficking and other international definition, the country specific definition on trafficking has yet to be accepted. The lack of definition has created confusion of scope in dealing with trafficking in the formulation of acts, plans and policies in combating trafficking.
- Lack of data and other information on trends of trafficked women and children is the severe challenge to work for combating trafficking of women and children. In spite of its increasing trend, only a rough estimation of data is available based on crude measures. Because of its clandestine criminal activity, no authentic data can be collected unless trained vigilant unit is established in the cross border by creating an improved reporting system.
- Nearly a decade old conflict in the country has created new vulnerable population in trafficking. Increased killings, abduction, disappearance and displacement due to insecure situation of life created by the insurgents and security forces have made women and children as well as men as major victims of trafficking. Emergence of women headed household, internal migration for security and lively hood opportunities from rural to urban cities like Kathmandu, Biratnagar and other border area of India like Rupediya of Banke, Jogabani of Biratnagar have created new vulnerable population for trafficking victim. The emergence of use of children in the armed force both by the army and the insurgent has raised serious concern in all the rights provisioned by the CRC commitment. In addition, the Bhutanese refugee

problem and the victim of the foreign employment has created added problem in this area, Collection of facts and figures of these new vulnerable groups and rehabilitate them with basic needs of housing, food, education, health service and employment opportunity exacerbate the effort to combat trafficking. It also makes up the part of reconstruction plan of the conflict affected population.

- The anti-trafficking legislation in Nepal has a long history during the period of unwritten law, the criminal law and offences were regulated by the Hindu scripture and established custom and practices. Human trafficking was declared an offence for the first time in 1749 during the reign of King Rana Bahadur Shah.
- The first Country Code enacted in 1853 and recognized as the first written law of the country, prohibited the slave trade, human trafficking and separation of children from their mothers and selling them. The national laws that directly govern trafficking issues include a chapter on Trafficking in Human Beings of Country Code, 1963 and the Human Trafficking (Control) Act, 1986. The Act was a specific law to combat trafficking in human beings . The Traffic in Human Beings (Control) Act was enacted because the provisions of the prevailing laws were inadequate to deal with the rise in trafficking offences. Trafficking in Human Beings (Control) Bill, 2001 was formulated but failed to be an Act due to desolving of the House of Representative 2002. In addition, there are also other laws that directly or indirectly affect trafficking or victims of trafficking. Nepal has ratified or acceded to 16 international human rights instruments and signed three international human

right instruments ratified by Nepal which serve as the legal bases to fight against trafficking.

- Police Investigation, Government Attorney (Prosecution and. Court (Adjudication and Execution) are three institutional mechanisms to investigate the complain case of the trafficked victims. The reported cases in Nepal show low reporting of the cases due to socio-cultural norms and behaviour, and judicial procedural delay and on implemented decision of the court's inherent injustice provisions in the Acts. The Supreme Court often contradicts its own pronouncements and precedents in approaching trafficking cases.
- Nepal Government has accepted that trafficking in person is the violation of human rights and has shown its commitment to combat trafficking through international and national efforts. Nepal government is a participant signatory to Conventions like ICCPR, ICESCR, CEDAW CRC, Beijing Plan of Action and other human right instruments. Accordingly, various plans and policies have been formulated. Different Ministries of Nepal government, nearly 200 NGOs, different INGOs, different Human Rights related NGOs and National Human Rights Commission have been implementing respective programme as a solidarity effort to control trafficking.
- Combating trafficking is the issue based strategic concern of the NHRC. By establishing ONRT, the NHRC has strengthened its institutional capacity to deal with trafficking in person as the violation of the human rights developing proper reporting system, effective monitoring and investigation monitoring and reviewing plans, policies and laws and by developing network and coordination with

concerned stakeholders at national, regional and international level.

