

TRAFFICKING IN PERSONS ESPECIALLY ON WOMEN AND CHILDREN IN NEPAL



National Report
2011



National Human Rights Commission
Office of the Special Rapporteur on
Trafficking in Women and Children

Harihar Bhawan, Pulchowk,
Lalitapur, Nepal
December 2012



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Foreword

Human trafficking has a long history. During the 18th and 19th centuries, African natives were trafficked to Europe and America to work as slave. Slavery, as such, had been disbanded long since after the prohibition of slave trade. Still trafficking persists on as modern form of slavery. Human trafficking spreads across the countries of the world. Men, women and children are vulnerable to this modern form of slavery due to economic, social, cultural and political environment of the country in which they live. Women and girl children are more vulnerable and seriously affected. The cycle of Trafficking in Persons in the perspective of origin, transit and destination affects all countries around the world. Thus, Trafficking in Persons is a global issue and requires international cooperation for combating with this form of crime.

There have been a series of national and international commitments for combating Trafficking in Persons and protection of human rights of victims. The Universal Declaration of Human Rights (UDHR), Convention of Elimination of All Forms of Discrimination against Women (CEDAW), Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, United Nations Convention on Transnational Organized Crime (UNTOC), Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime 2000 (Palermo Protocol), SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution are key international and regional legal instruments for the combating trafficking.

As a signatory and ratifying state of these treaties, conventions and resolutions, the Government of Nepal (GoN) has formulated national laws, Plan of Action and policies to prevent and combat trafficking in persons. The National Human Rights Commission (NHRC) has been paying special attention to dealing with the problem of trafficking in persons focusing on collective rights such as rights of the child, women's rights and rights of the migrant workers. The strategic plans of NHRC (2004-2008; 2008-2010 and 2011-14) stress on combating Trafficking in Persons through advocacy and policy recommendation.

The Office of the Special Reporters on Trafficking in Women and Children is to conduct activities and studies which help to combat trafficking in women and children. In fulfilling this duty, NHRC has been publishing the National Report on Trafficking in Person, especially Women and Children since 2005 along with recommendations to the GoN. This Report 2011 is the fifth in the sequence.

Utilizing both primary and secondary data, this Report focuses on situation of trafficking in persons in Nepal; nexus of foreign labor migration and trafficking; monitoring of initiatives of anti-trafficking activities and legal framework, law enforcement status and judicial responses to trafficking. The Report reveals that the number of trafficking cases filed in Nepal Police is far lower than the figure often quoted by activist engaged to combat trafficking. However, the scope and nature of human trafficking has widely expanded. Trafficking of girls to Khasa, Tibet for sexual exploitation, to Korea for marriage purpose and trafficking of men and women for labor and sexual exploitation beyond India has become regular trend. Child trafficking for the purpose of sexual exploitation and labor exploitation including engaging in circus is reported within Nepal and to India. Evidence suggests that there is a nexus between intercountry adoption and trafficking of children. On the basis of NGOs information on interception, rescue, repatriation and missing application received, this Report estimates 11,500 persons are trafficked or attempted to traffic in 2011. This figure was about 5,500 in 2010. One of the key factors contributing to increase in trafficking in persons in Nepal is the deception, fraud involved in foreign employment processes from pre-departure to transit and exploitative working conditions at the destination countries.

The Report comes to the conclusion that although the GoN introduced National Plan of Action against Trafficking in Persons 2011-2016, National Child Protection Policy 2011, Foreign Employment Policy 2011 including operational guidelines for rehabilitation center, protection and care of victims/survivors of human trafficking and child care homes, the implementation status of these measures is severely lacking. There is also lack of effective monitoring mechanism to ensure the fulfilment of promised measures. The Report reveals that the GoN has not fully complied with the ILO Convention No. 29 on Forced Labor while managing the recruitment of foreign employment. The Report concludes that following should be the priority agenda for combating trafficking in

persons in Nepal: designing comprehensive prevention interventions (education and awareness, data collection and research and socio-economic intervention) is a must. Further, reviewing and effectively implementing the Human Trafficking and Transportation (Control) Act, 2007 for effective prosecution and protection of the trafficked survivors is needed. Strengthening efforts to cooperate at the international, regional and bilateral levels and ratifying the United Nations Protocol on Trafficking and UN Convention on Rights of the Migrant Workers and their Families 1990 are crucially important to prevent and combat trafficking in persons for sexual and labor exploitation.

The NHRC Commissioners, the Secretary-NHRC, deserve special thanks for their inputs in this report. Mr Kamal Thapa Kshetri, Human Right Officer of the office of the Special Rapporteur has worked hard in conceptualizing, writing, co-coordinating and organizing the consultation and interaction program with representatives of Government, International and National Non-Governmental Organizations, and UN agencies to bring this Report to this stage. The Project on Strengthening the Capacity of National Human Right Commission (SCNHRC) also deserves thanks for its technical and financial support .Dr. Govind Subedi; the consultant is to be thanked for his efforts to prepare the Report in this shape. Ms Padma Mathema, who had been previously working as the special Rapporteur, deserves appreciation for her support. She has been helping the staff of commission quite occasionally even after the expiry of her tenure in the commission. Similarly, NHRC-Nepal also acknowledges the cooperation received from the Alliance Against Trafficking in women and Children (AATWIN) and The Asia Foundation.

I believe that this Report will contribute to provide a reference for monitoring and evaluating policies, Act and programs along with policy references. At the end, NHRC would consider this Report to be fruitful if it would contribute to bring effectiveness in the implementation of policies and program on combating Trafficking in Person.

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Acronyms and Abbreviations

AATWIN	Alliance against Trafficking in Women and Children in Nepal
ABA-Roli	American Bar Association- Rule of Law Initiatives Nepal
ARV	Anti Retro Viral
CAP	Center for Awareness Promotion
CBOs	Community Based Organizations
CBS	Central Bureau of Statistics
CC TV	Close Circuit Television
CCWB	Center Child Welfare Board
CDO	Chief District Officer
CEDAW	Convention for the Elimination of Discrimination against Women
CeLRRd	Center for Legal Research and Research Center
CRC	Convention on the Rights of Children
CROs	Child Rights Organizations
C-TIP	Combating Trafficking in Persons Program
CWIN	Child Workers in Nepal
DCPC	District Child Protection Committee
DCWB	District Child Welfare Board
DIG	Deputy Inspector General
DoFE	Department of Foreign Employment
DWCS	Directorate of Women and Children Service
EBMF	Easter Benjamin Memorial Foundation
EDPs	External Development Partners
FEA	Foreign Employment Act
FEPB	Foreign Employment Promotion Board
FER	Foreign Employment Regulation
FGD	Focus Group Discussion
FIR	First Information Report
FPAN	Family Planning Association of Nepal
FWLD	Forum for Women, Law and Development
FY	Fiscal Year
GCC	Gulf Cooperation Council
GDP	Gross Domestic Product
GFMD	Global Forum on Migration and Development
GFONT	General Federation of Nepalese Trade Unions

GOs	Governmental Organizations
GoN	Government of Nepal
HTTCA	Human Trafficking and Transportation (Control) Act
I/NGO	International/Non-governmental Organization
IACG	Inter-Agency Coordination Group on Trafficking in Persons
IEC	Information, Education and Communication
ILO	International Labor Organization
IOM	International Organization for Migration
ITUC	International Trade Union Confederation
JICA	Japan International Cooperation Agency
LACC	Legal Aid and Consultancy Center
MoF	Ministry of Finance
MoFALD	Ministry of Federal Affairs and Local Development
MoHA	Ministry of Home Affairs
MoLE	Ministry of Labor and Employment
MoU	Memoriam of Understanding
MoWCSW	Ministry of Women, Children and Social Welfare
NNSM	National Network for Safe Migration
NAFEA	Association of Foreign Employment Agencies
NCCHT	National Committee on Combating Human Trafficking
NDHS	Nepal Demographic and Health Survey
NGN	Next Generation Nepal
NHRC	National Human Rights Commission
NJA	National Judicial Academy
NLSS	Nepal Living Standards Survey
NNAGT	National Networks against Girls Trafficking
NPA	National Plan of Action
NPC	National Planning Commission
NRN	Non-Residential Nepalese
NRNA	Non-resident Nepali Association
NWC	National Women Commission
OAG	Office of the Attorney General
NHRC-OSRT	National Human Right Commission Office of the special Rapporteurs on Trafficking
PAF	Poverty Alleviation Fund
PNCC	Pravasi Nepali Coordination Committee
SAARC	South Asian Association for Regional Cooperation

SAIEVAC	South Asia Initiative to End Violence against Children
SMN	Safe Migration Network
SRH/R	Sexual and Reproductive Health/Rights
STD	Sexually Transmitted Diseases
STI	Sexually Transmitted Infection
SWC	Social Welfare Council
TDH	Terre des hommes
TIP	Trafficking in Persons
UAE	United Arabia Emirates
UK	United Kingdom
UN CTOC	United Nations Convention Against Transnational Organized Crime
UN ODC	United Nations Office of Drugs and Crime
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNs	United Nations
USA	United States of America
USAID	United States Agency for International Development
VAW	Violence against Women
VDC	Village Development Committee
VRSP	Vital Statistics Registration Program
WCDO	Women and Children District Office
WCSC	Women and Children Service Center
WL	Watch List
WMW	Women Migrant Workers
WOREC	Women's Rehabilitation Center
WPC	Women Progress Center
YOAC	Youth Action Nepal

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Executive Summary

This National Report on *Trafficking in Persons Especially on Women and Children in Nepal* is a continuation of previous National Reports published by National Human Rights Commission (NHRC). This Report is guided by the NHRC Strategic Plan (2011-14) as priority area of promotion and protection of collective group rights such as rights of the child, women's rights and rights of migrant workers and the Government of Nepal's National Plan of Action for Combating Trafficking (2011-15) which creates the NHRC as responsible body for publication of National Report on Trafficking in Persons annually.

This Report mainly focuses on situation of trafficking in persons in Nepal; nexus of foreign labor migration and trafficking; monitoring of initiatives of anti-trafficking activities and legal framework, law enforcement status and judicial responses to trafficking. The Report is prepared by covering the time frame from January 2011 to December 2011 (in specific context, data also covers 2012). This Report uses both secondary and primary data. Secondary data have been gathered through desk review: reports, survey data of relevant GOs and NGOs. Primary data were collected from different NGOs that cover the profile of organizations and anti-trafficking activities related to prevention, protection and legal aid. The Report Preparation Team visited different Ministries, Departments and NGOs to collect data. For internal trafficking, interaction was done with the girls/women working in entertainment sectors. Besides, the final draft report was shared with GOs, I/NGOs and Commissioners of NHRC and officials and their feedbacks and comments were incorporated in the Final Report.

The context of the Report is set forth drawing on the comments of Concluding Observation of the Committee on the Elimination of Discrimination against Women (CEDAW) in 2011. The Committee urges the Government of Nepal (GoN) to fully implement article 6 of the Convention by collecting and analyzing data on all aspects of trafficking; implementing the Human Trafficking and Transportation (Control) Act, 2007 (hereafter HTTCA 2007); strengthening preventive measures; strengthening efforts to cooperate at the international, regional and bilateral levels; ensuring the effective implementation of the SAARC Convention; ratifying the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children 2000 (hereafter UN Protocol on Trafficking) supplementing the UN Convention against Transnational Organized Crime and providing information and training to the criminal justice actors, prosecutors, legal professionals, immigration and border police, and social workers .

This Report utilizes the definition of human trafficking of UN Protocol on Trafficking and HTTCA 2007. These instruments establish the fact that trafficking can be internal and cross-border for the purpose of sexual exploitation; labor exploitation and for other purposes. The definitions also establish the fact that foreign labor migration from Nepal to different destination countries can be linked to trafficking phenomenon.

The major findings of the Report are the following:

On Situation of Trafficking in Persons

Nepal is a source country for men, women and children. Cases of human trafficking occur mainly in three areas: cross border trafficking beyond India; cross border trafficking to India and internal trafficking mainly in entertainment enterprises, brick kilns, *jari* (embroidering) industries, and streets. Trafficking takes place for the purpose of organ transplant to India; to Korea and Hong Kong for the purpose of marriage. Nepali migrants are smuggled to developed countries. Boys also are exploited in domestic servitude and trafficking of Nepalese minor girls to Gulf Countries and to Khasa, Tibet has been on rise.

On the basis of limited number of NGOs information on interception, rescue, rehabilitation, repatriation and missing applications received and recorded cases in Nepal Police, it is estimated that about 11,500 persons are trafficked or attempted to be trafficked in 2011. This figure was about 5,500 in 2010.

Trafficking in persons crosses-across the social and economic strata, gender, age groups and regions of the country. Yet the most vulnerable groups are hard hit by the trafficking. The number of trafficking cases filed in Nepal Police, however, appears to be lower as against the believed number of trafficking of women and children in Nepal. The 5-yearly average number of trafficking cases (2006/07-2010/11) filed in Nepal Police comes out to be 131 with the average number of trafficking survivors of 165. In 2011, there were 118 cases of trafficking recorded in Nepal police. Of which, 4 were internal trafficking and 114 were cross-border trafficking and all the cases were related to sexual exploitation while none of the cases was reported as trafficking for marriage, labor exploitation and trafficking of persons for removal of kidney and other purposes.

The 5-yearly (2006/07-2010/11) average number of accused persons of human trafficking is 187 with 135 for males and 52 females. Nine in 10 trafficking survivors recorded in Nepal Police are females; more than one-third are children below 17 years of age. Trafficking survivors can be characterized as literate only (80%), engaged in agriculture (67%), originating from all development regions (but nearly 40% come from central development region); originated across the social group (yet 52% Janajati). Comparing the characteristics of trafficking survivors and accused persons it appears that the root causes of vulnerability of trafficking – disadvantaged status, poverty, illiteracy - are also the root causes of committing the crime of trafficking in Nepal.

The four-yearly (FY 2008/09-2011/12) average number of missing women recorded in Women and Children Service Center, Valley Police, is 783 and the untraced rate is very high (81%).

Trafficking of Nepali young girls to bordering towns of Tibet such as Khasa and Kuti is evident in recent years. Of the total 137 girls

interviewed in Khasa, Tibet who were working in restaurants, 50 per cent reported that they were not able to leave the job willingly and they were working in harass condition. These girls were lured to Khasa and Kuti as these entertainment sectors pay from Rs. 8,000 to Rs. 15,000 per person per month.

Trafficking of girls/women in entertainment sector and their exploitation has been documented since 2000. The magnitude of women/girls working in the entertainment sectors is not known in Kathmandu valley. However, the FGD participants (girls/women working in the entertainment sectors) reported that the number of girls/women working in this sector is on decline because either close of restaurants or recession in business due to the government's order not to drive while one has taken alcohol. These workers face different problems including health problems, stigmatization from the family, community, misbehavior from the employers, customers and police. It is reported that none of the employers are complied by the Supreme Court Guideline for Prevention of Abuse and Harassment in the Working Place and there is no effective monitoring as prescribed the Guideline.

Trafficking of Nepali young women for the purpose of marriage to Korea is reported widely through media. One source reported that there are about 500-600 Nepali girls went to Korea for the purpose of marriage. Of which, 90 per cent is believed to be the victims of trafficking or are in the state of modern-day slavery or slavery like situation.

Studies on trafficking of human organs have not been carried out in Nepal, and hence it is difficult to know the magnitude of the problem in the country. Different sources such as NGOs, media report that at least 8 VDCs of Kavre district are affected by this phenomenon. In late 2009, it estimated nearly 300 people in Kavre district were the victims of illegal extraction of kidney. Sources said that trafficking is managed by criminal racket- extending its network from villages to Kathmandu and Kathmandu to Indian cities. Kidneys are sold in India up to Rs. 150,000 by the Nepali brokers while the Indian brokers can sell it from Rs. 700,000 to Rs. 1,800,000. Examining the cases of human trafficking

as reported in media, it is learnt that poor, deprived families are largely affected by trafficking of persons for kidney removal. Note that the Nepal Police records of trafficking cases do not provide the disaggregated data as trafficking for illegal extraction of kidney removal. Further, some NGOs personnel in the consultation meeting reported that trafficking of persons for illegal extraction of kidney is also extended to central Terai districts of Nepal.

There are a large number of children in vulnerable conditions: those in extreme poverty, child labor, child domestic workers, orphan children, children with disabilities, children who consistently faced physical and sexual violence in the family and in the public sphere, children affected by conflict, child soldiers released from the Maoist cantonments and *Kamalari* (girls in bonded labor situation). According to Nepal Labor Force Survey 2008 estimates, there are 7.77 million children aged 5-17 years in Nepal. Of them, 3.14 million are working children; 1.6 million are child laborers and 0.62 million children are ended in hazardous forms of child labor. The incidence of child poverty (35.9%) was much higher among children compared to the overall incidence of poverty (33%) in 2003/04. A study conducted by CWISH, Interpedia and Save the Children in Kathmandu metropolis area in 2009 showed that trafficking for children in Kathmandu valley for domestic work exists. Among the total 1,429 child domestic workers interviewed, 47 per cent were brought other than by their parents; 98 per cent were working without written contract and nearly one-fourth were recruited through use of mediators.

Central Child Welfare Board (CCWB) record indicated that 1578 number of missing children were reported in Child Seeking Center in Brikutimandap, Kathmandu in FY 2011/12. CCWB record reveals that 160 events of sexual violence against children were complied in 2010, 217 in 2011 and 135 in 2012. The survivors of sexual violence were both girls and boys, but girls are mainly the victims of violence. Data also show that significantly large numbers of cases of sexual violence against children are registered in the districts courts.

Trafficking of children for circus performance to India has been a long history especially from Makwanpur, Bara and Rautahat districts. Very

tender age children, those in between 5 to 13 years of age are the victims of trafficking but girls are demanded more than that of boys. The main reasons for children lured in the circus are complex involving poverty, illiteracy, ignorance, large family size and false promises provided by the agents to see the city and lead a happy life. In 2011, Eastern Benjamin Memorial Foundation (EBMF) received seven complaints that the children were trafficked to circus in India and EBMF rescued 79 children (4 boys and 75 girls) from different circuses in India.

Media reported that a large number of children from central Terai districts have been enslaved in *jari* industry in Kathmandu valley, especially Bhaktapur district. A study indicated that there are about 30 *jari* industries in Kathmandu valley with 253 working children. Of them, 210 were below 14 years of age and all are boys. All the working children are said to be boys from Muslim community. Children are sent by their parents due to their large family size and poverty.

Nepal legalized intercountry adoption by amending the National Civil Code of 1964 in 1976. There is no record available about the number of intercountry adoption before 1993. According to the CCWB (2012), the number of intercountry adoption in between May 1993 to 2008 was 2,234. Intercountry adoption was suspended in May 2007 and again resumed in January 2009. Since January 2009 to 2011, 344 intercountry adoptions (224 girls and 120 boys) were conducted mainly in Italy, USA, Spain, France, Denmark, Norway, Sweden, Belgium, Switzerland and UK and Canada.