- Ministry of Women Children and Social Welfare has been designated as the focal Ministry for dealing with trafficking. District Task Force in 26 Districts Development Committees has been formed as the respective district focal agency for dealing against trafficking activities. Because of inherent lacuna in polices and programme together with institutional inefficiency, the impact of such efforts in combating trafficking is limited.
- Inadequate programme coverage, lack of co-ordination among implementing partners including GOs/NGOs, lack of trained human resources and lack of management capacity, ineffective monitoring and evaluation, low reporting of the cases are identified as major shortcomings of the programme.
- Rescuing of the trafficked women and children from Indian brothels started in early 1980s by NGOs in India and in Nepal. Some NGOs like ABC-Nepal, Maiti-Nepal and Sathi-CWIN have rehabilitation homes as well. However, there is no rehabilitation and reintegration policy of the Government. Though it is the primary policy need in dealing with trafficking issues. The problem faced by the rescued children from circus in 2004 provides an example in this respect
- Trafficking of women in children in Nepal is also a cross border issue with India and other countries. The NGOs in India and in Nepal are working by establishing an alliance network but there is no cross border agreement as such with India to check the trafficking event from the border point and also to deal with rescue and repatriation of the trafficked girls.

- Both print and electronic media in the country have established trafficking as a social issue and concern for women empowerment. Establishment of women desk in the National News Agency like *Gorkhapatra*, *The Kathmandu Post*, serials and documentation on Air programme of different Television and issue based broad casting programme of different FMs in the country have contributed to enhance awareness of the general people as well as of decision makers in combating trafficking.
- The role of media in dealing with trafficking issues has yet to be appreciated in terms of its impact on the society at large. It may not be the priority coverage of the media. The sector lacks trained journalists and actors in the field. The media coverage is event based and lacks research based publication and documentary. The coverage is more on supply side, whereas demand side is still not covered to the extent of its need.

7.2 Way Forward

Improving the life of people with universal human rights to attain equality, dignity and justice is the inalienable birth right of the people. The world and respective state government are committed to international Conventions on civil, political, economic, social and cultural rights to fight against exploitation and injustice. Millennium Development Goals (MDGs) and Poverty Reduction Strategy 2000 is the universal development tool to address the needs of marginalized and exploited population to enhance their quality of life from the perspective and provision of the universal declaration of human rights. Nepal government is fully committed to national and international Conventions, laws, policies and plans for the elimination of trafficking in women and children. Accordingly, respective government

ministries, NGO's and human rights organizations and media are working for combating trafficking in person especially targeting women and children.

The findings of this Report reveal that despite political uncertainty and security challenges, the efforts for combating trafficking of women and children is in progress. These challenges that have been visualized in each corresponding chapter of this report demands policy solution, implementation efficiency and effectiveness, cross border agreement, issue based research and studies and system based reporting mechanism. Recommendatory road map of way forward to deal with these challenges on the way to combating trafficking is presented as follows:

7.2.1 Intervening the Situation of trafficking of Women and Children

- Adopt national definition on trafficking in person with an objective of protecting and promoting the rights of the trafficked person for sexual and nonsexual purpose in the context of different definition forwarded by UN and other agencies. Since this is an urgent need, this should be taken as priority concern.
- Prepare guide books, brochures and flyers to conceptually demystifying trafficking from sexual exploitation and other forms of exploitation, and also to bring about proper understanding of the linkages between trafficking, migration, and smuggling for carrying all activities relating to prevention, protection and prosecution to combat trafficking in person with especial consideration of women and children .The UNIFEM briefing tool KIT 2003 seems an useful source book for this purpose.

- Eliminate all feudal practices of exploitation relating to *Deuki Jhuma Kamlaria* by raising awareness, bringing behavioural change in the community and family, effective implementation of respective laws with reward and punishment measures. Civil society, NGOs, law enforcement agencies and government all have to play effective contributory roles for breaking the silence for the zero tolerance of such practices which limit the human rights of victims.
- Analyze an emerging issue of the demand side of internal as well as external trafficking with reference to urbanization and globalization of the market economy leading to increasing demand of women and children in entertainment sector (cabin restaurant, massage parlour and sauna centres), small scale industries (embroideries, carpet and garment industries) and domestic works. Time bound strategic policy, programme and laws need to be worked out to ensure the right to employment and also the right to protection from exploitation and abuse to discourage the vulnerability of trafficking prone population in general and women and children in particular.
- Develop data base information and reporting system at national, district and at grassroots level as a tool to monitor and evaluate the impact from the policies and programme to combat trafficking of women and children. Publication of Annual Report on Trafficking in Women and Children by Office of the National Rapporteur (ONRT), National Human Right Commission (NHRC) can be taken as the first step in this direction.

7.2.2 On Dealing with Conflict and Trafficking

- Collect district level data base information on conflict affected events

like killings, abduction, displacement, conscription of child labour and women headed households by mobilizing NGOs and Village Development Committees.

- Retain and mobilize the changing roles of women due to conflict situation as positive impact on women empowerment and gender equality. The impact of conflict in the Nepalese society, culture and religious practices should be taken as an opportunity to review the strengths and weaknesses on the effort to eliminate discriminatory practices of the country. “Women's increased empowerment should be sustained through development programme especially designed to help them during this difficult but empowering period in their lives” (Rana, 2005).
- Recognize women as economically active labour force both for household activities and for outside socio-economic activities by introducing the value system, opening the opportunities of livelihood options and launching the awareness activities at the local level.
- Launch conflict rehabilitation policy, plan and programme as a package and pocket programme with education and skill training, provision of health and job opportunity by developing agriculture and land tenure system, small scale industries and village tourism and the provision of rehabilitation centre for the needy displaced person.

7.2.3 Intervening Initiatives of GO, NHRC, NGO and Donor Partners for Result Oriented Impact

- Mobilize political commitment to translate the national and international commitment of the government in action through the programme like

sensitization, lobby and advocacy, pressure group consultation and discussion to policy makers, parliamentarians and legislators.

- Strengthen the National Task Force with job responsibility, and reporting system in the parliament.
- Review the plan of action on trafficking in women and children in the context of emerging trend of globalization, safe migration for foreign employment, and empowered women due to conflict and contribution of the media to view the issues of trafficking and the rights of the trafficked victim as a priority of human rights concern. The policy should be formulated on a holistic approach including prevention, protection and prosecution with the perspective of human rights including civil, political, economic, social and cultural rights.
- Formulate prevention policy including strategy and programme like vulnerable mapping of source and demand areas, role of family, social cultural exploitative norms and practices, public awareness, economic and social empowerment of the vulnerable women and children. These areas have to be addressed as the primary component of the policy. In addition, intervention at cross border also needs to be taken care as an effective strategy to prevent trafficking from both aspects of supply and demand.
- Formulate rescue, repatriation and rehabilitation and re-integration policy as a part of protection and prosecution policy for the victims and survivors of the trafficking of women and children. The survivor of the trafficked who had managed to runaway away from brothels had to face procedural delays and harassment at the reporting points

both in country to destination and home country. Hence, the policy should address the minimum standard of victim protection during rescue and in rehabilitation with the rights approach rather than with only the welfare approach. Reintegration policy should be linked up with follow up to ensure the respective survivor as empowered to lead a life with dignity.

- Reorient targeted programme of GOs and NGO for combating trafficking of women and children to make it accessible within the reach of vulnerable group through intensive and extensive activities in the areas of education, health and employment at the grassroots level. In addition, the awareness programme should aim at bringing behavioural while eliminating socio-cultural discriminatory practices in the family and the community.
- Integrate respective sectoral programme of targeted programme of the government for covering the need of vulnerable women and children. For example, the scholarship programme in education sector for girls can enlist girls of trafficking prone districts as the priority group of concern for reproductive health services including HIV/AIDS and STI services.
- Strengthen policy organization including National Task Force and District Task Force with appropriate terms of reference. A strong coordination mechanism between the Ministry of Women and Children and Social Welfare as a focal Ministry and Social Welfare Council as an umbrella organization of NGOs have to be established in order to strengthen the working co-ordination within and between GOs and NGOs. In this respect, GO and NGO partnership project through memorandum of understanding has to be worked out.