Studies indicate that intercountry adoptions is linked to trafficking of children – mainly because the ‘means’ used for adoptions involves deception, fraud or abuse of power or of a position of vulnerability and ‘an action’ involves that children have already been transferred from their birth place to Child Home and from Child Home to abroad. There is no research on the condition of adopted child and hence the ‘purpose (exploitation)’ of intercountry adoptions has yet to be studied. A study found a number of irregularities associated with adoption processes and violation of the Purposes, Principles and Safeguards set forth in the *1993 Hague Intercountry Adoption Convention*.

According to CCWB (2012), there are 743 Child Care Homes in 32 districts in the country. Of the total 743 Child Care Homes, Kathmandu valley alone has 422 Child Care Homes. In 2011, the numbers of Child Care Homes were reported to be 602 with 15,095 children residing in the Homes. Data reveal that there are more boys residing in Child Care Homes against girls (56% vs. 44%). According to age groups, children residing in the Child Care Homes are from the less than three-years of age to 16 years and above.

Child Care Homes are supposed to provide an alternative care for abandoned children and children without parental care. But there is no information about whether all the children in Child Care Homes are abandoned or children without parental care. There has been report that children from the remote areas such as from Mugu, Humla districts are lured to Child Care Homes in Kathmandu by the agents by promising 'good education'. CCWB monitoring and investigation reports show that some Child Care Homes do not comply with the minimum requirements of the Child Care Homes provisioned by the Government and not all children are actually in need of alternative care. Further, CCWB monitoring reports indicate that children are victims of sexual exploitation, physical and mental torture, discrimination, deprived from schooling, restriction to mobility, and trafficking.

The key issues evolved from the analysis of situation of trafficking in person in Nepal are lack of conceptual clarity about human trafficking among the general population; no unified institutional mechanism to collect data on the scope and nature of trafficking in persons; lack of law enforcement to regulate the entertainment sector; large number of children in vulnerable conditions; parents' silent consent for trafficking of children for labor exploitation and lack of effective monitoring of Child Care Homes.

On Foreign Labor Migration and Nexus of Trafficking

Nepal has been tremendously experiencing a huge mobility in its modern history. Foreign labor migration has become one of the key sources of Nepal's economy – contributing to reduce poverty and

increase in wages in agriculture sector. In 2011, the foreign employment contributed to 23.5 per cent of Gross Domestic Product (GDP) of Nepal and remittance entered in Nepal through banking system was Rs. 359 billion. Despite this, it has also brought challenges to protect and promote the rights of workers and their families in Nepal. There has been blurring differences in migration and trafficking, smuggling and exploitation.

Data on international migration are available from Census returns and the records of Department of Foreign Employment (DoFE). The Population Census 2011 observed 1,917,903 absentee populations – an increase by 152 percent from 2001. Female accounted for 13.3 per cent of the total absentees.

According to the records of DoFE, the annual number of foreign labor migrants in the FY 1992/93 was merely 3,065, which increased to 55,025 in FY 2000/01 and 385,000 in FY 2011/12. Major destination countries of Nepali labor migrants emerged as Malaysia (31%), Qatar (28%), Saudi Arabia (20%) and United Arab Emirates (UAE) (13%) while countries of Kuwait and Bahrain, Oman, South Korea, Lebanon, Israel, Afghanistan and Japan are also important destination of Nepali labor migrants.

In the FY 2011/12, 375,057 persons left to seven major destination countries (Qatar, Malaysia, Saudi Arab, UAE, Kuwait and South Korea). Of them, 30.5 per cent went through individual basis while the rest went through institutional basis. Seven in 10 women went to these countries through individual basis against 3 in 10 for men.

Several studies argue that exploitation of foreign labor migrants initiates from villages. This happens mainly due to lack of information and exploitation by recruiting agencies. Recruitment agencies, agents and sub-agents are reported to deceive and they are reported to involve in the trafficking of Nepalese migrant workers and their subsequent exploitation, including forced labor. Of 115 migrant respondents interviewed in a study by Amnesty International in 2011, 108 said that their recruitment agents or brokers had deceived them about the terms and conditions of their employment contract. The

recruiting agencies are reported to charge much higher money than that of stipulated by the Government of Nepal (GoN). A World Bank study (2011) estimated that nearly 80 per cent of the total expenses incurred by the migrant domestic workers are the illegal commission taken by the recruitment agencies.

In many destination countries, migrant domestic workers are neither covered by their countries' labor laws nor by the security laws. Studies conducted by foreign scholars as well as native scholars (Hamill, 2011 Bajracharya and Sijapati, 2012) reveal that migrant domestic workers in Arabian Peninsula are trapped into exploitative conditions and are enslaved due the *kafala* system. Key features of the system include: i) the contract period of a worker is minimum of two years; ii) during the contract period, the worker's visa and legal status is tied to the sponsor and iii) doing this, the employer has complete control over the mobility of the worker. Studies indicate that the mechanism through which domestic workers trapped into enslavement, exploitation and trafficking involves the absence of contractual agreements, violation of labor and human rights, sexual abuse and rape, consequences of breaching of a contract agreement on the part of the workers, lack of justice to the workers by the law enforcement and judicial agencies in the destination countries, exploitation by recruitment service agencies in the destination countries and in Nepal, lack of basic information about destination countries among the workers, and no protection measures envisioned in labor laws and social security laws to the domestic workers in destination countries.

International Trade Union Confederation (ITUC) has written the GoN in August 31, 2011 that the Government has not fully complied with the ILO Convention No. 29 on Forced Labor while managing the recruitment of foreign employment. It argued that Nepalese migrant workers are in the forced labor situation due to deception and fraud involved in the process of recruitment.

Media has widely reported that Nepali people are smuggled to developed countries but there are no studies to understand the dynamics of smuggling of migrants and smuggling turned to be trafficking in Nepal. Despite this, major sources of smuggling of Nepali

migrants may be Consultancy Among of Education, Labor Recruiting Agencies, Travel Agencies and Nepali people residing in the destination country.

During the four years (2008-2012), 1,884 persons were reported to die – being 97 per cent males. Majority of deaths were reported due to cardiac arrest, followed by natural death, traffic accident, suicide, workplace accident, heart attack and murder. Among the total deaths, more than one-third were reported to be in Malaysia. This is followed by Saudi Arab (27%), Qatar (23%) and UAE (9%).

Drawing on UN Women Study (2011), a total of 3,576 women migrant workers (WMWs) during the period of 2009-2011 faced some types of problems in the destination countries such as illegal imprisonment, forced pregnancy, and returned with pregnancy and with babies. In 2011, Nepali Embassy at Saudi Arabia recorded 381 Nepali WMWs who came to contact to Nepali Embassy as they were facing abuse, violence from the employers, agents and sub-agents in Saudi Arabia. Among them, 53 per cent were deported to Nepal by the Government of Saudi Arabia, 30 per cent were still in Embassy, 16 per cent were in Housemaid Department and only 1 per cent was sent back to the sponsor. Similarly, 76 Nepali Labor migrants were recorded in imprisonment in Riyadh, Saudi Arabia in 2011 for charging them various criminal cases.

A number of impacts of the foreign labor migration have been reported due to foreign labor migration in Nepal, especially in the families and communities. A study conducted by Terai Human Rights Defender's Alliance (2012) in central Terai indicated that one of the key changes brought by the foreign labor migration in Terai Nepal is the increasing use of means of communication and electronic goods such as TV sets, mobile phone. The survey also revealed that 45 per cent of households received up to Rs. 100,000 annually as remittance from their family members and remaining 55 per cent in the range of Rs. 200,000 and Rs. 500,000. When asked about in what they spent the remittance amount at first, it was known that nearly one-third of the households spent on food and clothing, 30 per cent in education and 13 per cent in health. The same study indicated that 85 per cent young women felt lonely due

to absence of their husbands and they do also face domestic violence in the family. In the sample, nearly 3 in 10 women experienced such violence regularly and another 32 reported so sometimes.

The GoN has given priority in foreign employment in its development plans since its Eighth Development Plan (1992-97) and the subsequent plans have provided emphasis in management of foreign employment for the reduction of poverty and creation of employment of young people. The GoN adopted Foreign Employment Policy in 2012 to increase access to Nepali workers in global labor market by increasing skills, knowledge, capacity and competitiveness and arranging appropriate management of it. The GoN has enacted Foreign Employment Act 2007 (hereafter FEA 2007) and Foreign Employment Regulations 2008 (hereafter FER 2008) including different guidelines. Key provisions included in these legal instruments include enhancing protection mechanism, obligation of recruiting agencies to provide comprehensive employment contracts to the workers and provision of penalties. However, there are loopholes in the FEA 2007 that it does not differentiate between the formal and informal sectors, such as domestic work. Domestic work is also not governed by the labor laws of many major destination countries of Nepali migrant workers.

As the institutional mechanism for the regulation of foreign employment, Ministry of Labor and Transport Management (MoLTM) renamed as Ministry of Labor and Employment (MoLE) is the key line agency to formulate policies and programs in the country. The Department of Foreign Employment (DoFE) is the central body which prime function is to exercise regulatory function; the Foreign Employment Promotion Board (FEPB) deals with the welfare of migrants, promotion of overseas employment, monitoring of pre-departure orientation and conducts research and Foreign Employment Tribunal deals with cases related to foreign employment in a speedy manner. The GoN has already appointed six Labor Attaches (in Malaysia, Qatar, South Korea, Saudi Arabia, UEA and Kuwait) and it is in the process of appointing Attachés in Hong Kong, Israel, Japan and Oman. The MoLE has established a Labor Desk at the international airport and has run a migration resource center in Kathmandu since February 2010. In addition, a number of I/NGOs, the Ministry of

Information and Communication and major media houses conducted awareness program on safe migration through Radio, and TV.

Nepal has developed a large foreign employment infrastructure, namely, recruiting agencies and service agencies such as medical check-up centers, pre-departure orientation training centers and insurance companies. However, majority of them are located in Kathmandu valley and there is also lack of strong monitoring of these infrastructures. The records of the DoFE show that there are 765 recruiting agencies in operation in Nepal in FY 2011/12.

The MoLE and its subordinate offices have carried pre-departure orientation training and caregiver training, provided relief package to the victims and their families, initiated Inter-ministerial Coordination Committee. The Government of Nepal issued Operational Guideline of Domestic workers applicable to Saudi Arabia, Qatar, Kuwait and UAE to protect and promote the human rights of woman migrant domestic workers. The GoN on August 2012 decided 30 years as minimum age to those women who go for foreign employment for domestic work. According to the Government, the decision was made on the ground that domestic workers have to work long hours and face several violence and abuses.

On time to time, the Office of the Prime Minister and Council of Minister, Commission for the Investigation of Abuse and Authority and National Vigilance Center has instructed the MoLE for the regulation of foreign employment.

From the establishment of NHRC, it has expressed concern about the victims of foreign employment and received complaints from the victims and recommended for action to the GoN. It has already signed a Memorandum of Understanding (MoU) with national human rights institution of South Korea; drew attention to the human rights institutions at abroad; took various measures to protect the rights of migrant workers; received 103 complaints related to fraud, deception on foreign employment; undertook coordination and collaboration with MoLE , DoFE, FEPB and Ministry of Foreign Affairs, civil society and media for the implementation of policy recommendations and

developed cordial relationship and collaboration with the UNs Office of the High Commissioner of Human Rights (OHCHR-Nepal), European Union and UN Women for the protection of rights of migrant workers and enhancing the capacity of the staff of NHRC. NHRC has recommended the GoN for the ratification of Convention of Migrant Workers and Their Families 1990.

There are two types of complaints registered in the DoFE: individual basis and institutional basis. The number of complaints registered in the DoFE in relation to fraud in foreign employment increased from 864 in FY 200/09 to 2,172 in 2011/12. The complaints are directed for both individual basis and institutional basis but a large majority being of individuals (1370 for individuals and 802 for individual in FY 2011/12). And, in FY 2011/12, 265 recruiting agencies licenses have been cancelled.

A total of 276 cases were registered in the Foreign Employment Tribunal from January 2011 to September 2012. Among them, 252 cases are pending: 160 cases within one year, 42 cases 1-2 years and 50 cases 2 years and more. Among the 24 cases decided in 2011, 7 cases were accused, 16 cases were convicted. It was found that all the cases registered in the Tribunal may not be related to the real offences of foreign employment in real sense. There has been increasing trend to register the cases even related to *Dhukuti*, exchange of household affairs, buying and selling of land made as foreign employment related cases. Main reasons for low conviction rates in the foreign employment related cases are low competency of the investigation authorities and negligence in registration of the case in the Tribunal; lack of awareness of the applicants that they should present statements in the DoFE and lack of evidence.

In the FY 2010/11, there were nine cases registered in the Supreme Court; 30 cases in appellate courts and 317 in Kathmandu and Lalitapur district courts.

There are number of NGOs/Civil societies that are working for the protection/promotion of rights of migrants and their families. Some NGOs entirely focus on safe migration while other organizations such as

Maiti Nepal, ABC Nepal and WOREC have shifted their focus from entirely anti-trafficking issues to the safe migration issues. NGOs/civil societies mainly focusing on safe migration issues include: National Institute of Development Studies (NIDS), Pourakhi, People Forum, Pravasi Nepali Coordination Committee (PNCC), Migrants Center, Non-Residence Nepalese (NRN), Nepal Health Professional Association including trade unions and Nepal Association of Foreign Employment Agencies (NAFEA). In addition, UN Women, World Education, International Organization for Migration (IOM), United States Agency for International Development (USAID), the Asia Foundation, Swiss Development Cooperation are the major external development partners working for safe migration issues and protection and promotion of rights of migrant workers.

The GoN has initiated undertaking bilateral agreement and MoU with some of the key destination countries. Nepal has already signed MoU with South Korea, UAE, Qatar and Bahrain in 2007; and conducted bilateral labor agreement with Japan (JITCO - 2003), Qatar Lebanon and Malaysia (2005), UAE (2007), South Korea (2007) and Bahrain (2008). The GoN is in the process of labor agreement with Israel, Malaysia and Jordan – showing an increased cooperation among destination countries. This process has been facilitated by various international and regional level migration dialogues such as Global Forum on Migration and Development (GFMD); the Colombo Process; the ‘Abu Dhabi Dialogue’. Despite this, Nepal has yet to ratify the UN Convention on Migrant Workers and Their Families 1990.

Key issues emerged from the analysis of foreign labor migration and nexus of trafficking in persons are to regulate recruiting agencies and agents and sub-agents; combat corruption and irregularities in the government sectors that provide foreign employment services; decentralization of services; expansion of awareness programs; mandatory provision for skill training and pre-departure training for women domestic workers and caregivers; establishing and expanding Safe Houses for victims in the major destination countries; appointing Labor Attaché and expanding the Nepali Embassies at abroad; promotion of bilateral agreements and conduction of reintegration programs to the victims of trafficking and violence, exploitation.

On Monitoring of Anti-Trafficking Activities

Nepal has been remained in Tire 2 since 2006 while Bangladesh has slipped into Tire 2 WL in 2010 and 2011 from Tire 2 in 2009; India remained Tire 2 WL from 2004 to 2010 but raised its place to Tire 2 in 2011; Pakistan has been remained in Tire 2 since 2005 and Sri Lanka was placed in Tire 2 WL in 2010 but again placed in Tire 2 in 2011.

The GoN introduced National Plan of Action (NPA) against Trafficking in Persons 2011-2016. The NPA is in line with the HTTCA 2007 and the UN Protocol on Trafficking, and the South Asian Association for Regional Cooperation (SAARC) Convention on Trafficking. The NPA identifies five broad areas for interventions: prevention, protection, prosecution, capacity building, and cooperation. In an effort to develop policy on to rescue, repatriation, rehabilitation and reintegration (4-Rs) of the victims/survivors of trafficking, NHRC recommended 4-Rs policy to the GoN. The policy aims to promote and protect the rights of the victims/survivors for realization of their dignified live and creation of a situation for providing the justice for the victims/survivors and punishing the perpetrators. In addition to the NPA, the Ministry of Women, Children and Social Welfare (MoWCSW) adopted Operation Guideline of Rehabilitation Center 2011, National Minimum Standards for the Protection and Care of Victims/Survivors of Human Trafficking 2011, the Operational Guideline for Rehabilitation Fund 2011 and the Conditions and Standards on Operating Children's Home 2011 and National Child Protection Policy 2011. Although the MoWCSW adopted the different Operation Guidelines and NPA, there have been little efforts to familiarize these instruments among the service providers. Neither the National Committee nor the District Committees has taken initiatives to monitor whether the provisions envisioned in these instruments are fulfilled by the service providers.

As the institutional mechanism to prevent trafficking in persons and combat trafficking, MoWCSW is the key line agency to implement the NPA against Trafficking in Persons. It has the responsibility of formulating policies and legislations to combat trafficking in women and children, coordination and collaboration with other sectoral ministries, External Development Partners (EDPs), and civil society in

relation to protection and promotion rights of women and children. Under the Ministry, there are Department of Women and Children Development (DWC), and Central Child Welfare Board (CCWB), Central Coordination Committee on Juvenile Justice. In addition, the MoWCSW has set up the National Center for Children at Risk (NCCR) in 2006 in collaboration with CCWB, Nepal Police, and various international organizations. It maintains a toll-free number of 1098 to report missing children and those in need of protection and supports family reunification. Further, the MoWCSW processes inter-country adoptions through its Inter-Country Adoption Committee and monitors the implementation of international instruments relating to human trafficking.

The GoN formed National Committee against Human Trafficking under the MoWCSW in November 2008 in order to formulate and execute anti-human trafficking policies, plans, and programs; rescue and repatriate trafficking victims; coordinate and monitor the work of the District Committees and maintain national-level statistics about human trafficking. The GoN has already set up District Committees in all 75 districts in the country. However, it is known that National and District Committees have yet to be institutionalized with a separate office, adequate resources, employing expert in anti-trafficking issues, conducting regular meeting and commitment of the member agencies.

The Directorate of Women and Children Service (DWCS) is a special Police unit under the Nepal Police Crime Investigation Department dealing with the cases of violence against children and women. By 2011, Women and Children Service Centers have been established in all 75 districts. The GoN has approved additional vacancy of 1035 women police in FY 2011/12 and the advertisement for the vacant posts has yet to be called on. The DWCS has been implementing *JFPR 9135-NEP: Establishing Women and Children Service Center (WCSC) Project* (January 2010-January 2014) with the technical and financial support of Asian Development Bank. The project aims to strengthen WCSCs in Doti, Jumla, Bara, Rautahat and Dhanusa districts.

The GoN established Rehabilitation Fund in FY 2008/09 with the amount of Rs. 10 million. With the support of the Rehab Fund, the GoN

has been supporting eight rehab centers run by different NGOs since the FY 2008/09 in Kathmandu, Sindhupalchok, Kailali, Jhapa, Parsa, Rupandehi, Banke and Chitawan and allocated Rs. one million for each rehabilitation center.