Further NGOs net-working like NNAGT, AATWIN, can play a significant contributory role in this area. These working modalities can serve as a medium to work as partners in specific areas.

- Strengthen Office of National Rapporteur of the National Human Rights Commission for developing reporting system based on trend and issues on trafficking, investigation and research with the objective of protecting and promoting human rights of women and children in Nepal with special reference trafficking.
- Initiate steps for implementation and amendment of SAARC Convention on trafficking as a joint effort to combat trafficking from a regional perspective.
- Develop and strengthen process, output and impact monitoring and evaluation system with appropriate and effective indicators. The time frame for the system should be established at the national, district and village level effectively deal with the issues of trafficking
- Establish working modality between India and Nepal through joint project by signing agreements for establishing joint monitoring system.
- Coordinate and collaborate the activities for controlling cross border trafficking and rescuing the trafficked victims between the border police, NGO and NGOs.
- Establish the reporting system on referral basis in the respective government Ministry and NGOs. If the Ministry of WoCSW and Ministry of Local Development can play as an apex body of referral ministry, then Social Welfare Council and NGO networking can be an apex body for

NGOs working against trafficking. Make study on current border regulation for prevention of trafficking through the border, while ensuring at the same time the right to mobility and employment in collaboration between Nepal government and the government of India.

- Provide special training to the staff of institutions dealing with trafficking that she/he will be capable of dealing with concern areas of trafficking like social stigma, personal secrecy, psychological behaviour, health counseling and health services. In addition, the training also should be given to cater the needs of planning, management and reporting system.

7.2.4 Mobilizing Media

- Develop investigative journalism with human rights consideration to deal with trafficking polices and programme.
- Introduce motivation programme with reward, research scholarship opportunities to encourage completion and quality in the trafficking coverage of news, trafficking issues in electronic and print media to bring awareness and behavioural change and make advocacy to decision makers for combating trafficking.
- Include trafficking violence and other social discriminatory practices in the academic course of journalism to produce media professionals and experts with appropriable training and higher study.
- Increase women's participation in media adopting women friendly recruitment media policy and make women as change agents to eliminate social discriminatory practices as curses to trafficking.

7.2.5 Creating Responsive Judicial System

- Reform trafficking laws in line with human rights perspectives by reformulating a comprehensive definition of trafficking.
- Include trafficking in human beings as an extraditable offence while negotiating treaty with India and other countries of destinations like Malaysia and Middle Eastern countries.
- Amend the current Human Trafficking Control Bill, enact the bill on Domestic Violence and reform the discriminatory acts ensuring women rights to citizenship.
- Adopt the measures to implement SAARC Convention and also to amend the Convention on the basis of trafficking of women and children as the cross border and the regional issue.
- Facilitate the reporting cases in the police and courts by raising awareness of the community, the victim's parents and relatives by developing procedural effective judicial system and by producing trained human resources including police and lawyers.
- Establish women police cells in every district and strengthen accordingly to encourage the reporting of trafficking offences and to ensure effective investigation of reported cases.

7.2.6 Mobilizing Bilateral, UN and INGOs' Support

- Mobilize bilateral UN and INGO support and cooperation to increase technical and financial support to fill the resource gap for strengthening the institutional capacity of GO/NGO to deal with trafficking and violence of women in Nepal.

- Identify the area of support specially in creating employment opportunities in the respective home town as the preventive measure by establishing and equipping rehabilitation centres for the trafficked returnees and developing impact based reporting and monitoring system.
- Conduct issue based research on trafficking as a priority in order to provide constant feedback to policy makers and planners.
- Strengthen research institutions that are capable of conducting research on trafficking, violence against women and children and women empowerment as priority areas of concern.

7.2.7 Study and Research Activities

- Develop resource centre for documenting past and current literature on trafficking at the office of the National Rapporteur in the premise of the NHRC.

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Annex 1: List of Members of Core Committee

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1	Ms. Durga Ghimire	NNAG/ABC Nepal	President	6630346	abd@transit.wlink.com.np
2	Mr. Rohit Nepali	SAP International	Executive Director	5528612	sapied@sapi.org.np
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4	Mr. Kabi Raj Khanal	Home Ministry	Under Secretary	4211206	krkhanal@most.gov.np kabiraj_khanal@yahoo.com sangeetathapa@unifem.wlink.com.np
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7	Ms. Madhuri Singh	USAID	Programme Specialist	4270144	msingh@usaid.gov
8	Ms. Prabha Basnet	SWC	Member Secretary	4418846	
9	Ms. Sapana Pradhan Malla	FWLD	President	4242683	fwld@fwld.wlink.com.np
10	Ms. Padma Mathema	NHRC-ONRT	National Rapporteur on Trafficking	5525920	padma.mathema@nhrc-nepal.org.np
11	Mr. Hari Bansh Jha	NHRC-ONRT	Researcher	5525842	hari.jha@nhrc-nepal.org.np
12	Mr. Yagya P. Adhikari	NHRC	Protection Division, Head	5525842	yagya.adhikari@nhrc-nepal.org.np

Annex 2: List of Organizations Working to Combat Trafficking

S.N.	Name of NGO	Address	Phone No.	Fax No.	Email/Website	Contact Person
1	Agro Forestry, Basic Health and Cooperative Nepal, (ABC, Nepal)	Koteshwor, P.O. Box 5135, Kathmandu	6630346, 6630072	6630072	abc@transit.wlink.com.np/ www.abcnepl.org.np	Ms. Durga Ghimire, President
2	AASMITA Women's Publishing House	P.O. Box 4795	4252445	4267929	asmita@healthnet.org.np / www.asmita.org.np	Ms. Anju Chhetri, Director
3	Alliance Against Trafficking of Women and Children in Nepal (AATWIN)	P.O. Box 21080, Kathmandu	4469171		aatwin@wlink.com.np / www.makuro.net/aatwin	Ms. India Phyla, Coordinator
4	Caritas Nepal	Dhobighat, P.O. Box 9571, Lalitpur	5539344, 5538172	5538484	caritas@mail.com.np	Mr. Peloe Moktan Lama, Executive Director
5	Centre for Legal Research and resource Development (CeLRRd)	Bhaktapur, P.O. Box 6618, Kathmandu	6633519	6634801	celrrd@wlink.com.np / www.celrrd.com	Mr. Yubaraj Sangroula, Coordinator
6	Centre for Victims of Torture (CVICT)	Bansbari, P.O. Box 5839, Kathmandu	4373902	4373020	cvict@cvict.org.np	Mr. Bhogendra Sharma, President
7	Child Workers in Nepal Concerned Centre (CWIN)	Rabi Bhawan, P.O. Box 4374, Kathmandu	4282255, 4278065	4278016	cwin@mos.com.np / www.cwin-nepal.com	Mr. Gauri Pradhan, Executive Coordinator
8	Children and Women in Social Service and Human Rights (CWISH)	Chabahil, P.O. Box 21433, Kathmandu	4482357, 4474645	4479965	cwish@wlink.org.np	Ms Shanti Adhikari, President
9	Children at Risk Network Group (CAR/NWG)	Buddha Nagar, Kathmandu	4781369		network@car.wlink.com.np	Mr. Krishna Thapa, Executive Coordinator
10	CHREPA	Jawalakhel	5530344			Mr. Ananda Tamang, Director
11	Community Action Centre - Nepal (CAC Nepal)	Bansbari, PO Box 8234, Kathmandu	4375086	4370999	cac_nepal@cac_nepal.wlinl.com.np	Ms. Tulasa Lata Amatya, President
12	Didi Bahini		4226753		didibahini@wlink.com.np	Ms. Saloni Singh, Executive President
13	Forum for Women, Law and Development (FWLD)	Thapathali, P.O. Box 2923, Kathmandu	4242683, 4245750, 4266415	4240627	fwld@fwld.wlink.com.np	Ms Sapana Pradhan Malla, President
14	General Welfare Pratisthan (GWP)	Koteshwor, P.O. Box 3245, Kathmandu	4473915	4417979	gwp@ntc.net.np	Mr. Mahesh Bhattarai, Director
15	Helpline	Samakhushi, Ring Road	4354127		pawana@helpline.wlink.com	Ms. Archana Sharma, Chairperson