National Judicial Academy – a statutory body formed to build the capacity of criminal justice actors and conduct research on criminal justice system in Nepal - has been providing training to criminal justice actors and preparing various guidelines for effective prosecution and adjudication. In 2011, it published Operational Guideline for Prosecution and Court Proceeding of Human Trafficking Cases; Training Manual for Relating to Human Trafficking and Procedural Guideline for Special Type of Cases on Maintaining Privacy (2011d). The Procedure Guideline deals with the cases to be maintained privacy include: cases relating to rape, abortion, sexual violence against women, human trafficking, incest, violence against women, children's cases in the juvenile courts or juvenile bench, cases relating to HIV infected people. In addition, NJA conducted training for the judicial officers, prosecutors, police officers, defence lawyers and courts' employers on different issues in 2011 about juvenile justice, gender justice, human trafficking and organized crime and money laundering.

In addition to the direct responsive policies of human trafficking, the GoN has been implementing several programs that contribute to prevention of human trafficking indirectly. The GoN has initiated allocation of annual development budget in development activities directly or indirectly contributing to reduction of poverty and empowerment of women. In the FY 2011/12, nearly 48.5 per cent of the total development budget was pro-poor budget and 19 per cent as direct gender responsive budget. The DWC has been implementing Women Empowerment Program across the country – aiming to promote and expand women and adolescent girls' spheres in every sector. The program covers all 75 districts in the country. By the FY, 2011/12, 107,958 Women Groups have been formed having 653,083 members. In addition, the DWC in collaboration with different EDPs implemented or have been implementing projects relating to gender equality, equity and women's empowerment; improving the livelihoods of conflict affected families and children; providing comprehensive

Sexual and Reproductive Health Services; elimination of traditional harmful practices such as *Chaupadi*. (a traditional practice in which menstruating girls and women are kept in a separate hut)

As the child protection program, different Ministries and Department have been conducting programs to realize child rights. The GoN constituted Juvenile Justice Coordination Committee at the central level and implemented Juvenile Justice Program in 32 districts; became member of South Asia Initiative to End Violence against Children (SAIEVAC); established National Center for Children at Risk in Kathmandu; operated Child Welfare Homes in four places; established Emergency Child Rescue Fund; formed Child Rights Organizations (CROs) under the Ministry of Federal Affairs and Local Development (MoFALD) in 52 districts and run Child Helplines in 13 districts by different NGOs.

Although there are few programs targeted to address the root causes of trafficking focusing on adolescent and youth, there are generic programs implemented by different Ministries especially MoWCSW, MoFALD and Youth and Sports that contribute to prevent trafficking of adolescent and youth in the country.

According to Economic Survey FY 2011/12 (MoF, 2012), various programs have been operated under the Poverty Alleviation Fund (PAF) with the grant assistance of US \$100 million. Poverty Alleviation Fund's programs have been implemented regularly in 40 districts and additional 15 districts were added in the FY 2011/12. The GoN has approved Rs. 2.69 billion for the operation of the self-employment program by mid-March 2012. Under the MoFALD, there are poverty alleviation and employment promotion programs implemented in remote and disadvantaged areas of the country. Under the Ministry of Agriculture and Cooperative, there are about 11,000 cooperative aiming to reduce poverty.

The Ministry of Education (MoE) provides various scholarships to different levels of school education aiming to encourage school participation rates of children from the marginalized communities, girls, very poor and people living in remote areas. Food Program for

Education is being implemented in 17 districts having food scarcity. In addition, the Ministry also provides cash grants to students studying from 0 to 5 grades in Karnali zone. The non-formal Education Centers have been conducting national literacy campaign, non-formal education program, literacy program, women education, alternative schools and open school programs. In the academic calendar of 2011, 85 Open Secondary School program in 75 districts were running with 10,600 students enrolled and a total of 1,154 beneficiaries were participating in the program.

Under the Ministry of Health and Population, 'Free Health Service to All' and the National Centre for AIDS and STD Control programs are most relevant programs contributing to prevention of trafficking and redressing the trafficking victims/survivors infected by HIV/AIDS.

Under the MoFALD, inclusive development programs targeting to indigenous people, ethnic groups, Dalit, Madheshi, Muslim, disadvantaged class and remote and special area, women and children are in operation. Village Development Committees (VDCs) and Municipalities maintained the personal incidents of births, deaths, marriage, divorce and migration. In the FY 2010/11, the VDCs/Municipalities recorded 316,189 persons as migrants (out-migration and in-migration) in the country but given the magnitude of internal and cross-border migration of Nepali people, the figure of 139,268 registered as out-migrants appears to be far low.

In addition to governmental organizations, many international organizations, donor agencies, and technical assistance providers have supported Nepal's counter-trafficking efforts and promotion of safe migration. The USAID has funded Combating Trafficking in Persons (C-TIP) Program in Nepal for 2010-2015 with the project amount of US \$ 6.8 million. The overall goal of the project is to reduce and prevent the incidence of trafficking in person. The project adopts a holistic approach in addressing issues of protection, prosecution, and prevention of trafficking in persons related to labor migration, sex trafficking, and organ trafficking. It seeks to strengthen coordination, collaboration, and technical skills across a diverse group of government and civil society stakeholders. The project covers six districts

representing from major source districts of trafficking (Kavre, Sindhupalchok, and Makwanpur) and cross-border transit districts (Banke and Kanchanpur) and Kathmandu district as a source, destination, and transit district. Immediate beneficiaries of this project include those vulnerable to trafficking, trafficking survivors, their families/communities. The achievements and effectiveness of the C-TIP project have not known as the Funding Agency has yet to carry out the mid-term evaluation of the project.

In addition to Governmental activities and support by the EDPs, a number of NGOs are engaged in anti-trafficking activities, safe migration issues and violence against women in the country. Many NGOs are affiliated with anti-trafficking networks such as Alliance against Trafficking in Women and Children in Nepal (AATWIN), National Network against Girls Trafficking (NNAGT) and Inter-Agency Coordination Groups (IACG) of INGOs. The leading NGOs working on anti-trafficking and safe migration issues are Family Planning Association of Nepal (FPAN), Legal Aid and Consultation Center (LACC), Child Workers in Nepal (CWIN), Women's Rehabilitation Center (WOREC), Saathi, Maiti Nepal, Gramin Mahila Sirjanshil Pariwar-Sindhupalchok, Forum for Women, Law and Development (FWLD), Shakti Samuha, Center for Legal Research and Resource Development (CeLRRd), Forum for Protection of People's Rights, Nepal (PPR Nepal), Easter Benjamin Memorial Fund (EBMF) and Change Nepal. These NGOs carry out prevention, protection and legal aid related activities and services. Examining the involvement of GOs, NGOs and EDPs in prevention activities of trafficking in persons, however, it seems that a comprehensive prevention interventions have not been implemented in Nepal. Majority of programs focuses on the awareness raising and education while there is less focus on the research and data collection; and socio-economic interventions.

In addition to prevention activities, the NGOs have conducted protection related activities such as interception, rescue, repatriation, rehabilitation and reintegration. During the January 2011 and December 2011, 6,883 persons were intercepted from different border points, bus parks and main highway heads by different NGOs including by Nepal Police; 141 girls/women were rescued from sexual

exploitation; 1,372 persons from labor exploitation and 132 from other forms of exploitation. A total of 196 persons were repatriated from India, 1,092 persons from Gulf countries and Malaysia. A total of 320 children and women were provided rehab services; 286 persons were reintegrated with the family and/or provided self-employment and 2810 missing persons' applications were handled by the NGOs. In the year 2011, about 300 victims/survivors of trafficking were provided referable services by the leading NGOs in Nepal.

NGOs have also provided legal aid/support to the victims/survivors of trafficking in the forms of para-legal training, legal counselling, supporting to file the case in Nepal Police and legal representation. In the year 2011, it was found that all most all NGOs reported in NHRC provided legal aid accounting for more than 300 trafficking victims/survivors.

Key challenges to effectively monitor policies, programs and activities of human trafficking emerge from this analysis are the following: effective implementation of NPA; monitoring the implementation of Operational Guideline for Rehabilitation Center and Minimum Standards for the Protection and Care of the Trafficking Survivors; strengthening the MoWCSW in dealing with the issues of Trafficking in Persons; making effective functioning of National Committee and District Committees; establishing unified database system; establishing and expanding coordination between relevant agencies; conducting training and orientation to judges, employers and legal professionals and increasing Governmental budget for prevention and combating of human trafficking.

On Legislation, Law Enforcement Status and Judicial Response

Nepal has ratified several international and regional human rights instruments relating to ensuring the rights of children, combating trafficking of children, forced labor, and trafficking of women for sexual exploitation including United Nations Convention against Transnational Organized Crime. But, it has yet to ratify the UN Protocol on Trafficking. The GoN enacted HTTCA 2007 and HTTCR 2008 in order to control the acts of trafficking in persons and protect

and rehabilitate the victims. The HTTCA 2007 is gender-neutral, prohibits both internal and transnational trafficking in persons, and covers both sex and labor exploitation and it is in line with the UN Protocol on Trafficking.

Despite the strengths, the HTTCA 2007 fails to address issues such as prevention of human trafficking, witness protection, repatriation of victims and international counter-trafficking cooperation and border measures; and it does not envision a compensation fund for victims. Although the HTTCA 2007 has the provision of witness protection from potential retaliation or intimidation in criminal proceedings, no clear mechanism exists for it. HTTCA 2007 does not define an organized criminal group and does not envision separate or increased penalties for trafficking crimes committed in an organized manner. Although Nepal ratified the UN Convention against Corruption in 2011, domestication of its provisions has yet to be done. HTTCA 2007 and other laws in Nepal do not provide the definition of obstruction of justice. As the government attorneys have heavy workload, they do not assign their priority to prosecute those who obstruct the justice in Nepal, mainly because of difficulty to prove the obstruction of justice and partly because of the small amount of punishment who obstruct the justice. There is no specialized unit in Nepal Police or in the Prosecutorial service for the investigation and prosecution of human trafficking. Although the HTTCA 2007 makes rescue, repatriation and rehabilitation to the victims of trafficking, the HTTCA 2007 remains unnoticed how to implement such provisions. Further the HTTAC 2007 does not see the mandatory provision of the Government to establish the mutual cooperation to combat trafficking.

In majority of cases the prosecutors do not claim for additional punishment and the justice actors assume the life imprisonment as 20 years imprisonment according to the law and they are less inclined to offer the additional punishment. Further, both the HTTCA 2007 and FEA 2007 have not defined trafficking in persons in relation to migration and foreign employment.

Regarding the law enforcement status, there are very few cases of human trafficking reported in Nepal Police. Only one-third of the cases

are registered. Of those who does First Information Report (FIR), 45 per cent cases it was done by the victims. Only 35 per cent of FIR in Nepal Police related to trafficking is registered within one month of the crime, 60 per cent within 6 months, 70 per cent within 2 years, 80 per cent within 4 years and 90 per cent within 6 years. OF the 145 trafficking charges registered in Nepal Police in FY 2010/11, only one-fourth offenders admitted the charges while the rest denied it. Among the cases registered by the victims or victims' relatives, only 15 per cent submitted evidences and 85 per cent did not.

Studies indicate that trafficking victims are frequently reluctant to report the crime to the police and the level of reporting remains low mainly because of lack of legal awareness; undue influence by the perpetrators; trauma and psychological suffering; fear of humiliation, stigma, and discrimination; police bias, incompetence to women's and children's issues; lengthy and cumbersome court proceedings; and high cost of access to justice; distrust toward justice institutions; lack of financial support and very low likelihood of receiving compensation.

With respect to the judicial responses to trafficking cases, a 5-year average (FY 2006/07- FY 2010/11) number of the trafficking cases registered in the Supreme Court were found to be 84 with only 33 per cent conviction rates. In the Appellate courts, the 5-year average number of cases registered comes out to be 131 with conviction rate of 47 per cent and in the district courts the 5-year average numbers of trafficking cases registered come out to be 282 with conviction rate of 63 per cent. The pending rates of trafficking cases tend to increase from lower layered courts to higher one – implying that the disposal of trafficking cases takes longer time in upper layered courts in Nepal.

There are several challenges for the effective law enforcement, prosecution and adjudication in Nepal. They include: amendment of HTTCA 2007 and other laws of Nepal; effective implementation of HTTCA 2007; formation of special investigation unit for human trafficking in Nepal Police and Prosecutorial services; strengthening and expanding the WCSCs down to the district level and training to the criminal justice actors.

Drawing on the findings and conclusions of the Report, recommendations are drawn related to prevention, protection, prosecution, capacity development, coordination and cooperation and maintaining data information system.

Chapter 1

INTRODUCTION

The National Human Rights Commission (NHRC), established in 2000 under Human Right Commission Act 1997, was elevated as constitutional body by the Interim Constitution of Nepal 2007 from the earlier statutory status. The Commission is responsible for the protection, promotion, respect for and enforcement of human rights in Nepal. In its Strategic Plan (2011-14), the NHRC identified promotion and protection of collective group rights such as rights of the child, women's rights and rights of migrant workers as priority area for intervention.

The NHRC has already published Annual Reports on *Trafficking in Persons Especially Women and Children* since 2005 (2005; 2006-2007; 2008-2009; 2009-2010). This Annual Report is the continuation of previous Annual Reports which covers the period of January 2011 to December 2011. It mainly focuses on situation of trafficking in persons in Nepal; nexus of foreign labor migration and trafficking, monitoring of initiatives of anti-trafficking activities; legal framework, law enforcement status and judicial responses to trafficking.

United Nations has taken concerns about the violence against women and trafficking of women in Nepal. In Concluding Observation of the Committee on the Elimination of Discrimination against Women (CEDAW) in July 2011 provided the comments of the Government of Nepal's Country Report on the implementation status of CEDAW. The Committee welcomes the enactment of the Domestic Violence Act, 2009

and adoption of a national plan of action (NPA) on gender-based violence. However, the Committee is concerned about the continued prevalence of violence against women and girls, lack of documentation of the incidents of domestic violence including sexual violence and domestic violence; the existence of a statute of limitation on the registration of sexual violence cases and the weak penalty for marital rape.

Regarding issues of trafficking and exploitation of prostitution, the Committee welcomes the adoption of the NPA against human trafficking. However, the Committee raises concerns about the lack of specific data on human trafficking, the lack of effective implementation of the Human Trafficking and Transportation (Control) Act, 2007, the persistence of sexual exploitation and the persistence of the root causes of trafficking and prostitution, including poverty. To address these problems, the Committee urges the Government of Nepal (GoN) to fully implement article 6 of the Convention by:

- (a) Collecting and analyzing data on all aspects of trafficking and prostitution, disaggregated by age, sex in order to identify trends;
- (b) Implementing the Human Trafficking and Transportation (Control) Act, 2007 to ensure that perpetrators are punished and victims adequately protected, assisted and provided with shelters;
- (c) Strengthening preventive measures aimed at improving the economic situation of girls and women, gainful employment and other resources to eliminate their vulnerability to traffickers;
- (d) Strengthening its efforts to cooperate, at the international, regional and bilateral levels, with countries of origin and transit in order to address the causes of trafficking more effectively and improve the prevention of trafficking through information exchange;
- (e) Ensuring the effective implementation of the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution;

- (f) Ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (UN CTOC);
- (g) Providing information and training with respect to the anti-trafficking legislation to the judiciary, law enforcement officials, including immigration and border police, and social workers in all parts of the country, and undertaking awareness-raising campaigns among the population.

The Report of the United Nations (UNs) Special Rapporteur against Trafficking in Persons, especially for Women and Children submitted to UNs General Assembly in 2011 operationalizes the right to an effective remedy and also offers draft basic principles on the right to an effective remedy for trafficked persons. The draft basic principles are based on existing international human rights law and standards. The draft basic principles explicitly spell out that States have obligations to ensure that adequate procedures are in place to enable speedy and accurate identification that trafficked persons are not subjected to discriminatory treatment in law or in practice. The principles specify that restitution may require States to provide trafficked persons with temporary or permanent residence; that States shall ensure that trafficked persons' access to assistance and other benefits are not dependent on their cooperation and that States have a duty to ensure that trafficked persons are allowed to lawfully remain in the country in which the remedy is being sought for the duration of any proceedings, having regard to the fact that trafficked persons are often treated as irregular migrants subject to detention and deportation.

1.1 Purpose of the National Report 2011

The specific objectives of the Report are the following:

- To assess the general situation and emerging trends of the status of trafficking in person Nepal
- To assess the situation of foreign labor migration and vulnerability of trafficking in person

- To assess the anti-trafficking policies, programs and activities
- To analyze the status of legal enforcement for the prosecution of traffickers
- To recommend the policies and programs required for combating trafficking in person the changing context of Nepal.

1.2 Definition of Human Trafficking

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

UN Protocol on Trafficking (Article 3) defines human trafficking as, Trafficking in persons shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

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

The 'consent' of the victim of trafficking shall be irrelevant where any of the means set forth above have been used. 'Consent' is irrelevant in case of children even if this does not involve any of the means set forth above.

In line with the UN Protocol on Trafficking, the Office of the National Rapporteur on Trafficking now Office of the Special Rapporteur

(OSRT-NHRC) developed a definition of trafficking and used it in National Reports 2005 and 2006-07. The definition brought conceptual clarity on trafficking on persons in the Nepalese. The definition reads:

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

In line with the definition of OSRT and UN Protocol on Trafficking, the Government of Nepal adopted Human Transportation and Trafficking Act 2007. The act distinguishes human trafficking and human transportation. According to it, the following acts shall be deemed to have committed human trafficking:

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

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

- a) To take a person out of the country for the purpose of buying and selling,
- b) To take anyone from his /her home, place of residence or from a person by any means such as enticement, inducement, misinformation, forgery, tricks, coercion, abduction, hostage, allurements, influence, threat, abuse of power and by means of inducement, fear, threat or coercion to the guardian or

custodian and keep him/her into ones custody or take to any place within Nepal or abroad or handover him/her to somebody else for the purpose of prostitution and exploitation.

The definition establishes the fact that trafficking can be internal and cross-border for the purpose of sexual exploitation; labor exploitation; trafficking for illicit activities as involvement in pornography, drugs trafficking, forced begging, involuntary servitude or debt bondage or slavery; and trafficking for the purpose of organ removal and trafficking in organs, tissues and cells.

The definition also establishes the fact that foreign labor migration from Nepal to different destination countries can be linked to trafficking phenomenon. Pursuant to the UN Protocol on Trafficking, there are three constituent elements of human trafficking:

1. **an action** (recruitment, transportation, transfer, harboring, or receipt of persons)
2. **a means** (force, coercion, deception, fraud, abuse of power or of a position of vulnerability, etc.)
3. **a purpose** (exploitation).

By definition, exploitative working conditions alone may not amount to trafficking. Circumstances of trafficking arise only when all three components of the definition are met. By the time that labor exploitation happens at a destination country the prerequisites of action and means have already occurred in Nepal or transit countries. It is also possible to meet all three criteria solely within the destination country. In reference to the first criteria of the trafficking definition, foreign labor migrants in a destination country means that they have already been recruited, transported, and transited. They have also been 'received' by an agent or an employer at the end of the migration path. So, the first definitional requirement is almost always met. With reference to the second criteria, foreign labor migrants are often recruited by means of deception or abuse of a position of vulnerability. Deception may occur when a person is recruited in Nepal on the basis of inaccurate contract terms, providing no accurate information about the working conditions and employment regulations. Abuse of a position of vulnerability may arise when a potential

migrant worker is in dire financial straits, dependent on the recruiter, local broke/employer or isolated because of language barriers and separation from their peers and family members.