S.N.	Name of NGO	Address	Phone No.	Fax No.	Email/Website	Contact Person
16	Himalayan Human Rights Monitor (HimRights), An official partner of INHURED	Pulchowk, P.O. Box 4960, Kathmandu	5520054, 5523805	5520042	info@inhured.wlink.com.np / www.webnepal.com.inhured/index.htm	Dr. Gopal Krishna Siwakoti, General Secretary
17	Informal Sector Service Centre (INSEC)	Syuchatar, Kalanki, P.O. Box 2726, Kathmandu	4278770	4270551	insec@wlink.com.np / www.insec.org.np	Mr. Subodh Raj Pyakurel, Chairperson
18	Institute for Integrated development Studies (IIDS)	Baneshwor, P.O. Box 2254, Kathmandu	4478930, 4494519	4470831	iids@wlink.com.np / www.nepalnet.org.np/iids	Dr. Dwarika Nath Dhungel, Executive Director
19	Legal AID and Consultancy Centre (LACC)	Manbhawan, P.O. Box 3216, Kathmandu	5543111, 5542999	5552814	lacc@wlink.com.np / www.lacc-nepal.com	Prof. Dr. Shanta Thapaliya, Chairperson
20	Maiti Nepal	Pingalsthan, Gaushala, P.O. Box 9599, Kathmandu	4492904, 4494816	4489978	maiti@ccsl.com.np / www.maitinepal.org	Ms. Anuradha Koirala, President
21	National Network against Girl Trafficking (NNAGT)	Bhimsengola, P.O. Box 15142, KPPC 285, Kathmandu	4494734	4495261	nnagt@wlink.com.np / www.nnagt.org.np	Ms. Haripriya Pandey, Coordinator
22	Nepal Bar Association	Singha Durbar	4254647, 9851024425			Mr. Shambhu Thapa, President
23	Rural Reconstruction Nepal (RRN)	Lazimpat, P.O. Box 8130, Kathmandu	4415418	4418296	rrn@rrn.org.np / www.rrn.org.np	Mr. Komal Khatiwada, Programme Manager
24	Saathi		4411078		vaw@saathi.wlink.com.np	Ms. Pramada Shah, President
25	Sahara Group	Dillibazar, Kathmandu	4437885			
26	Samanta (Institute for Social and Gender Equality)	Ekantakuna, P.O. Box 13205, Kathmandu	5535597, 5547250	5549755	samanata@wlink.com.np	Ms. Pinky Singh Rana, Program Manager
27	Sancharika Samuha	Jawalakhel, P.O. Box 13293, Kathmandu	5538549, 5546715	5547291	sancharika@wlink.com.np / www.mahilaweb.org	Ms Bandana Rana, President
28	Shakti Samuha	Chabahil, P.O. Box 19488, Kathmandu	4469171		shakti@samuha.wlink.com.np	Ms Sunita Danuwar, Chairperson
29	Shanti Punarsthapana Kendra (PRC)	Thecho, Lalitpur, P.O. Box 8769	5570039		prc@enet.com.np	Ms. Santa Sapkota, President
30	South Asia Partnership Nepal, (SAP/Nepal)	Babarmahal, P.O. Box 3827, Kathmandu	4258782, 4223230	4244338	sap@ngdo.wlink.com.np / www.sapnepal.com	Mr. Rohit Nepal, Director
31	Women's Rehabilitation Centre (WOREC)	Balkumari, P.O. Box 13233, Kathmandu	5541866, 5544574, 2123124, 2123136		worec@wlink.com.np / www.worenepal.org	Dr. Renu Rajbhandari, Chairperson

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2	Beyond Trafficking: A Joint Initiative in the Millennium against Trafficking in Girls and Women (JIT)	Thapathali, P.O. Box 107, Kathmandu	4254899, 4246488	4246536	jit@mos.com.np	Mr. Pradipna Raj Pant, National Program Manager
3	Canadian Cooperation Office (CCO)	Lazimpat	4415389, 4415193, 4415861			Mr. Jean Mare Mangin, First Secretary
4	Centre for Development and Population Activities (CEDPA/Nepal)	P.O. Box 8975, EPC 5316	4427739, 4417071	4421696	cedpa@wlink.com.np / www.cedpa.org	Ms. Dibya Rai, Coordinator, Youth Program
5	Danish Embassy	Bakhundol	4413010	4411409		Ms. Mithila Rana
6	DFID	Jawalakhel	5542980	5542979		Mr. Bishwo Ulak, Programme Officer
7	Family Health International (FHI)	Gairidhara, P.O. Box 8803, Kathmandu	4427540, 4437173		fhinepal@fhi.org.np / www.fhi.org	Dr. James L Ross, Country Director
8	International Labor Organization (ILO)	Sanepa, P.O. Box 8971, Kathmandu	5550691, 5542129	550714	minisha@iloktm.org.np / www.ilo.org	Ms. Minisha Khatri Dhungana
9	OXFAM Great Britain in Nepal (Oxfam GB/Nepal)	Shantabhawan, P.O. Box 2500, Kathmandu	5536075, 5527685	5523197	oxnepal@oxfam.org.np / www.oxfam.org.uk	Ms. Sandhya Shrestha, Programme Coordinator
10	Plan Nepal	Shantabhawan, PO Box 8980, Kathmandu	5535580		madhuwanti.tuladhar@plan-international.org / www.plan-international.org	Ms. Madhuwanti Tuladhar, Gender Coordinator
11	Planet Infants	Lazimpat			plan_enf@ntc.net.np	Mr. Sunil Sainju
12	Save the Children - Norway (SC/N)	Jawalakhel, P.O. Box 3394	5538705, 5538204	5538459	s.ghimire@savechildren-norway.org.np / www.redbarna.np	Ms Sita Ghimire, Program Officer
13	Save the Children - United Kingdom (SC/UK)	Jawalakhel, P.O. Box 992, Kathmandu	5535159, 5523893	5527256	mail@sc-uk.org.np / www.savechildren-alliance.org.np	Ms. Jasmine Rajbhandari
14	Save the Children - US (SC/US)	Maharajgunj	4412598, 4412447	4410375	himalfo@savechildren.org / www.savenet.savechildren.org	Ms. Shova Lama
15	Save the Children Alliance	P.O. Box 5850, Kathmandu	5527152, 5523924	5527266		
16	Swiss Development Cooperation (SDC)	Jawalakhel	5524927			Mr. Joerg Frieden, Country Director