The third criteria i.e. exploitation is the key term to define when analyzing human trafficking. The meaning of the term exploitation can be understood by clarifying the definitions of forced labor, servitude, slavery and practices similar to slavery. **Forced labor** as defined by the International Labor Organization (ILO) Convention on Forced or Compulsory Labor (1930) is 'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.' This definition encompasses two key components: 'menace of penalty' and 'involuntariness.' These two components are present in case of foreign labor migration of Nepali in many destination countries, especially to Gulf countries. Forced labor means that there must be some type of coercion to work backed by a threat. This occurs when someone is compelled to work and has no viable alternatives to withdraw his/her labor. The ILO has identified various factors that contribute to situations of forced labor, and all of these are present to varying degrees in the Gulf countries. In 2010, an ILO working paper stated that domestic work may become forced labor when the following conditions prevail:

- Deception and false promises concerning conditions of work;
- Lack of freedom to change employers;
- Physical or sexual abuse;
- Debt bondage;
- Confiscation of identity papers;
- Non-payment of wages to workers;
- Physical confinement; and
- Threat of denunciation or deportation.

The United Nations Office of the Drug and Crime (UNODC) Model Law offers the following guidance for interpretation of **Servitude**. Servitude shall mean the labor conditions or the obligations to work or to render services from which the person in question cannot escape and which he or she cannot change. **Slavery** as defined by the 1926 Slavery Convention and the 1956 Supplementary Convention on the Abolition of Slavery as 'the status or

condition of a person over whom any or all of the powers attaching to the right of ownership are exercised'. The 1956 Supplementary Convention on the Abolition of Slavery identifies four **practices similar to slavery**: debt bondage, serfdom, servile marriage and child servitude.

1.3 Methods of the Study

This study uses both secondary and primary data. Secondary data have been gathered through desk review of relevant reports from Ministry of Women, Children and Social Welfare (MoWCSW) and CCWB, Annual reports of Attorney General Office, Nepal; Annual reports of the Supreme Court of Nepal; Annual and other relevant reports of NHRC; Data records of the Department of Foreign Employment, Foreign Employment Promotion Board, Foreign Employment Tribunal; Data records of Directorate of Women and Children Service (DWCS), Nepal Police; Data records of National Center for Children at Risk (NCCR) and relevant report from International/Non-governmental organization (I/NGOs).

Primary Sources

1. NHRC-OSRT developed a format to collect information on anti-trafficking activities and safe migration programs carried out by different NGOs. The format was sent to all the leading NGOs. The format covered the issues of prevention, protection and legal support provided by the organizations during the January 2011 to December 2011. The following NGOs provided the information in the designated format: Legal Aid and Consultancy Center (LACC), Maiti Nepal, Gramin Mahila Srijan Shil Pariwar (GMSP)-Sindhupalchok, People Forum, Forum for Protection of People's Rights (PPR-Nepal), Pravasi Nepali Coordination Committee (PNCC), Easter Benjamin Memorial Foundation (EBMF), Shakti Samuha, Nepalese Home, Alliance against Trafficking in Women and Children in Nepal (AATWIN), Center for Legal Research and Resource Development (CeLLRd), ABC Nepal, Center for Awareness Promotion (CAP-Nepal), Child Workers in Nepal (CWIN), Women Skill Creation Center- Makwanpur, Women Progress Center-Kanchanpur (WPC), Women Rehabilitation Center (WOREC), Pourakhi and Saathi. To collect data from different NGOs, AATWIN has facilitated to coordinate NGO, among its alliance members. The Asian Foundation,

The Secretariat of IACG Group also supported NHRC to collect informatino among the IACG members.

2. Individual Consultation - The Report preparation team visited different Governmental Organizations (GOs) to collect information on anti-trafficking activities (See Annex 1.1 for name of institutions and individuals visited). The following Ministries/Departments were visited: Ministry of Women, Children and Social Welfare; Department of Women and Children; Office of the Attorney General; Central Child Welfare Board; Department of Foreign Employment; Foreign Employment Promotion Board; Foreign Employment Tribunal; National Center for Children at Risk (NCCR); DWCS and Women and Children Service Center (WCSC), Valley Police.

In addition, International Organization for Migration (IOM) and World Education were also visited.

3. Consultation Meeting with the Female Workers in the Entertainment Sector - One-day consultation meeting was held with the female workers in entertainment industry. The consultation meeting was supported by Shakti Samuha and the consultation meeting was held in Danchi, Kathmandu. A total of 22 female workers engaged in entertainment industry were participated in the discussion (see Annex 1.2 for name of the participants in the workshop). Five group discussions were conducted and a semi-structured questionnaire was also administered to the female workers.
4. Consultation Meeting with GOs, NGOs and INGOs and NHRC - The final draft report was shared with the representatives of GOs, NGOs and INGOs working in the anti-trafficking and safe migration issues in Nepal. The Consultation meeting was chaired by the Hon. Chairperson of NHRC Justice Kedar Nath Upadhyay and Hon. Member of NHRC Justice Ram Nagina Singh also participated in the consultation meeting. The NHRC Secretary – Mr. Bishal Khanal - including NHRC Officials was also present in the consultation (See Annex 1.3 and 1.4 for name of the participants in the consultation meeting). The feedback and comments were incorporated to finalize this Report.

1.4 Organization of the Report

This Report is structured into six Chapters. **Chapter 1** sets the context of the Report, provides the definition of human trafficking and methodology used to prepare this Report. **Chapter 2** reviews the current situation of trafficking in persons and it brings cross-border, internal trafficking for the purpose of sexual exploitation, labor exploitation, and trafficking for other purposes. It also reviews the vulnerability aspects of children and child trafficking. **Chapter 3** deals with the foreign labor migration and nexus of trafficking. It reviews the magnitudes of foreign labor migration by sex and country of destination and it goes on exploring the nexus of trafficking in each cycle of migration. This Chapter also critically reviews the legal and policy measures to regulate foreign labor migration and to protect and promote the rights of migrant workers. **Chapter 4** critically reviews the policies, programs and activities against trafficking in persons in Nepal implemented by GOs and NGOs. **Chapter 5** assesses the law enforcement status and judicial responses to trafficking and the **Final Chapter** draws the conclusions based on the findings of this Report and provides recommendation.

Chapter 2

SITUATION OF TRAFFICKING IN PERSONS

This Chapter explores the situation of trafficking in persons utilizing secondary data, mainly from Nepal Police, NGOs and GOs. The Chapter begins by setting the context of trafficking in persons in Nepal, moves on exploring the levels and trends of trafficking cases registered in Nepal police, and explores the different types of trafficking such as trafficking for marriage, smuggling of migrants, trafficking of girls to Khasa, Tibet (a border town of Tibet between Nepal and China) child trafficking including the nexus of intercountry adoption and trafficking of children.

2.1 Setting the Problem

Nepal is a source country for men, women and children who are subjected to forced labor and sex trafficking. Cases of human trafficking in Nepal occur mainly in three areas: i) cross border trafficking beyond India; ii) cross border trafficking to India and iii) internal trafficking mainly in entertainment enterprises, brick kilns, *jari* (embroidering) industries, and streets.

In all types of trafficking, the purpose of trafficking is sexual exploitation and labor exploitation. In addition, trafficking takes place for the purpose of organ transplant to India; to Korea and Hong Kong for the purpose of marriage. Nepali migrants are smuggled to developed countries which latter turns to be trafficking. Each type and form of trafficking has age and gender dimension. Children are victims of trafficking both internally as well as cross-border for sexual and labor

exploitation and other purposes. Boys also are exploited in domestic servitude such as in brick kilns and *jari* industries. Trafficking of Nepalese minor girls to Gulf Countries and to Khasa, Tibet has been increasing in the recent times (Maiti Nepal, 2012).

Women are victims of trafficking in all three types of trafficking, especially for the purpose of sexual exploitation. They are subjected to sex trafficking in Nepal, India, the Middle East and Asian countries including Malaysia, Hong Kong and South Korea. They are also subjected to forced labor in Nepal and India as mainly as domestic servants and in the adult entertainment industry.

Evidence suggests that the dynamics of trafficking (means, action and purpose) has changed over the years. It is reported that brothels in India are shifting their modes of operation into dance and cabin restaurants. The Kamathipura brothel, for example, one of the most notorious in the world is changing its way of operation and being more underground pushing girls at higher risks. The other destinations like Nagpur, Meerut, Ilaahbad, Kerela and Tibetan Khasa are emerging as new challenges in combating girls trafficking (Maiti Nepal, 2012).

Trafficking in girls and women for commercial sexual exploitation has a long history. During the Rana Regime (1847-1951), there are instances of internal trafficking of girls as housemaids. Cross-border trafficking to girls and women for the purpose of sexual exploitation in Indian brothels initiated after 1950s and it continued to grow. The growth of carpet, garment and *pashmina* (shawl) industries in Kathmandu valley in mid-1980s integrated the Nepal's economy into the world economy but it also brought the social consequences in Nepali society. With the huge rural to urban migration, especially of women and children without skills and knowledge in these industries, they were bound to end up in poor working conditions and meagre wages. This situation further made the workers vulnerability to exploitation and trafficking to India (NHRC, 2010).

In between 1995-2006, Nepal engulfed into armed conflict – resulting a large number of children and women flying from their place of origin, especially from rural and remote areas. This was another broader factor

contributing to trafficking of children to India and inside Nepal for the entertainment sectors including in brick kilns, embroidering and others. The conflict led to the mass displacement, abduction and killings, especially from the countryside.

Another broader process that increased the vulnerability of trafficking in persons is the increase opportunity of foreign employment. After the turn of the Century, Nepalese economy has greatly integrated in the world labor market through supplying of labourers.

Trafficking in persons crosses-across the social and economic strata, gender, age groups and regions of the country. Yet the most vulnerable groups are hard hit by the trafficking. The United Nations (2011) classified most vulnerable groups in Nepal requiring immediate support to transform their lives, based on the following criteria: i) human development (poverty, economic resources, knowledge and health); ii) exclusion (economic exclusion, political exclusion and civic/cultural exclusion); and iii) weak individual protection (physical protection and legal protection). The study also provides the estimates of the size of the vulnerable population in Nepal. Accordingly, there are 0.65 million children (5-14 year) without basic education; 1.7 million under-nourished children below 5 years of age; 2.5 million women and girls vulnerable to sexual exploitation; 3.3 million women from the most disadvantaged areas (mid-and far-western development regions); 3 million adolescent girls (10-19 years); 0.5 million endangered and highly marginalized indigenous people; 5.8 million religious minorities; 2.7 million Dalit; 1.5 million persons with disabilities; 6.3 million migrant workers and their families; 1.3 million rural landless and land poor; 0.55 million bonded and forced laborers; nearly 3 million urban slum dwellers and squatters; 52,000 displaced persons due to conflict; 7.6 million illiterates; 10 million people from areas vulnerable to climate change and natural disaster¹.

¹ Note that these estimates may not be additive as there are overlapping vulnerable groups. For example, illiterates may be migrant and their families or landless poor or disabled persons and so on. Yet the estimates show absolute number of a particular vulnerable group.

A study conducted in West Bengal, India by International Development Law Organization (2011) also revealed the similar categories of children at risk for trafficking: orphans and children in custodial/educational institutions away from families, children from broken families, disabled children, children living in rural poverty, children living in slums or on the streets, children in brothels, children in communities practicing religious and cultural prostitution, children stigmatized by abuse, children born to victims of AIDS, children of bonded laborers and children from scheduled castes and tribes.

Drawing on these findings, the following categories of women and children in Nepal are the most vulnerable groups for trafficking:

- Those from mid-and far-western development regions;
- Those of endangered and highly marginalized indigenous groups;
- Those of religious minorities and
- Those of Dalit;
- Those with disability;
- Migrant workers and their families (mainly women and children),
- Those of rural landless and land poor households;
- Those of bonded and forced laborers such as *Haliya* and *Haruwa*;
- Those of urban slum dwellers;
- Those of conflict affected and of missing persons' families;
- Those women and children from illiterate households;
- Those living in the lowest performance districts (in term of human development) and those residing in a place/area vulnerable to climate change and natural disasters.

In addition, some NGOs personnel in the Consultation meeting of this Report reported that there has also been increasing trends of trafficking of children and women for sexual exploitation from India and Tibet, the Autonomous Province of China to Nepal, especially in Kathmandu valley. Much research, however, is needed to understand the magnitude, processes and condition of the trafficked survivors.

*Violation of Rights of Children, Women and Migrant Workers:
Complaints Handled by NHRC*

National Human Rights Commission (NHRC) central office, regional offices and sub-regional offices handle complaints against violation of human rights including violation of rights of children, women and migrant workers through written or oral application; through telephone or fax; through post office, telegram, e-mail or other similar means and self-accepting complaints by the NHRC using its autonomous status. After investigation of the cases, the NHRC recommends the Government of Nepal for bringing the culprits into justice and providing compensation for the victims.

As presented in Table 2.1, a total of 196 complaints registered in NHRC related to violation of rights of children from its establishment to April 2011. The key violation aspects include: child soldiers in the Maoist army during the conflict period (1996-2006), child abuse by teachers, child domestic workers and their exploitation, murder of children during the period of armed conflict by the security forces, police and Maoist; children in jail rather than putting them in Child Correction Home, torture by the Police and intercountry adoption of children without parental consent. Among the total cases, 107 complaints were made in Nepalgunj Regional Office, 33 in Central Office, 21 in Dhanghadi. In offices of Janakpur, Pokhara, Butawal and Jumla, the number of complaints registered in the NHRC range from at least one to 5 complaints.

In case of violation of the women, 145 complaints were registered in NHRC offices. The highest number of complaints registered was in Biratnagar and Janakpur (29 each), followed by Nepalgunj (23 cases), central office (25 cases), Butawal (14 cases) and Khotang (12 cases). The cases against violation of women rights handled by the NHRC offices include physical or mental torture of women accusing them as witchcraft, trafficking of women and children, domestic violence against women, property rights of women, polygamy and sexual exploitation and abuse.

Table 2.1 Number of complaints registered in NHRC offices related violation of the rights of children, women and migrant workers, till April, 2011

NHRC offices	Violation of the rights of children*	Violation of the rights of women**	Violation of the rights of migrant workers***
Central Office			
Lalitapur	33	25	39
Regional Offices			
Biratnagar	14	29	2
Janakpur	1	29	1
Pokhara	3	5	2
Nepalgunj	107	23	16
Dhanghadi	21	6	33
Sub-Regional Offices			
Butwal	5	14	2
Jumla	2	2	0
Khotang	10	12	8
Total	196	145	103
Number of recommendations made to the Government of Nepal for prosecution	13	13	NA

Note: NA refers to not available.

Source: * NHRC (2012); ** NHRC (2012a) and ***NHRC (2012b).

Regarding the complaints related to violation of the rights of migrant workers, a total of 103 cases were registered in the NHRC offices from its establishment to April 2011. NHRC receives complaints about the violation of the rights of migrant workers through organizations working on foreign labor migrants. NHRC investigates the cases in coordination with concerned countries' Ministry of Foreign Affairs, human rights organizations working in the destination countries and NGOs working for the protection and promotion of the rights of the migrant workers in Nepal.

2.2 Magnitude of Trafficking for Sexual Exploitation and Labor Exploitation

Nepal still has no information management system for trafficking in persons. And, because trafficking in persons is a clandestine nature of operation, it is difficult to collect data systematically and scientifically, either. There are no household surveys conducted to estimate the

magnitude of trafficking in persons for sexual exploitation, labor exploitation and for other purposes. The Nepal Living Standards Surveys, Nepal Labor Force Surveys and Population Censuses do provide information about migration but they are not designed for capturing trafficking in persons. Thus, the magnitude of trafficking figures available from different organizations and individuals is speculative and often made with reference to brothel-based sex work in India. The most cited figures of trafficking are ‘about 5000-7000 children and women are trafficked annually to India (PC and TAF, 2001) and ‘about 12,000 children below 18 years are trafficked annually to India’ (ILO/IPEC Rapid Assessment, 2001).

After 2000, there are few RA and speculation about the number of persons trafficked. National Human Rights Commission initiated estimation of number of persons trafficked based on the figures of interception, rescue, repatriation, rehabilitation, and missing persons who continue to missing. The National Report estimated 5,500 persons were trafficked or attempted to traffic in Fiscal Year (FY) 2009/10 and this Report estimates 11,500 persons were trafficked or attempted to traffic during January 2011 to December 2011². Thus, the magnitude of trafficking has more than doubled within one year – due to mainly an increase of repatriation of labor migrants in 2011 from the earlier fiscal year.

Table 2.2 Estimates of trafficking in persons, Nepal

Sources	Description
WCSC, 2007	2,216 missing children from various regions in Nepal between July 2007 and June 2008
WCSC, 2007	3,258 missing women in Kathmandu valley between 1998 and 2007
Different NGOs*, 2008/09 (National Report 2008/09)	3,164 and 322 intercepted and rescued by different national level NGOs in FY 2008/09
Different NGOs, 2009/10 (National Report 2009/10, OSRT-NHRC)	About 5,500 were trafficked or attempted to traffic
Different NGOs 2011 (National Report 2011)	About 11,500 were trafficked or attempted to traffic

² Figures of interception, rescue, repatriation, rehabilitation and missing persons continue to missing obtained from NGOs and Nepal Police in the year of 2011 is presented in Chapter 4.

2.3 Number of Trafficking Crimes, Trafficking Survivors and Accused Persons Filed in Nepal Police

Table 2.3 shows the number of trafficking cases, accused persons and trafficking survivors registered in Nepal Police from FY 2006/07 to 2010/11 in Nepal. The number of trafficking cases filed in Nepal Police appears to be lower as against the believed number of trafficking of women and children in Nepal. Despite this, the figures suggest that the number of trafficking cases filed in Nepal Police has been consistently increasing in each year. The 5-yearly average number of trafficking cases filed in Nepal Police comes out to be 131.

Table 2.3 Number of trafficking cases, accused persons and trafficking survivors registered in Nepal Police, FY 2006/07-2010/11, Nepal

Year	Trafficking cases		Trafficking accused persons			Trafficking survivors		
	No. of cases	% increase base year (2006/07)	Male	Female	Total	Female	Male	Total
2006/07	112	1.0	102	36	138	117	30	147
2007/08	123	9.8	114	56	170	120	25	145
2008/09	139	22.0	143	58	201	179	18	197
2009/10	161	35.3	171	63	234	182	11	193
2010/11	118	3.7	144	47	191	131	10	141
5-yearly average	131	17.0	135	52	187	146	19	165

Source: data obtained from DWCS, Nepal Police Headquarter, Kathmandu, September, 2012.

As in the cases of trafficking cases, the numbers of trafficking survivors registered in Nepal Police are also far lower as believed to be. The 5-yearly average (FY 2006/07-2010/11) number of trafficking survivors comes out to be 165. An overwhelmingly majority of trafficking survivors are females although there are also males as survivors of trafficking.

Data suggest that both females and males are the trafficking accused persons. The 5-yearly (2006/07-2010/11) average number of accused persons of human trafficking is 187 with 135 for males and 52 females.

2.3.1 Characteristics of Trafficking Survivors

Data obtained from Nepal Police provides some indications of the characteristics of trafficking survivors in Nepal in terms of sex, age, caste/ethnic groups, educational status, occupation before trafficking and place of residence.

Demographic characteristics of Trafficking Survivors

Table 2.4 shows the percentage distribution of trafficking survivors from FY 2008/09 to FY 2010/11, according to sex, age and marital status. Data reveal that more than 90 per cent of the trafficking survivors recorded in Nepal Police are females and the rest are males.

Table 2.4 Demography profile of trafficking survivors by sex, FY 2008/09-FY 2010/11, Nepal (in %)

	FY 2008/09	FY 2009/10	FY 2010/11	3-yearly average
Sex				
Females	90.9	94.3	93.1	92.7
Males	9.1	5.7	6.9	7.3
Age groups				
< 17	44.2	32.6	26.2	31.8
17-25	47.2	50.8	53.8	45.5
26-35	28.9	10.9	15.9	17.1
36 and above	3.6	10.4	4.1	5.6
Marital status				
Married	24.4	30.1	40.7	30.8
Never married	75.6	69.9	59.3	69.2
Total	100.0	100.0	100.0	100.0
Number	197	193	145	178

Source: data received from DWCS, Nepal Police, Kathmandu, and September, 2012.

Looking at the trends of the trafficking survivors over the three years, except in FY 2010/11, more than one-third of trafficking survivors recorded in Nepal Police are children below 17 years of age. Nearly half comprised of persons in between 17-25 years, 17 per cent for 26-35 years of age and 6 per cent for 36 years and above.

With respect to marital status, both married and never married persons are the victims of trafficking. However, data establish the fact that more than two-thirds of the trafficking survivors in Nepal are never married persons.

Social Characteristics of Trafficking Survivors

Table 2.5 summarizes the social characteristics of trafficking survivors from FY 2008/09-FY 2010/11. Data reveal that an overwhelmingly majority of trafficking survivors are literate only. For example, the 3-yearly average (FY 2008/09- FY2010/11) of trafficking survivors with literate only is 80 per cent. A few trafficking survivors also come from secondary and more educational level. Thus, data suggests that education matters for combating trafficking in Nepal.

As majority of population in Nepal are engaged in agriculture (67% in 2011), so is the case of trafficking survivors. It appears that trafficking survivors come from other non-agriculture sectors such as service, business and wage labor. There are also trafficking survivors who at the time of trafficking were studying in schools.

Data reveal that trafficking survivors come from all development regions with highest from Central development region excluding Kathmandu valley (22%). This is followed by Eastern (20%), Kathmandu valley (19%), mid-western (14%) and 5 per cent for far-western development region. Note that nearly 40 per cent of the trafficking survivors come from central development region if Kathmandu valley is also included and hence central development region appears to be most prone region for trafficking in Nepal.

Table 2.5 Social profile of trafficking survivors, FY 2008/09-FY 2010/11, Nepal (in %)

	FY 2008/09	FY 2009/10	FY 2010/11	3-yearly average
Education				
Illiterate	2.5	15.0	5.5	7.9
Literate only	89.3	66.8	85.5	80.2
Secondary	4.6	13.5	6.2	8.2
SLC and above	3.5	4.7	2.8	3.7
Occupation				
Agriculture	82.7	74.6	83.4	80.0
Service	0.5	2.6	2.8	1.9
Business	1.0	2.1	3.4	2.1
Wage labor	12.2	10.9	10.3	11.2
Study	3.6	9.8	0.0	4.9
Caste/ethnic groups*				
Brahman	NA	4.7	7.1	5.7
Chhetri	NA	25.4	19.9	23.1
Janajati	NA	59.6	41.1	51.8
Dalit	NA	10.4	24.1	16.2
Madheshi	NA	NA	7.8	3.3
Development regions				
Eastern	22.3	14.0	24.1	19.8
Central	24.4	17.6	25.5	22.2
West	21.3	21.8	13.8	19.4
Mid-west	18.3	9.3	13.1	13.6
Far-west	5.6	5.7	4.8	5.4
Kathmandu valley	8.1	31.6	18.6	19.4
Total	100.0	100.0	100.0	100.0
Number	197	193	145	178

Note: In case of caste/ethnic groups, the average refers to only for two-years. As DWCS, Nepal Police provides data

of trafficking survivors by broad caste/ethnic groups and hence it is difficult to understand the number of survivors by individual caste/ethnic groups.

Source: data received from DWCS, Nepal Police, Kathmandu, and September, 2012.

Records maintained in Nepal Police³ of trafficking survivors indicate trafficking crosses-across the broad caste/ethnic groups in Nepal. Yet majority of trafficking survivors are Janajati (52% for 2-yearly average of FY 2009/10 and FY 2010/11), followed by Chhetri (23%), Dalit (16%), Brahmin

³ Although there are more than 101 caste/ethnic groups in Nepal according to the Nepal Population Census 2001, Nepal Police has maintained records of the trafficking survivors by broad social groups i.e. Brahmin, Chhetri, Janajati, Dalit and Madheshi.

(6%) and 3 per cent for Madheshi groups. Given the 37 per cent population share of Janajati in Nepal, they are far more overrepresented as trafficking victims; Chhetri are also overrepresented as trafficking victims given their population share of nearly 18 per cent in the country; Dalit are also slightly over represented given their population share of 13 per cent. It is the Brahmin and Madheshi who are underrepresented as trafficking victims in relation to their corresponding share of population in the country (13% for Brahmin and 32% per cent for Madheshi population).

2.3. 2 Characteristics and Traits of Trafficking Accused Persons

Demographic Profile of Trafficking Accused Persons

Table 2.6 summarizes the demographic profile of the trafficking accused persons from FY 2009/10 to FY 2011/12. Trafficking accused persons are both male and female although the proportion of males is almost three times higher than that of females. Data establish the fact that one-third of the trafficking accused persons in Nepal are females. Thus, females' involvement in trafficking of women and children cannot be overlooked.

Table 2.6 Demographic profiles of trafficking accused persons, FY 2009/10-FY 2011/12, Nepal (in %)

	FY 2009/10	FY 2010/11	FY 2011/12	3-yearly average
Sex				
Male	71.1	73.1	75.4	73.2
Female	28.9	26.9	24.6	26.8
Age groups				
13-16	1.5	0.9	2.6	1.6
17-25	33.3	20.9	62.3	37.5
26-35	35.8	39.7	24.6	33.9
36 and above	29.4	38.5	10.5	27.0
Marital status				
Married	95.1	93.6	94.8	94.4
Unmarried	4.9	6.4	5.2	5.6
Total	100.0	100.0	100.0	100.0
Number	144	234	191	190

Source: data received from DWCS, Nepal Police, Kathmandu, and September, 2012.

With respect to age group of the trafficking accused persons, the large majority are in the age range of 26-35 years. There are a few children who are also accused of trafficking. Data reveal that an overwhelmingly majority of trafficking accused persons are married. This holds in each year data presented in Table 2.6.

Social Characteristics of Trafficking Accused Persons

Table 2.7 summarizes the social characteristics of trafficking accused persons in terms of education, occupation at the time of crime, caste/ethnic groups and development regions from FY 2009/10-FY 2011/12. An overwhelmingly majority of trafficking accused persons are only literate (the three-yearly average percent is 84%). A few has also secondary and SLC education. With regard to occupation, majority of accused persons were involved in agriculture at the time of crime, followed by wage labor. They also come from non-agriculture sectors such as service, business and study.

Table 2.7 Social characteristics of trafficking accused persons, FY 2009/10-FY 2011/12, Nepal (in %)

	FY 2009/10	FY 2010/11	FY 2011/12	3-yearly average
Education status				
Illiterate	1.0	8.1	5.8	5.1
Literate	90.0	77.8	84.8	84.0
Secondary	4.5	9.8	3.1	6.1
SLC and above	4.5	3.8	6.3	4.8
Occupation				
Agriculture	73.6	82.9	85.3	80.7
Service	2.5	0.9	0.0	1.1
Business	3.0	3.8	4.2	3.7
Wage labor	18.9	10.7	10.5	13.3
Study	2.0	1.7	0.0	1.3
Caste/ethnic groups#				
Brahman	Na	1.3	13.6	6.8
Chhetri	Na	32.1	13.6	23.8
Janajati	Na	56.0	45.5	51.3
Dalit	Na	10.7	13.6	12.0
Madheshi	NA	NA	13.6	6.1
Development regions				
Eastern	22.9	16.7	19.4	19.8
Central	20.4	23.5	28.8	24.5
West	20.4	17.1	11.5	16.7
Mid-west	15.9	9.0	12.6	12.5
Far-west	8.0	9.0	6.3	8.0
Kathmandu valley	12.4	24.8	16.2	18.5
Total	100.0	100.0	100.0	100.0
Number	201	234	191	190

Note: # As DWCS, Nepal Police provides data accused persons by broad caste/ethnic groups and hence it is difficult to understand the number of accused persons by individual caste/ethnic groups.

Source: data received from DWCS, Nepal Police, Kathmandu, and September, 2012.

Among the caste/ethnic groups, the highest proportion of trafficking accused persons is Janajati (56%), followed by Chhetri (32%) and Dalit (11%). The trafficking accused persons originate from across the development regions in the country. Yet relatively higher proportion comes from central development region (excluding Kathmandu valley). This is followed by eastern, Kathmandu valley, western and mid-western and the lowest in far-western development region.

2.3.3 Comparing the Characteristics of Trafficking Survivors and Trafficking Accused Persons

Table 2.8 compares the demographic characteristics of trafficking survivors with trafficking accused persons by sex, age groups and marital status. Although Nepal Police records do not allow us one-to-one comparison of the characteristics of trafficking survivors that of trafficking accused persons, it offers a general overview of how far their characteristics are similar or different.

Data reveal that female trafficking survivors accounted for 93 per cent of the total survivors. Similarly, the female trafficker accused persons accounted for 27 per cent. Thus, it establishes the fact that females engage in trafficking of females in Nepal. Drawing on the interviews with the Women and Children Service Directorate, Nepal Police, female trafficking offenders are those who first contact the vulnerable girls, arrange shelters and facilitate male traffickers to transport the victims from the rural areas to urban areas in Nepal. It is reported that these female trafficking accused persons are either the victims of former trafficking themselves or they have been involved in illicit business such as operation of dance, cabin restaurants or *bhatti pasal* (alcohol shops) or sex work. In foreign labor migration process, male trafficking offenders approach to an innocent girl through an adult woman. Male traffickers use women as the first contact persons to the vulnerable girls so that there is good communication between the victims and the offenders because their same gender.

Table 2.8 Demography profile of trafficking survivors vis-à-vis trafficking accused persons (3-yearly average percentage of FY 2009/10-FY 2011/12), Nepal

	Trafficking survivors	Trafficking accused persons
Sex		
Females	92.7	26.8
Males	7.3	73.2
Age groups		
< 17	31.8	1.6
17-25	45.5	37.5
26-35	17.1	33.9
36 and above	5.6	27.0
Marital status		
Married	30.8	94.4
Never married	69.2	5.6
Total	100.0	100.0
Number	178	190

Source: data received from DWCS, Nepal Police, Kathmandu, and September, 2012.

Looking at the age of the trafficking survivors and trafficking offenders, it may be inferred that trafficking offenders are often older than that of the trafficking survivors or trafficking survivors and offenders are of the same age cohort. Data reveal that 32 per cent of the trafficking survivors are children below 17 years of age while the comparable figure for the trafficking offenders is less than 2 per cent. Similarly, the share of trafficking survivors with age 36 years and above is less than 6 per cent as against 27 per cent for the trafficking offenders. The older persons can easily manipulate and deceive the victims by giving the references of his/her experiences, dreaming. In case of the same age cohort of trafficking survivors and offenders, it is found that in many of the cases it happens due to marriage, fake love and 'friendship'.

Examining the marital status of trafficking survivors in relation to offenders, it may be inferred that married offenders are more likely to lure the unmarried girls and women. The married offenders can easily pretend that they are not married with victim girls/women and they do really love the girls. In recent years in Kathmandu valley, woman victims of 'living together' with boyfriends/partners have been widely reported in the National Women Commission. The Commission receives many complaints by the girls/women that their boyfriends/partners have left

them or run away. Majority of victims did not know that their 'husbands' have already married or have another wife.

Comparing the Social Characteristics

Comparing the social characteristics – education, occupation, caste/ethnic groups and place of residence – between the trafficking survivors and offenders, it appears that trafficking offenders come from the similarly disadvantaged educational, economic (occupation) and social groups as the people they traffic (Table 2.9). With regard to educational status, an overwhelming majority of cases of both trafficking survivors and offenders are literate only. This suggests two things. First, similar identity between the survivors and offenders in terms of education makes it easy to lure the victims for trafficking and sexual exploitation. Secondly, both trafficking survivors and offenders in Nepal largely originate from the poor family - with no education or of few years of schooling. In case of occupational status, four in five trafficking survivors were involved in agriculture occupation at the time of trafficking and this figure is also the same for trafficking accused persons. There is one-to-one association between trafficking survivors' caste/ethnic groups and that of offenders. Thus, data suggest that the root causes of vulnerability of trafficking – disadvantaged economic status, no education and disadvantaged social group – are also the root causes of committing the crime of trafficking in Nepal. Yet much research is needed to corroborate this finding which is drawn upon the quantitative data maintained in Nepal Police.

Table 2.9 Social characteristics of trafficking survivors vis-à-vis trafficking accused persons, (3-yearly average percentage of FY 2009/10-FY 2011/12), Nepal

	Trafficking survivors	Trafficking accused persons
Education		
Illiterate	7.9	5.1
Literate only	80.2	84.0
Secondary	8.2	6.1
SLC and above	3.7	4.8
Occupation		
Agriculture	80.0	80.7
Service	1.9	1.1
Business	2.1	3.7
Wage labor	11.2	13.3
Study	4.9	1.3
Caste/ethnic groups*		
Brahman	5.7	6.8
Chhetri	23.1	23.8
Janajati	51.8	51.3
Dalit	16.2	12.0
Madheshi	3.3	6.1
Development regions		
Eastern	19.8	19.8
Central	22.2	24.5
West	19.4	16.7
Mid-west	13.6	12.5
Far-west	5.4	8.0
Kathmandu valley	19.4	18.5
Total	100.0	100.0
Number	178	190

Source: data received from DWCS, Nepal Police, Kathmandu, and September, 2012.

Trafficking Accused Persons Who Had Escaped

The Nepal Police record also shows a large number of accused persons could not be brought to face the legal consequences. The run-away accused persons were 20 in the FY 2010/11 – all of them were females. Among them, 10 were from eastern, 3 from central, 2 from western, 2 from mid-western and 3 were from Kathmandu valley.

Trafficking Rackets from the Jails

According to a Sub-Inspector of Nepal Police, the Metropolitan Police Commissioner, Kathmandu Valley, trafficking racket is mobilized from the jails. As there is provision that the *Chaukidar* and *Bhai Chaukidar* (inmates who are in-charge of jail) are allowed to come out from the jails from 10 am to 5 pm every day and it is them from which the trafficking rackets operate. However, he further suggested much research to understand the trafficking rackets operating from jails in Kathmandu valley. According to him, much sensitive areas in terms of operation of prostitutions and trafficking of girls and women in Kathmandu are the bus parks, Thamel area, Ratna Park and entertainment sectors.

2.4 Vulnerability of Trafficking of Women: The Case of Missing Women

There are considerably large numbers of missing women reported in the Office of the Metropolitan Police Commissioner, Kathmandu Valley (Table 2.10). The four-yearly (FY 2008/09-2011/12) average number of missing women is 783. Data reveal that the reported number of missing women increased by year – an increase by 11.5 per cent during the last four-years. Further, the untraced rate is very high i.e. 81 per cent of the missing women continued to remain missing during the last four years.

Table 2.10 Number of missing women in Kathmandu valley, FY 2008/09-2011/12

Year	Number of women reported missing	Number of women continue to remain missing	Untraced rate
2008/09	702	579	82.5
2009/10	705	573	81.3
2010/11	836	692	82.8
2011/12	889	698	78.5
4-yearly average	783	635	81.2
% change (2008/09-2011/12)	+ 11.5	+ 9.7	

Source: data obtained from DWCS, Office of the Metropolitan Police Commissioner, Kathmandu Valley, October 2012.

2.5 Trafficking of Girls/Women for Sexual Exploitation

Trafficking in Khasa, Tibet

The bordering towns of Tibet have rapidly becoming the destination for girls trafficking from Nepal for sexual exploitation. A study conducted by Maiti Nepal in 2011 in northern border of Nepal – Khasa and Kuti of Tibetan towns - for one month revealed that Nepali girls have been trafficked to Tibet by providing false promises of 'good work' but they are forced to work in cabins, restaurants, lodges and dance bars and they are restrained to return home willingly (cited in Nepali Today, January 30, 2012). Of the total 137 girls interviewed, 50 per cent reported that they were not able to leave the job willingly and they were working in harass condition. The study also revealed that all the travel documents of the Nepali girls were taken under control by the owners of the dance bars and restaurants. The study found that these working girls originated from 17 districts of Nepali, majority being from Sindhupalchok, Kavre and Kathmandu districts. Majority of girls comprised of Tamang, Gurung, Rai and Limbu. The girls reported that it was very difficult to escape from these bar and restaurants. Girls are easily lured to Khasa and Kuti as these entertainment sectors pay from Rs. 8000 to Rs. 15000 per person per month. The case of Sangina and Samita extracted from Annapurna Post Daily on June 12, 2012 represents how girls are lured to Khasa and how they cope with the situation.

Case 2.1 Girls luring to Khasa, Tibet

Sangina Shrestha, 17, from Kathmandu and Samita Magar, 15, from Sarlahi district were sold to Mamaphali Jhumpa Dance Bar in Khasa in early 2011 and they returned in June 2012.

Sangina reported that she had lured by her friend's husband. He made her fake pass to cross the border. He promised her a dignified work and good salary there. She told the media that she was brought to Khasa by walking of forest area of Dash Kiolo, Sindhupalchok. It took them two days to reach Khasa. She said, 'When I reached there, I did not find the work promised by the agent. I had to work in a dance bar. At the beginning, the bar owner told me that he would pay me Rs. 10,000 monthly but he did not pay me at all thinking that I may run away if I get the money. According to the victims, they had to work from 7 p.m. to 7 a.m. They forced us to involve in sex work. I and Samita ran away from the bar and came from the same track from which I was brought to Khasa. We spent two days and two nights to cross the forest and we finally saved our life now coming to Nepal'.