S.N.	Donor Organization	Address	Phone No.	Fax No.	Email/Website	Contact Person
17	Terre Des Hommes	Chakupat, Patan	5539061		tdh@mos.com.np / www.tdhnepal.org / www.childtrafficking.com	Mr. Reinhard Fichtel, Delegate
18	The Asia Foundation (TAF)	Baluwatar, P.O. Box 935, Kathmandu	4411458, 4418345	4418345	nick@taf.org.np / www.asiafound.org	Ms. Pankaja Bhattarai, Programme Officer
19	UNDP	UN Building, P.O. Box 1187, Kathmandu	5523200			Ms. Anjani Bhattarai, Social Development Officer
20	United Nations' Children Fund (UNICEF)	UN Building, P.O. Box 1187, Kathmandu	5523200	5527280	unicef@unicef.org.np	Noriko Izumi, Child Protection Officer
21	United Nations Development Fund for Women (UNIFEM)	Thapathali, Kathmandu	4255110	4247265	sangeetathapa@unifem.wlink.co m.np	Ms. Sangeeta Thapa, Senior National Program Officer
22	United Nations Educational, Scientific and Cultural Organization (UNESCO)	Bansbari, Kathmandu	4374009, 4374010	4373004	unesco.kat@wlink.com.np / www.unesco.org/kathmandu	Ms. Kotokanno, UNESCO Representative
23	United Nations Population Fund (UNFPA)	Bakhundol	5523627	5523985	unfpa@undp.org / www.unfpa.org	Ms. Sudha Pant, Program Officer
24	United States Agency for International Development (USAID)	Rabi Bhawan, P.O. Box 5663, Kathmandu	4270144, 4272385	4272357	msingh@usaid.gov	Madhuri Singh, Program Development Specialist
25	World Education	Ratopul, P.O. Box 937, Kathmandu	4422385, 4422386	4415303	worldedu@mos.com.np	Ms. Jalpa Pradhan, Programme Officer

Annex 3: Trafficking Related Petition at Different Courts of Nepal

3a: Supreme Court

Year	Carried forward	New Registration	Total Cases	Successful	Partially Successful ⁷⁸	Un-successful	Decided	Total Balance
1997/98 (2054/55)	34	14	48	3	2	7	12	36
1998/99 (2055/56)	36	17	53	2	3	2	7	46
1999/00 (2056/057)	46	13	59	3	2	4	9	50
2000/01 (2057/058)	50	17	67	9	2	6	17	50
2001/02 (2058/059)	50	24	74	2	3	5	10	64
2002/03 (2059/060)	64	70	134	11	-	17	28	106

Source: Annual Report of the Attorney General of the Kingdom of Nepal, 1996/97 (2053/54) to 2003/04 (2060/61).

3b: Appellate Courts

Year	Total Cases	Successful	Partially Successful	Un-successful	Total Decided	Balance
1997/98 (2054/55)	159	7	11	56	74	85
1998/99 (2055/56)	126	6	4	20	30	96
1999/00 (2056/57)	234	27	59	69	155	79
2000/01 (2057/58)	129	18	9	47	74	55
2001/02 (2058/59)	142	19	11	69	99	43
2002/03 (2059/60)	72	14	15	26	55	17

3c: District Courts

Year	Total Cases	Successful	Partially Successful	Un-successful	Total Decided	Balance
1997/98 (2054/55)	317	53	43	48	144	173
1998/99 (2055/56)	38	7	2	10	19	19
1999/00 (2056/57)	321	66	49	51	166	155
2000/01 (2057/58)	244	55	36	43	134	110
2001/02 (2058/59)	136	29	17	26	72	64
2002/03 (2059/60)	133	22	10	18	50	83

Source: Annual Report of the Attorney General of the Kingdom of Nepal, 1997/98 (2054/55) to 2059/60 (2002/03).

⁷⁸ According to the Attorney General's Office, "partially successful" means at least one defendant is convicted or less punishment is given on what have been claimed. A case is considered "unsuccessful" if no defendant is convicted or if the sentence given is less than the sentence requested by the prosecuting attorney.

Photos of the Regional Workshop for Preparing the Report

Regional Workshop in Biratnagar

Regional Workshop in Pokhara

Regional Workshop in Nepaljung

Regional Workshop in Nepaljung

Regional Workshop in Pokhara

Regional Workshop in Biratnagar

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