Source: Annapurna Post Daily on June 12, 2012

Girls/Women in Entertainment Sector, Sexual Exploitation and Trafficking

Information on women working in the entertainment sector such as in cabin restaurants, dance restaurants, *dohori* restaurants and massage parlors was obtained from a workshop organized by Shakti Samuha in Danchi, Mulpani, Kathmandu in October 14-15, 2012. A total of 24 women working in the entertainment sector were participated in the workshop. Drawing on the discussion with the girls/women working in the entertainment sector, the following issues evolved as urgent consideration.

The magnitude of women/girls working in the entertainment sectors is not known in Kathmandu valley but the Focus Group Discussion (FGD) participants reported that the number of girls/women working in this sector is on decline because of a closer of restaurants or recession in business due to the government's order to not to drive while one has taken alcohol. It is reported that some girls/women left the restaurants and dance bars and shifting to foreign employment opportunities.

Health Problems: - The participants raised both physical and mental health problems while they are at work in the entertainment sector.

Key physical health problems reported are headache, listening problems (affect the listening capacity), infected by communicable diseases very easily, loss of appetite, weakness, gastric problems, sleeping problems and body pain (mostly hand and foot). The mental health problems reported were anxiety, isolation, loneliness, not wanting to speak and talk less, lack of interest, use of vulgar words, keep on changing the attitudes/thinking and suicidal tendency.

Family Problems – It is reported that women/girls working in the entertainment sector do not have social and family prestige. They are often neglected by the family members and treated as ‘bad’ women by the society. It is also difficult to get house-rent. For it, they have to lie to the house owners saying that they work in some offices or they are forced to live together with a man.

Employers’ Behavior towards Working Women - Owners scold women if there are no customers in the restaurants, give threatens to leave the job, ask to bring customers and keep on scolding and misbehaving in different ways. Owners compel to stay girls with customers and ask to do whatever customers want. Workers are compelled to pay the customers’ bills if they do not pay it and the any damage done by the customers such as breaking of glass. The employers also force the workers to drink with the customers so that they could sell much food and alcohol. As a result, many working girls develop taking alcohol and smoking. In the time of festivals, employers ask the workers to sell tickets to visit the restaurants. If the workers could not sell the tickets, the workers have to pay the price of the tickets allocated to them for a sale. Employers also discourage workers to be united and they do not allow sharing one other feeling. Physical torture, beating has also been reported by the FDG participants in case the workers fail to follow the order of the employers.

Behavior of Customers - It is reported that men of 40 to 50 years of age come in the restaurants as guests. Customers force girls and women to touch the reproductive organs of male. They also touch or moulds sensitive sexual organs and use vulgar words. Customers attempt to lure women by promising handsome of money.

Physical Environment in the Working Place – The physical environment in the working place is reported to be not working friendly: loud voice, noisy, blipping of light, smoky rooms and unsafe toilet and rest rooms for the female workers. It is also reported that food for the guest and staff is different and date expired food are given to the workers. Employers pay very low salary and do not pay on time. The monthly salary ranges Rs. 500 to Rs. 1000 per person which is much lower than that of the salary of the normal labor markets. Deduction of salary is reported in case workers cannot work due to sickness. Night work is common in all restaurants, dance bars.

Perception towards Police - The FGD participants complained that police are not positive towards them. According to them, 'Police use vulgar words and attempt to abuse them; they do not often willing to register a FIR'. Police are also reported to abuse girls/women in the custody and they do not allow the girls/women's friends to visit them in the custody.

Suggestion Provided – The girls/women in the FGD claimed that they should be respected while they are at work. There should be provision for regular health check-up, adequate and balanced diet, and make a conducive environment for avoiding using drugs and alcohol, sharing of problems among the workers and time to attend in the creative programs and opportunity for unionization and rights to participants in activities related to their lives. The girls/women also demanded the minimum labor rights to be guaranteed in the entertainment sectors such as contract letter, minimum salary, timely payment, fixed working hours, overtime and security in case of night work, respect and honor from the employers and customers.

The FGD participants also perceived that there should be regular monitoring to the entertainment sector from the government side. They argued that instead of taking women restaurant workers into custody, it is the customers and employers who should be liable to the law of the land. Using of vulgar words by police while in raid or in the custody should be stopped and they demanded that there should be women police to raid or arrest the women workers in the entertainment sector. The FGD participants also charge the Police that

they take the bribe from the employers and also demand hand cash from the workers. Thus, elimination of corruption in police is a must to ensure the rights of the workers in the entertainment sector. Some FGD participants reported that the workers become bonded with an employer when it comes to pay the bailment to the police. As the workers cannot pay the amount for bailment, it is the employers who pay the amount of bailment and girls/women. In such case, the workers are forced to work with an employer even in an annoying situation to pay off the amount of bailment.

2.6 Trafficking of Girls to Korea for the Purpose of Marriage

Trafficking of Nepali young women for the purpose of marriage to Korea is reported widely through media and Nepali working in Korea. According to YouTube news in www.nepalikorea.com published in July 12, 2012, the Department of Immigration of Korea has recorded about 200,000 foreign girl marriages with Korean men. Among them, 500-600 are estimated to be Nepali girls. It is reported that every month, 15-20 Nepali girls are lured to Korea for marriage. The Government of Korea adopts pro-natalist population policy thereby encouraging Korean people to have birth of children. This is because the birth rates of Korea are fast declining because Korean women normally do not like to have births. One way of balancing this situation is to encourage and permit Korean men to marry girls from abroad. To facilitate the marriage process from abroad, there are currently 1,200 Marriage Bureaus operating in Korea. These Bureaus have established linkages in different countries including in Nepal through individuals or institutional basis. These individuals/institutions provide false promises and dreams to girls living in poverty, scarcity, unemployment and ignorance. The individuals (agents) are said to be those who have already been in Korea. It is said that they receive a huge amount of money by sending girls to Korea.

It is reported that 90 per cent of Nepali girls who married with Korean men is believed to be the victims of trafficking or are in the state of modern-day slavery or slavery like situation. Poor, old, disabled, and physically weak Korean men look for girls for marriage from abroad as they do not normally get Korean girls to marry. Thus, there is mismatch

marriage – marriage of an old man with a fairly young girl. Multiple marriages are also reported. Once, the girls are married they become enslaved: they are not allowed to go outside the household, visit the Nepali people living in Korea, call their parents and relatives in Nepal. Further, they are not provided adequate food; they are abused, physically beaten and they are considered as a machine for reproduction (Case 2.2). The Nepali Human Rights Activists and Journalists working in Korea reported that there is gross violation of human rights of Nepali girls marrying with Korean men and the situation is much worse than that of brothels in New Delhi and Mumbai. In Korea, according to Human Rights Activities and Journalists in the YouTube, it is known that Korean men can give divorced to their wives in a single minute – thus there is no right of women.

Case 2.2 Sita Trafficked to Korea for the purpose of marriage

Sita Pune, 23, is from Sajila VDC of Parbat district. She was sent to Korea two and half years ago by a Nepali agent by giving her false promises that she would be married with a handsome Korean boy. She paid Rs. 150,000 to the agent and Rs. 35,000 in Kathmandu airport. She says, 'When I went to Korea I was just 21 years old, I was from a village, I did not have any idea about outside the world. The agent told me that I would enjoy a good life, marrying with a business man, have a car to go outside, no physical labor to be done, and they would love me very much'. But all the promises proved to be false – my husband has no one-eye, he has also backbone problem. He started threatening me from the beginning of our marriage life. He did not allow me to learn Korean language and contact Nepali people in Korea. Once I attempted to resist, he started beating me. He did not provide me adequate food even in my pregnancy period. I was locked in the house for 24-hours. He treated me as animal but I am a man – I am a child of man. I find the man was of third class man in Korea – he married me as he could not get Korean girl go marry me'.

Sita emotively reported that one day she ran away from the house and approached to a Police office. The Police called on her husband and in-laws. However, the Police returned her with her husband and in-laws to their house. She says, 'I was beaten very badly on the way to house and he continued to beat me'. I could not resist the torture and I again ran away and went to a Shelter with my first 14 months-son. The shelter also informed my husband's family and I was returned again in the house. Now, I am living in another Shelter, I left my son to my husband family and I have 2 months girl child now with me.

Source: based on YouTube news posted in www.nepalikorea.com published in July 12, 2012 and presented by Damar Subba (accessed on October 23, 2012).

2.7 Illegal Extraction of Human Organs and Trafficking of Persons for Kidney Removal

Human organ transplantation was not a common medical procedure until late 1980s. Due to many technological innovations, the demand for human organs has increased dramatically. Human organ trafficking has become an industry, and it is growing rapidly under the force of globalization (Cho et al., 2009).

Studies on trafficking of human organs have not been carried out in Nepal, and hence it is difficult to know the magnitude of the problem in the country. Different sources such as NGOs, media report that at least 8 Village Development Committee (VDCs) of Kavre district are affected by this phenomenon. In late 2009, it estimated nearly 300 people in eight VDCs who got removed kidney. Sources said that trafficking is managed by criminal racket. Its network extends from villages to Kathmandu and Kathmandu to Indian cities of New Delhi, Chennai. It is reported that Kidneys are sold in India up to Rs. 150,000 by the Nepali brokers and Indian brokers can sell it from Rs. 700,000 to Rs. 1,800,000.

Examining the cases of human trafficking as reported in media (Case 2.3), it is learnt that poor, deprived families are largely affected by trafficking of persons for kidney removal. In the first case, it is known that the victim was willing to sell his kidney to pay the loan. In second case, the victim was lured by giving false promises of better job in India and got removed his kidney by making him unconsciousness. In the third and fourth cases, the victims were promised a handsome of money by selling their kidneys but they were paid very little.

Case 2.3 Trafficking of persons for kidney removal

Chuchhe Damia, 49, was a construction worker in Kathmandu. He sold his kidney nine years ago for US \$ 850. He says, 'at that time I was in danger of losing my land and my house. So I gave my kidney and I did it knowingly, but now I think it would have been better to sell my land and my house instead of selling my kidney'.

Kanchha, 24, was working at a garment factory in Kathmandu three years ago. His one friend told him that he would find a better job in India. He says, 'when we reached New Delhi, we were taken to a hospital and they tested my blood. Another day, they gave me alcohol then they gave me an injection. I became unconscious and when I woke up I was in a hospital and they had already taken one of my kidney'.

Gyan Bahadur, now 46, was taken to Tamil Nadu via Siliguri, West Bengal promising him Rs. 150,000 for his kidney. But he was given only Rs. 20,000. When he asked for the promised money, he was beaten. He said that he could not resist and he had to take rest on his bed for three months.

Madhav, mid-30s, from Kavre district was brought to India by a broker. He was promised Rs. 150,000 but he was given only Rs. 45,000. Madhav does not know even the full address and name of the broker. He says, 'I do not know his name, he used to say his name as Rajan'. His house was said to be in Jhapa district. He was taken to New Delhi via Siliguri, West Bengal.

Source: developed based on Neupane (2011) and YouTube news posted in June 11, 2011, http://www.youtube.com/watch?v=m96_v5b0Mws.

2.8 Child Trafficking

2.8.1 Children Vulnerable for Trafficking and Exploitation

There are a large number of children in vulnerable conditions in Nepal. Vulnerable children basically come from a situation that are in extreme poverty, child labor, child domestic workers, orphan children, children with disabilities, children who consistently faced physical and sexual violence in the family and in the public sphere, children affected by conflict, child solders released from the Maoist cantonments and

Kamalari (girls in bonded labor situation). Table 2.10 summarizes the size of the vulnerable children in Nepal with different vulnerable status.

ILO and Central Bureau of Statistics (CBS) (2011) estimated the number of child population, working children, child labor and children ended in hazardous forms of child labor drawing data from Nepal Labor Force Survey 2008⁴. According to the estimate, there are 7.77 million children aged 5-17 years in Nepal. Of them, 3.14 million are working children – accounting for 40 per cent of the total children aged 5-17 years in Nepal. Of the working children, more than half (51%) or 1.6 million are child laborers. There are 0.62 million children ended in hazardous forms of child labor – accounting for 20 per cent of working children in Nepal.

The proportion of child labor and children in hazardous forms of child labor varies by place of residence, sex of the child and caste/ethnic groups in Nepal. Among the total child labourers, 5.6 million are in rural areas. More girls tend to be ending as laborers and hazardous forms of child labor compared to boys in Nepal. Nearly 45 per cent of the total girls aged 5-17 years are working girls (1.7 million) while the comparable figure for boys is 36.5 per cent (1.44 million). Of the total working girls, 54 per cent are child laborers and 22 per cent of working girls are engaged in hazardous forms of child labor. With regard to age group, 13 per cent of children aged 5-9 years, 50 per cent of children aged 10-13 years and 66 per cent of children aged 14-17 years are working children in Nepal. All working children in the age range of 5-9 years by definition are child laborers while 63 per cent of working children of aged 10-13 years and 27 per cent of children aged 14-17 years are child laborers. The proportion of working children ending in hazardous forms of child labor is the highest among children aged 14-17 years (27%), followed by children of 10-14 years of age (18%) and 13 per cent for children 5-9 years of age.

⁴ Working children were defined as the population of currently employed children aged 5-17 years who were either actually working in the reference week or having an attachment to a job or business; child labor includes all persons from 5-17 years old who during a specified period were engaged either worst forms of child labor or employment below the minimum age. Note the estimates do not include worst forms of child labor like trafficking, sexual exploitation

Child workers and child laborers come across the social groups in Nepal. Yet a large number of working children comprises of Janajati (1.22 million), followed by Brahmin/Chhetri (0.90 million), Dalit (0.46 million), Terai caste (0.32 million), Muslim (0.12 million) and Newar (0.097 million). On the other hand, among the working children, 60 per cent Dalit, 58 per cent Muslim, more than half Terai caste and Janajati and 40 per cent Newar are child laborers. The proportion of working children ended in hazardous forms of child labor ranges as low as 15.5 per cent for Terai caste group to 17 per cent for Brahmin/Chhetri and Newar, 19 per cent for Janajati, 28 per cent for Dalit to 30 per cent for Muslim.

Table 2.10 Number of children vulnerable for trafficking and exploitation, Nepal

Categories	Number	Reference year	Source
Child poverty (0-17 years)			
Number of children in poverty (in '000)	42.5	2003/04	CBS, 2004, New ERA estimates based on NLSS 2003/04
Percentage of total children in poverty	35.9		
Child labor			
Total child population (5-17 years) (in '000)	7,770	2008	ILO and CBS, 2011
Number (estimated) of working children (5-17 years) (in '000)	3,143		
Number (estimated) of child labor (5-17 years) (in '000)	1,599		
Number (estimated) of children in hazardous forms of child labor (5-17 years) (in '000)	621		
Number of child domestic workers below 14 years (urban Nepal only)	42,674	2001	ILO/IPEC, 2001
Number of child domestic workers below 14 years (Kathmandu metropolitan only)			
Number (Projected) of orphan children (0-14 years)	57,000	2010	Gilligan and Rajbhandari, 2004
Number (Projected) of AIDS induced orphan children (0-14 years)	45,000		
Number of disabled children (below 17 years) who received disability certificates (from 48 districts)	47,314	2011	CCWB, 2011
Violence against girl children aged 15-19 years, who faced:			
Physical violence only	8%	2011	NDHS, 2011
Sexual violence only	3%		
Physical and sexual violence	2%		
Forced intercourse at first sexual intercourse	29%		
Conflict affected children			
Number of children affected by armed conflict (53 districts) from 1995-2006	5,721	2010	CCWB, 2010
Number of child soldiers of Maoist Army who were discharged from the Cantonment requiring rehabilitation and reintegration services	4,065	2009	
Bonded labor			
Number of liberated Kamalari requiring rehabilitation and reintegration services (Kailali, Banke, Kanchanpur, Bardiya and Dang)	5,752	2010	CCWB, 2010

Trafficking Nexus and Vulnerability among Child Domestic Workers

Domestic workers, especially child domestic workers, represent the victimization of internal trafficking practices under the broader definition of trafficking as mentioned by international codes. This is evident from a study conducted among domestic workers (child and adults) in Kathmandu metropolis by CWISH, Interpedia and Save the Children during March-April 2009. As presented in Table 2.11, the study covered 71,130 households, in which 3703 domestic workers were identified – thus in each 19th household in Kathmandu valley, there is one domestic worker. Of the total domestic workers, 2324 were interviewed for detailed study. Among them, 30 per cent child domestic workers were below age 14 years and another 31.5 per cent were in the age range of 14-17 years of age - thus, accounting for 6 in 10 domestic workers in Kathmandu metropolis are child domestic workers. Of the total domestic workers, two-thirds constituted females and one-thirds were males. Among the child domestic workers, the highest percentage were from Janajati (55%), followed by Chhetri (22%), Brahmin (17%), Dalit (2%) and 4 per cent caste/ethnic groups were not mentioned.

Findings of the study indicated that trafficking for children in Kathmandu valley for domestic work exist. Among the total 1,429 child domestic workers interviewed, 47 per cent were brought other than by their parents – 21 per cent by other family members, 19 per cent by relatives, 6 per cent by community people and 0.5 per cent by strangers – often not by the consent of the children. The same study indicated that only 2 per cent of the child domestic workers were working with written contract, 76 per cent by verbal contract and 22 per cent did not have contract at all. When enquired to the employers about the process of recruitment of domestic workers, it was found that nearly one-fourth of the domestic workers were recruited through use of mediator. Further, these child domestic workers are also vulnerable to trafficking, as they are not available to any development and protection facilities at working place and left without any earning skill later on making them more vulnerable.

Table 2.11 Distribution of child domestic workers by mediator for recruitment and employers reporting the process of recruitment of domestic workers

	Number	Percent
Mediator of child domestic workers		
Parents	762	53.3
Other family members	306	21.4
Relatives	274	19.2
Community people	80	5.6
Unknown people	7	0.5
Total	1429	100.0
Recruitment of domestic workers by employers (children and adults)		
Head hunting by employers	369	19.5
Use of mediator	462	24.4
Domestic workers self approached	521	27.5
Family of domestic workers approached	431	22.8
Missing	111	5.9
Total	1894	100.0

Source: CWISH, Interpedia and Save the Children (2011).

Missing Children

The phenomenon of 'missing children' has often been understood as 'missing children only' but studies outside Nepal show that majority of missing children fall under trafficking (Nair and Sen, 2005). Thus, we have attempted to examine the number of missing children in Nepal drawing data from WCSC and National Center for Children at Risk (NCCR).

Table 2.12 presents the number of missing children and untraced rate by for three years (FY 2009/10-FY 2011/12). The 3-yearly average number of missing children was 2065. The untraced rate for 3-yearly average is 43 per cent – implying that 43 per cent of children reported missing continues to remain missing. The high untraced rate suggests a possible linkage between trafficking and 'missing children phenomenon'.

Table 2.12 Distribution of children missing and untraced rate, 2009/10-2011/12, Nepal

Year	Number of missing children	Number of children continue to remain missing	Untraced rate
2009/10	2186	901	41.2
2010/11	2431	1087	44.7
2011/12	1578	698	44.2
3-yearly average	2065	895	43.4

Source: CCWB, Annul Report 2012.

Table 2.13 shows the distribution of children missing and untraced rate for FY 2011/12 of Nepal, according to development region. Central Child Welfare Board (CCWB) record indicates that a total of 1578 number of missing children were reported in Child Seeking Center in Brikutimandap. Of them, more than half comes from Kathmandu valley alone. This is followed by central (n=279), eastern (n=189), western and mid-western (n=184 each) and least were from far-western development region (n=26).

Table 2.13 Distribution of children missing and untraced rate, 2011/12, Nepal

Regions	Number of children missing			Number of children continue to remain missing			Untraced rate		
	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
Eastern	68	121	189	44	80	124	64.7	66.1	65.6
Central	107	172	279	103	169	272	96.3	98.3	97.5
Kathmandu valley	521	368	889	54	53	107	10.4	14.4	12.0
Western	61	123	184	54	110	164	88.5	89.4	89.1
Mid-western	61	123	184	54	110	164	88.5	89.4	89.1
Far-western	16	10	26	15	8	23	93.8	80.0	88.5
Total	774	804	1578	270	428	698	34.9	53.2	44.2

Source: CCWB, Annul Report 2012.

The Office of the Metropolitan Police Commissioner, Kathmandu Valley maintains data about the missing number of persons covering three districts of the valley (Kathmandu, Lalitapur and Bhaktapur). Note that

the number of reported missing children maintained by Kathmandu Valley Police and Children Seeking Center do not match.

The five-yearly average number of reported missing children is 990 (526 girls and 464 boys). The reported number of missing children has increased by 9 per cent in between the FY 2007/08 and 2011/12. This increase is higher for girls (17%) against boys (less than 1%). Six in 10 missing children continue to remain missing in each year, with slightly higher proportion for girls (Table 2.14).

Table 2.14 Number of children reporting missing by years, Kathmandu Valley

Year	Number of missing			Number continue to remain missing			Untraced rate		
	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
2007/08	453	500	953	261	346	607	57.6	69.2	63.7
2008/09	477	484	961	298	336	634	62.5	69.4	66.0
2009/10	507	540	1047	287	339	626	56.6	62.8	59.8
2010/11	428	521	949	243	335	578	56.8	64.3	60.9
2011/12	455	583	1038	265	338	603	58.5	58.0	58.1
5-yearly average	464	526	990	271	339	610			
% change (2007/08-2011/12)	+0.4	+16.6	+8.9	+1.5	-2.3	-0.7			

Source: data obtained from WCSC, Office of the Metropolitan Police Commissioner, Kathmandu Valley, March 2011.

Sexual Violence against Children

Sexual violence against children is one of vulnerabilities of trafficking. Table 2.15 summarizes the number of sexual violence against children, number of survivors and number of cases registered in the districts courts for three years (2010-2012) drawing on data from CCWB. Note that the statistics may not represent the whole Nepal's scenario because i) CCWB's complication do to cover the all districts in the country and ii) all sexual violence cases may not be reported in the District Child Welfare Board (DCWB) or Nepal Police or by the media. Despite these limitations, data show the extent of sexual violence against children prevailing in Nepal and practices of filing the complaints in the courts of Nepal.

Data reveal that 160 events of sexual violence against children were complied in 2010, 217 in 2011 and 135 in 2012 by CCWB. The survivors of sexual violence are both girls and boys, but girls are mainly the victims of violence. Data also show that significantly large numbers of cases of sexual violence against children are registered in the districts courts. This holds especially in the years of 2011 and 2012 as reflected by the fact that of the 217 events of sexual violence against children in 2011, 217 were filed in the districts courts and of the 135 events in the 2012, 133 cases were filed in the districts in 2012. However, the number of cases disposed is much lower in each year – implying that children’s cases have yet to be prioritized in the courts in Nepal. As there is no disaggregated data about verdict of the courts, it is not known the conviction or acquittal rates of the cases.

Table 2.15 Number of sexual violence against children, number of survivors and number of cases registered in the courts

Categories	2010	2011	2012*
Number of events of sexual violence reported	160	217	135
Total number of survivors			
Girls	167	217	133
Boys	5	15	3
Number of cases in the district courts			
Registered	87	174	134
Disposed	25	73	39
Pending	62	101	68
Number of survivors (among cases registered in the courts)			
Girls		190	133
Boys		6	3

Note: * In 2012, the CCWB compiles events of sexual violence against children from 23 districts and number of cases filed in the courts from 17 districts. In case of other years, it is not known how many districts data were complied.

Source: CCWB, 2010, pp. 130 and 132; CCWB, 2011 pp. 117-118 and CCWB, 2012 pp. 31-32.

2.8.2 Trafficking of Children for Labor Exploitation

The Case of Circus Performance

Trafficking of children for circus performance to India has been a long history especially from Makwanpur, Bara and Rautahat districts. Very tender age children, those in between 5 to 13 years are the victims of trafficking for circus performance and girls are demanded more than boys. The main reasons for children lured in the circus are complex involving poverty, illiteracy, ignorance, large family size and false promises provided by the agents to see the city and lead a happy life.

Easter Benjamin Memorial Foundation (EBMF) – an INGO – has been working to combat trafficking of children for the purpose of circus performance since 2002 in Makwanpur, Bara and Rautahat districts – the districts hard hit for trafficking of children for circus performance. It conducts interception in different border points, rescue trafficking survivors from India and provides rehabilitation (food, shelter, skills and education) and reintegration services (seed money for self-employment).

In the FY 2009/10, EBMF received five complaints that four boys and one girl were trafficked for circus performance in India from Makwanpur district. In FY 2010/11, it received seven complaints – one boy and six girls – were trafficked to circus in India. In FY 2010/11, it rescued 79 children (4 boys and 75 girls) from different circuses in India and has provided rehabilitation services to the survivors.

Trafficking of Children for Jari Industries in Kathmandu Valley

The Nagarik Daily on June 11, 2012 published news that a large number of children from central Terai districts such as Sarlahi and Mahottari have been enslaved in Jari⁵ industry in Bode area, Bhaktapur district.

⁵ Jari is a brocade of tinsel thread meant for weaving and embroidery. It is manufactured by winding or wrapping a flattened metallic strip made from pure gold, silver or slitted metalized polyester film on a core yarn usually pure silk.

According to the recent study as cited in the news, there are about 30 Jari industries. It is reported that Bode area has been flourishing as Jari Industrial area as there is no load-shedding because water tankers are filled there. Majority of small and large scale Jari industries are run by Muslim communities from central Terai.

Among the 30 industries, there were 253 working children. Of them, 210 were below 14 years of age. All the working children are said to be boys from Muslim community. Children are sent by their parents due to their large family size and poverty (Case 2.4). The Industries employ children as apprenticeship in which only food and shelter are provided but not salary. Children are normally employed as in apprenticeship from six months to one year. Once children start learning work, they are paid from Rs. 3000 to R. 6000 monthly but they have to work at least 12 hours daily. As children of the tender age have to work very long hours in a dark room, children run the risk of long-term eye-sight and back-pain problem.

Case 2.4 Children of tender age sent to Jari Industry from Central Terai

Ifan has become 10 years of old. His older brother Chadi has 12 years old and Rawat has become 15 years of old. Ifan and his brothers came in Kathmandu one-year ago. Safik – the owner of a Jari Industry in Bode, Bhaktapur – who went to his own house last year in Sarlahi, Ifan’s mother had sent these children with Sarif in order to her family’s poverty. Since then, Ifan and his two brothers have been working in the Jari industry for about 12 hours daily. They have not to be paid; only food and shelter are provided in lieu of ‘learning work’.

Source: Nagarik Daily, June 11, 2012

On July 4, 2012 Nepal Police rescued 124 child workers from Sari embroidery factories from Bhaktapur district. It raid 46 factories with the help of Bhaktapur District Administration Office, Bhaktapur Metropolitan Police Range, UNICEF, CIWIN, Concern Nepal, Save the Children, Child Extraction Network and the Children Development Society. The children were taken to Lalitapur-based Carnet Nepal following their health check-up. Police handed owners of 39 embroidery factories over to the Labor Inspector of Ministry of Labor and Employment.

Children Development Society has been studying Sari embroidery factories in the Madhyapur Thimi area for the last two years. According to its staff, there are more than 80 embroidery factories in the Kathmandu Valley with 500 working children, mostly below 14 years of age. The Children Development Society said out of 320 children working at the 46 Sari embroidery factories, 260 were under 14. Many of them are in the age range of 7 to 10 years of age (<http://saiha.com/saiha/html/index.cfm?threadid=98632>, accessed on October 25, 2012).

2.8.3 Nexus of Intercountry Adoption of Nepali Children and Trafficking

Nepal legalized intercountry adoption by amending the National Code of 1964 in 1976. Before it, only national adoptions were allowed. From 1976 to 2000, Nepal Children's Organization (Bal Mandir) was the only entity mandated to conduct adoption. In 2000, the Terms and Conditions issued by the Government of Nepal opened up intercountry adoption to child centers other than Bal Mandir and by 2008, 47 child centers conducted adoption. In 2011, the Government allowed 29 Child Centers for conduction of intercountry adoption for the period of 2011-2013 (Box 2.1).

Box 2.1 Child Homes Allowed for Intercountry Child Adoption for the Year 2011-2013

1. Bal Bhabisy Sangathan Nepal, Kathmandu (Child Future Organization)
2. Sagarmatha Bal Griha, Kathmandu (Sagarmatha Child Home)
3. Bal Sewa Griha, Lalitapur (Child Service Home)
4. Nepal Prerana Samaj, Kathmandu (Association of Nepal Prerana)
5. Buddhist Bal Griha, Kathmandu (Buddhist Child Home)
6. Barosa Nepal, Lalitapur (Believable Nepal)
7. Prayash Nepal, Kathmandu (Attempt Nepal)
8. Sanjiwani Bal Griha, Bhaktapur (Sanjiwani Child Home)
9. Nepal Bal Griha, Lalitapur (Nepal Child Home)
10. Mitrata Ko Bagaicha, Lalitapur (Friends of Garden)
11. Nepal Bal Sangathan, Kathmandu (Nepal Child Association)
12. Aanatha Balbalika Sangathan, Lalitapur (Orphan Children Association)
13. Aasahaya Balbalika Shichhya Kendra, Kathmandu (Abandoned Children Protection Center)
14. Aasahaya Balbalika Sangrachhayan Foundation, Lalitapur (Abandoned Children Protection Foundation)
15. Surya Bal Kalyan Sewa Kendra, Kathmandu (Surya Child Welfare Service Center)
16. Bal Ujyul Bhabisy Nepal, Lalitapur (Child Bright Future Nepal)
17. Hamro Har Nepal, Lalitapur (Our Home Nepal)
18. Nepal Asahaya Bal Har, Nepal (Nepal Abandoned Child Home)
19. Show Griha, Lalitapur (Self-Home)
20. Bal Griha, Lalitapur (Child Home)
21. Matriwatsalya Nepal, Lalitapur (Maternal Love to Children Nepal)
22. Hopped Bal Thatha Mahila Uttathan Samaj, Lalitapur (Hopped Children and Women Promotion Society)
23. Kathmandu Bal Bikash Samaj, Kathmandu (Kathmandu Child Development Society)
24. Pancha Kanya Bal Bikash Shangha, Bhaktapur (Pancha Kanya Child Development Association)
25. Bal Chhahari, Lalitapur (Child Umbrella)
26. Samudaya Batawaran Thatha Bal Bikash Shangha, Kathmandu (Community Environment and Child Development Society)
27. Sahayogi Samaj Nepal, Kathmandu (Help Society Nepal)
28. Shristhi Nepal, Lalitapur (Shristhi Nepal)
29. Kanti Bal Griha, Lalitapur (Kanti Child Home)

Source: Note of Ministry of Women, Children and Social Welfare about the Renewal of Child Homes on September 4, 2011

There is no record available about the number of intercountry adoption before 1993. According to the CCWB (2012), the number of intercountry adoption in between May 1993 to 2008 was 2,234. Intercountry adoption was suspended in May 2007 when it was disclosed that a girl who had been declared as an orphan for the purpose of adoption had actually parents and she did not want to leave the country. The Government resumed adoption in January 2009 with the increasing pressure from the foreign adoption agencies and local child centers. It issued new Conditions and Procedures.

Since January 2009 to 2011, there were 344 intercountry adoptions – 224 girls and 120 boys. Among the 344 intercountry adoptions, 104 were adopted in Italy, 99 USA, 63 Spain, 24 France, 17 Denmark, 10 Norway, 8 Sweden, 7 Belgium, 5 each in Switzerland and United Kingdom and 2 in Canada (Table 2.16).

Table 2.16 Number of children intercountry adoptions by country, 2009-2011 and 2012, Nepal

Country	2009-2011			2012		
	Girls	Boys	Total	Girls	Boys	Total
Belgium	5	2	7			
Canada	2	0	2		2	2
Denmark	8	9	17			
France	12	12	24			
Italy	59	45	104			
India	0	0	0	1		1
Norway	7	3	10			
Spain	44	19	63			
Sweden	6	2	8			
Switzerland	4	1	5			
United Kingdom	4	1	5	1		1
United States of America	73	26	99			
Total	224	120	344	2	2	4

Source: CCWB, 2012.

Review by Next Generation Nepal (2012) provided a review report about combating trafficking for exploitation within children's home to NHRC. The Report defines trafficking for exploitation within the children's homes, also deals with the demand factors, reviews

governmental responses in relation to protection, prosecution and prevention aspects. The Report concludes that trafficking and exploitation takes place in many Child Care Homes by involving children as beggars, forced child labor in handicraft production, abuses by the foreigners as well as those who are involved in running the Child Care Homes. The Report argues that as there is elements of trafficking and exploitation in the Child Care Homes but the cases are prosecuted under the Children's Act rather than under the HTTCA 2007. Intercountry adoptions is, therefore, linked to trafficking of children – mainly because the 'means' used for adoptions involves deception, fraud or abuse of power or of a position of vulnerability and 'an action' involves that children have already been transferred from their birth place to Child Home and from Child Home to abroad. There is no research on the condition of adopted child and hence the 'purpose (exploitation)' of intercountry adoptions has yet to be studied. A study conducted by the Hague Conference on Private International Law (2009) about the situation of intercountry adoptions in Nepal found a number of irregularities associated with adoption processes and violation of the Purposes, Principles and Safeguards set forth in the *1993 Hague Intercountry Adoption Convention*. It commented that the principle of the best interests of the child was completely absent – having no criteria for determining whether a child was adopted or not and the biological parents were not informed or counseled about the legal effects of giving up their child for adoption. Further, the study found that use of false documents, statements about the child's abandonment, origins, age and status, lack of transparency and accountability as other major irregularities prevailed in intercountry adoptions process in Nepal. The case of Srimiti (Case 2.5) represents how intercountry adoption involves irregularities and how Child Care Home takes advantages of a position of vulnerability of parents.

Case 2.5 Trafficking of children by intercountry adoptions

Srimiti was admitted in a Prayas Nepal. At the time, she was about 5 year of age. Prayas Nepal published notice about her heir. When no one claimed her as heir, intercountry adoption process was conducted with the decision of Ministry of Women, Children and Social Welfare and she was adopted by an Italian man.

After two years, Srimiti's mother living in Santi Nagar, Kathmandu – a squatter settlement – claimed that Srimiti was her biological daughter and that she would not like to surrender her child to the Child Home and she want to see her daughter's face. This case was filed in CCWB. CCWB asked the details of the case and Prayas Nepal responded to CCWB that Srimiti was adopted by an Italian man by completing the legal process. Prayas Nepal also submitted an agreement paper signed by two parties (Srimiti's mother that Prayas Nepal). The agreement paper reads: i) Prayas Nepal shall attempt to contact Srimiti through Internet within one month to show the face of Srimiti's to her mother and ii) that condition of Srimiti shall be reported annually to Srimiti's mother by Prayas Nepal.

Source: CCWB Office Record, October, 2012 (case developed based on letter sent by Prayas Nepal to CCWB about the child)

In this case, it appears that there is violation of definition of child who could be adopted according to the *Terms and Conditions and Process for Granting Approval for Adoption of Nepali Child by Alien 2008* (Chapter 3, Sub-section 3). Accordingly, 'an alien may be granted approval to adopt a child who has stayed at least ninety days in a child welfare home, orphanage or children's organization if the child is: i) orphan child or ii) if the child is voluntarily committed. Srimiti is neither an orphan child nor she was voluntarily committed by her parents.

Child Care Homes and Nexus of Trafficking of Children

According to CCWB (2012), there are 743 Child Care Homes in 32 districts in the country. Of the total 743 Child Care Homes, Kathmandu alone has 422 or 57 per cent of the total Child Care Homes in the country. This is followed by Lalitapur (28), Kaski (57), Chitawan (24) and Bhaktapur (21). The number of Child Homes ranges from 5 to 10 for eight districts. There are nine districts with 2 to 4 child districts and 10 districts have one Child Care Home in each (Table 2.17).

Table 2.17 Number of Child Care Homes by districts, Nepal, 2012

Districts	No. of districts	No. of Child Care Homes per district	Total Child Care Homes	% of Child Care Homes
Kathmandu	1	422	422	56.8
Lalitapur	1	128	128	17.2
Kaski	1	57	57	7.7
Chitawan	1	24	24	3.2
Bhaktapur	1	21	21	2.8
Banke	1	10	10	1.3
Kailali and Rupandehi	2	8	16	2.2
Makwanpur	1	7	7	0.9
Kaski and Nawalparasi	2	6	12	1.6
Sindhupalchok and Surkhet	2	5	10	1.3
Humla, Jhapa and Sunsari	3	4	12	1.6
Morang and Rolpa	2	3	6	0.8
Bara, Dhankuta, Kanchanpur and Parsa	4	2	8	1.1
Achham, Dhanusa, Dolakha, Illam, Jumla, Kapilbastu, Lamjung, Myagdi, Rautahat and Siraha	10	1	10	1.3
Total	32		743	100.0

Source: CCWB, 2012, pp. 65.

In 2011, the numbers of Child Care Homes were reported to be 602 with 15,095 children residing in the Homes. The number of Children residing in the 743 Child Care Homes recorded in 2012 was not provided. Table 2.18 presents the distribution of children residing in Child Homes (n=602 in 38 districts) in the year of 2011 by age and sex. Data reveal that there are more boys residing in Child Care Homes against girls (56% vs. 44%). According to age groups, children residing in the Child Care Homes are from the less than three-years of age to 16 years and above. Of the total children, 7 per cent were below 3 years of age, 18.5 per cent below 6 years of age, nearly 40 per cent below 9 years of age, 64 per cent below 13 years of age and 89 per cent below 16 years of age.

Table 2.18 Distribution of children residing in Child Care Homes, 2011, Nepal

Age groups (in years)	Number			Per cent	
	Boys	Girls	Total	% of total	Cumulative %
< 3	531	542	1,073	7.1	7.1
3-5	866	851	1,717	11.4	18.5
6-8	1,800	1,414	3,214	21.3	39.8
9-12	2,147	1,566	3,713	24.6	64.4
13-15	2,100	1,590	3,690	24.4	88.8
16 and above	1,004	684	1,688	11.2	100.0
Total	8,488	6,647	15,095	100.0	
Row %	56.0	44.0	100.0		

Source: CCWB, 2011, pp. 50.

Child Care Homes are supposed to provide an alternative care for abandoned children and children without parental care. But there is no information about whether all the children in Child Care Homes are abandoned or children without parental care – who require an alternative care outside the family. There has been report that children from the remote areas such as from Mugu, Humla districts are lured to Child Care Homes in Kathmandu by the agents by promising good education. CCWB monitoring and investigation reports show that some Child Care Homes do not comply with the minimum requirements of the Child Care Homes provisioned by the Government and not all children are actually in need of alternative care.

The Government has issued *Standards for Operation and Management of Residential Child Care Homes (2012a)*. It has identified 78 standards to be complied by the Child Care Homes in relation to the following:

Entry Process and Admission Procedures of Children: consider Child Care Home as the final recourse of child's care; prepare and update personal profile of children residing the Child Care Home; if children victims of violence, abuse, torture and discrimination admitted, they should be provided immediate health check-up, psychosocial counselling, and legal aid as necessary; children admitted in the Child Care Home should be provided adequate food, shelter and clothing; formulate policy and rule of the Child Care Home about admission process of children, facilities and services available in the Home,

responsibilities and duties of staff and children, privacy, discipline and plan for farewell of children and monitoring; provide information about children if parents were found; take responsibility of protection of child's property, inheritance property if any in coordination with concerned Government organization.

Residential Care Facilities, Infrastructure and Environment: the building of the Child Care Home should be with minimum standards and accessible to children; provide safe, easy and sound sleeping facilities for children; arrange separate toilets and bath rooms for girls and boys; arrange safe water for drinking and other personal use; have separate reading room, First Aid room, kitchen, dining room; arrange adequate playing ground for children to play; manage garbage in the Child Care Home adequately; have adequate physical facilities of the Child Care Home against earth quake, fire and other natural disaster.

Realization of Basic Rights of Children Living in Residential Care Homes: Related to Food- provide adequate fresh and nutritious and balance diet to children; regularly monitor the nutritional status of children; arrange clean and easily accessible kitchen to children; arrange adequate drinking water for all children; don't force children to eat and not to eat unless children are sick; don't provide food from outside the Child Care Home. Related to Education - arrange formal education for children according to their age; arrange training to children about civic education, better life options, vocational skills and socialization; have separate room for reading and library; regularly monitor the child's progress in education and update the information; staff must take the responsibility as guardian of children. Related to Health - provide regular health check-up to children from an authorized medical doctor; arrange adequate First Aid materials, drugs and health related human resources; arrange adequate health treatment to children if they are injured; arrange health insurance for all children; arrange appropriate medical treatment if a child is psychological problem; don't target particular children to examine STIs or HIV/AIDS; inform parents/guardians or children's desired persons if children are seriously ill or injured or died; ensure that the children are not used for any medical research/or laboratory work.

Related to Entertainment and Play - have adequate facilities for regular physical exercise of children; ensure that the child to participate in games, literature, songs etc completion inside the Child Care Homes or outside it; ensure safety for children while they participate in games or any other completion; allow children to watch cinema, video, television and use of computer and internet according to their age; arrange adequate entertainment room and play ground for children; formulate plan for playing or entertainment with the participation of children. Related to Psychosocial Counselling- arrange psychosocial counselling services to all children as necessary; ensure that the privacy of the child is maintained while counselling to other children; aim to reunite the child while counselling.

Pre-requisite for Running a Child Care Home and its Management, Finance and Human Resources: (arrange adequate residence facility for children, constitutions of the organization must reveal that it works for child care; no staff should be employed who have criminal history; make provision of volunteers, internship and training, employ child friendly staff and develop operation guideline of the child care home.

- Children's departure, reintegration or reunion plan
- Mechanism and procedure for monitoring of residential child care homes

In order to effectively monitor the Child Care Homes as per the new Standards, the Government has provisioned of Central Monitoring Committee under the Chair of Executive Director of CCWB at the Central level and Assistant CDO at the district level.

CCWB monitored some of the Child Care Homes whether or not they complied with the Minimum Standards of 2060 (2003). The Report reads as (paraphrased based on the Monitoring Report by CCWB)

Children are brought without the permission of the concerned authorities in Child Care Homes and children with parents. Of the total 454 Child Care Homes, 392 were running without fulfilling the Minimum Standards of 2060 (2003). These Homes did not have

trustworthy sources of income thereby increasing the risk of children for exploitation and trafficking at any time.

It appears that Child Care Homes become as profit making enterprises rather than service oriented ones as many of the Homes have been established for the purpose of adoption.

Some of the Child Care Homes were reported to be running without registration with 2 to 4 children placed in a house. There are cases of renewals of Child Care Homes by the CDO office without the recommendation from CCWB. It is also found that Child Care Homes consider volunteers as donors and children are transferred from one place to another and one Child Care Home to another without permission from either CDO office or from DCWB or CCWB. The transfer happens when any disputes arise among the persons who run the Child Care Homes. Many of the Child Care Homes have maintained records of personal profile of children residing in - which may result to trafficking of children.

The Monitoring Reports of CCWB point out the problems related to foreign volunteers in the Child Care Homes (Case 2.6). They were found to be residing in some Child Care Homes and engaged in abusing children using drugs and vulgar words. It is reported that Child Care Homes receive US \$ 1000 from a volunteer but only Rs. 5000 to Rs. 7000 is recorded in the account of Child Care Homes. There are 5-7 volunteers in some Child Care Homes whereby considering volunteers as the sources of income for the Child Care Homes. Although foreign volunteers are involved in teaching, playing or cleaning of the children, some of them were found to be sleeping with a child, taking a child for a visit and giving the gifts only to a child who they favour of. This has created feeling of discrimination among children residing in the Homes. It is reported that volunteers attempt to convince the donors on their self-interest and thereby increasing funding instability in the Child Care Homes. Volunteers generally do not show the details of donation they collected. Foreigners come to Nepal in Tourist Visa and work as volunteers. They bring the Photos of Nepali children and collect donation.

Case 2.6 Rape and sexual abuse to the children in the child care home

The Managing Director of Abinash Anatha Ashram, Dev Daha, Rupandehi was accused of sexually abusing two girls for the last one and half year. The girls were of 11 year olds old. He was also accused of committing rape of two girls of about 15 years. He was abusing the girls time and again. In addition to sexual exploitation to the children, the Managing Director used to make children massage in his body and show the pornography to the children.

This news was published in Kantipur Daily on June 12, 2012. The DCWB Rupandehi informed about it to the CCWB and Ministry of Women and Children and Social Welfare for necessary action to the culprit and to rescue the children from the Home. The CCWB wrote to the DCWB that all children residing in the Child Care Home should be transferred to another Home. At the time, there were 33 children (18 boys and 15 girls) who were referred to another Child Care Home. Among the 33 children, two were below 5 years of age, 9 were in the age range of 5-9 years and 21 were 10 years and above.

Source: Kantipur Daily June 12, 2012 and Letter of Ministry of Women, Children and Social Welfare to the CCWB dated July 3, 2012 (2069/3/3) and Letter of District Child Welfare Board, Rupandehi to CCWB dated July 1, 2012.

Monitoring Report by CCWB of Morning Star Children's Charity Home

On the complain that Morning Star Children' Charity Home has violated the Minimum Standards of Operation of the Child Home, CCWB utilizing the power of Children's Act 1990 (Sec. 44, Sub-sec 1) and Child Regulation 1993 (Sec. 8, Sub-sec. 6) monitored the Home in April 19, 2012 and observed the following:

There were 41 children residing in the Home. Since three years, the Managing Director has raped four girls time and again. In addition, the Director used to sexually abuse other girls above 11 years of age by touching their sexual organs, making them nude, going to see while they are on a bath, using the vulgar words to the children. The Director's wife compelled girls to have sex with her husband one-by-one and when she used to go to the maternal house, she also compelled girls to sleep with her husband's sleeping room.

Children were beaten by burning firewood and rode and it was found that two children hands were broken. Children were forced to work as domestic servants – washing of cooking posts, cleaning rooms and washing of clothes of the Director and his wife. Although the children were sexually exploited for the last 2 or 3 years, they were afraid of complaining it because of fear of revictimization. Some six years ago, the Director forced Sunita to abort her child and now she was not in the Home

Given these facts, the CCWB recommends that children from the Home must be transferred to other Child Care Homes for their proper safety and an immediate need of providing psychosocial counselling to them. It decides that this Child Care Home shall not be permitted to run in the coming fiscal year as its management and environment was found to be against the best interest of the child.

Monitoring Report by CCWB of Rasuwa-Lamtang Liring Aanatha Sastha, Sanothimi, Bhaktapur

Pursuant to Children's Act 1990 (Sec. 44, Sub-sec 1) and Child Regulation 1993 (Sec. 8, Sub-sec. 6), CCWB and DCWB of Kathmandu and Bhaktapur monitored and observed Rasuwa-Lamtang Liring Aanatha Sastha in May 27, 2010 to understand the situation of children in the Home and it observed and recommended the following:

There were 18 children in the Child Care Home. It was not running as per the Operation Guideline of Child Care Home. It was not renewed since 2007/08. Children were frequently transferred from one place to another without informing and taking permission from District Administrative Offices of Kathmandu and Bhaktapur, and DCWB and CCWB. The physical environment of the Home was very dirty and bad smelling coming up. The rooms were not cleaned and toilet smelt very badly. There was no sign board and the Home has not had house rent agreement, either. The Director collected donation from Baudda Gumba of Kathmandu, Musjid of Rani Pokhari, Saibaba temple of Anamnagar and Rs. 15,000 per child annually from Australia but no office account is maintained.

It is suspected that the Child Care Home conducted unauthorized intercountry adoptions in time and again. The Home has not maintained details records of children – their address, name and age and sex of the child, parental status – making it difficult to know whether children residing in the House were really abandoned and/or without parental care. The Director of the Home confessed that some two years ago, he brought eight children to Bangalore, India but he did not have the details records of them.

Of the 18 children reported in the Child Care Home, only 13 children were attending schools while the rest were not attending in school.

Given these facts, CCWB's monitoring team decides that the Director of the Child Care Home should be brought to justice. It recommends to the Kathmandu and Bhaktapur District Administration Offices for necessary action to the Director.

Monitoring Report by CCWB of Mukti Nepal, Maharjgunj, Kathmandu

Pursuant to Children's Act 1990 (Sec. 44, Sub-sec 1) and Child Regulation 1993 (Sec. 8, Sub-sec. 6), CCWB and DCWB of Kathmandu and Bhaktapur monitored and observed Mukti Nepal in April, 2010 to understand the situation of children the Child Care Home and observed the following:

There were 24 children in the Home. All children – boys and girls – were residing in a single room. The Home was so dirty that it was as like a public toilet. Goods were messy; the gate of the house and water pond inside the Home was opened. The sleeping bed was so dirty that it could easily cause communicable diseases. There were no staff to take care of children; children cooked themselves and washed pots.

The Director of the Home refused to provide the personal profile of children residing in the Home (name, address, age, sex, schooling and medical status). There was no medical report of the child who died some six months ago due to physical torture in the Home. Further, a child referred by Community Police to Nirantar Bikash Sastha was found in this Child Care Home – revealing that children are transferred from one Child Care Home to another for business purposes. The organization was renewed in CDO office Kathmandu. But, a question arises how it was renewed as violated the minimum standards of operation of the Child Care Home.

Given these facts and testimony results from the children themselves, the monitoring team recommends to the concerned authorities for the necessary action to the Child Care Home. The records of the CCWB show that all the 24 children were transferred to Sri Himali Nawin Samaj, Bishnu Budanilakanthak, and Kathmandu for their protection.

Mukti Nepal Testimony

Drawing on the narratives of the children residing in the Mukti Nepal Child Care Home which was developed by CCWB monitoring team, the Director of Mukti Nepal (a woman) appears to be very cruel and inhuman and was involved in trafficking of children in the name of intercountry adoption. The following are some of the examples of offences committed by her against children residing in the Home.

Some six months ago, one of the residents – Sangita Shrestha – died due to severe physical torture by the Director. The medical report also proves that her death was due to physical torture. In another case, a staff of the Child Care Home incarcerated a child in a small shelf for 7 days – not allowing going toilet and talking to others.

Children were beaten by thick metal rods, metal water jugs, other kitchen utensils and belts. They were punished for talking, playing,

laughing or even walking loudly. Children were neglected when they were sick and they were not provided adequate food. The so called lower caste children were not allowed to enter into the kitchen and touch water. The Director used to call children by humiliating naked names. Several children used to wet the bed at night due to fear of the Director. These children were punished by not giving food in the next morning and they had to sleep in an open floor in the next evening. Children were not allowed to call at home or with relatives so that they would inform about their condition to their parents/relatives.

Girls had to massage the Director's body – her pelvic area during her menstruation and her big fat belly. Girls were treated as domestic servants – forcing them to wash clothes, clean the rooms and toilet and not allowed to study.

Children had to pretend that they did not have their parents in front of strangers and foreigners. They were not allowed to come close with the volunteers to talk about themselves.

It is reported that the Director stole two children while they were on the school and the family did not find these children. One child was illegally adopted and when the child's father claimed for his child, he was beaten. One child was adopted in Spain but parents know about it.

2.9 Challenges

- There is a critical lack of conceptual clarity about human trafficking among the general population whether foreign employment, marriage, migration turns out to be trafficking and whether the own relatives, neighbors, friends can be a traffickers. Selling of kidney on the 'consent basis' possesses a greater challenge to protect the human rights of Nepali people.

- No unified institutional mechanism exists to collect reliable statistical information on the scope of trafficking in persons in Nepal or on the level of public awareness about the phenomenon. There are no studies with sound methodology that reveal the root causes of vulnerability of trafficking and root causes of committing the crime of trafficking in Nepal.
- Demand for sex is flourishing outside the 'traditional types of brothels' such as in entertainment sectors both in Nepal and India including in Khasa, Tibet – requiring much surveillance and border security between Nepal and India and Nepal and China.
- As the scope and nature of trafficking has expanded so do the trafficking rackets – thus demanding the effective monitoring not only in the traditional trafficking risk places/location but also an extended formal and informal institutions established in the country such as Marriage Bureaus, recruitment agencies, travel agencies, pharmacies and medical institutions, informal networks, education consultancies, hotels and lodges and 'Child Care Homes'.
- The causes of trafficking are complex which vary from one victim to another yet the broader causes of trafficking are poverty, ignorance, unemployment, violence against women and children, dysfunctional families, impunity, discrimination and exclusion.
- The demand of girls/women in the entertainment sector especially in cabin, dance bars and massage parlors in Kathmandu valley is on decline mainly because of the government's imposition of the MPASE that no one can drive while he/she has taken alcohol. As a result, there are shift girls/women working in entertainment sector towards foreign employment, India for dance and entertainment sector.

- The Supreme Court's Guidelines on Prevention of Sexual Harassment in entertainment sector do not receive much attention and are not respected in practice. The Monitoring Committee is non-functional and has not been effective to ensure the rights of girls/women working in the entertainment sectors.
- The untraced rate of missing women and children in Kathmandu valley is very high i.e. more than 80% of women reported missing remain missing and more than half children reported missing remain continue to missing. Nepal Police does not have adequate resources and trained staff to understand what has happened to those who remain missing.
- Nepal has a large number of children in vulnerable conditions despite the government's and donor's priority in ending of child vulnerability over the years. According to Nepal Labor Force Survey 2008, there are 7.77 million children aged 5-17 years. Of them, 3.14 million are working children, 1.6 million are child labourers and 0.62 million children ended in hazardous forms of child labor.
- Trafficking of children for sexual exploitation, circus performance in India, for labor exploitation such as in *jari* industries and brick kilns, domestic work, hotels, street is a persistent problem in Nepal. Many of child's trafficking happens due to parents' silent consent – and thereby posing challenges to address the structural causes of trafficking such as poverty eradication, access to education and social security to the unreached people.
- There were no specific government programs or initiatives to combat child prostitution, child pornography, and other forms of child sexual exploitation.

- Protection of children in Child Care Homes from sexual exploitation, labor exploitation including from trafficking in the name of intercountry adoption is an emerging challenge. The GoN has no effective and regular monitoring mechanisms and resources of Child Care Homes and Women Rehabilitation Centers to assess whether or not the best interests of children and/or victims are fulfilled in such Homes/Centers.

Chapter 3

FOREIGN LABOR MIGRATION AND NEXUS OF TRAFFICKING

Nepal has been tremendously experiencing a huge mobility in its modern history. Two streams of migration are very rapid in Nepal: i) rural to urban migration and ii) cross-country migration for foreign employment. The former stream of migration has rapidly changing the settlement patterns of Nepal and has also brought challenges for urban management and employment as well as the protection of young migrants, especially females from sexual exploitation. The latter has become one of the key sources of Nepal's economy as reflected by its contribution in National Gross Product (GDP), generation of revenue and foreign currency, and household economy in Nepal. It has contributed to reduce poverty and increased wages in agriculture sector. Given the current domestic labor market, development of economy and instability of polity in Nepal, foreign labor migration will remain important for few years in Nepal as a major source of income and survival for the family. International Monetary Fund projected that Rs. 3 hundred billion entered in Nepal in 2011 as remittance. This accounts for 55.6 per cent of the total foreign currency earning. Its contribution to foreign currency is immense in the context that import contributes only 15.5 per cent of foreign currency in Nepal (Bhattari, 2012). In 2011, the foreign employment contributed to 23.5 per cent of GDP of Nepal. In the FY 2011/12, remittance entered in Nepal through banking system was Rs. 359 billion – it is reported that the remittance amount is estimated to be Rs. 1 billion daily though the formal channel while it may reached to Rs. 130 billion if we calculate both formal and informal channels.

Remittances have largely contributed to household economy. The proportion of households receiving remittances increased from 23.4 per cent in 1995/96 to 30 per cent in 2008 and to 55.8 per cent in 2011 (CBS, 1997; CBS, 2009 and CBS, 2011). From 1995/96 to 2008, the remittances per household (of remittance receiving households) have increased from Rs. 15,160 to Rs. 65,755 – a four times increase in between 1995/96 to 2008. In this period, remittance from Nepal declined from 45 per cent in 1995/96 to 17 per cent in 2008 and for India, it declined from 33 per cent to 13 per cent. On the other hand, the share of remittances from abroad excluding India increased from 22.4 per cent of total remittances in 1995/96 to 70 percent in 2008. Remittance at the household level has also played important role in poverty reduction. For example, it has helped in reducing poverty rate from 41.76 percent in 1995/96 to 30.85 percent in 2003/04. If there was no increase in remittances, poverty would have dropped by 4.8 percent instead of 10.9 percent. National Planning Commission (NPC) estimated in 2009 that poverty rate dropped to 25.4 percent - mainly due to remittances (CBS, 2010).

Despite the immense contribution of foreign labor employment in Nepalese macro and micro economy, it has also brought challenges to protect and promote the rights of workers and their families in Nepal. There has been blurring differences in migration and trafficking, smuggling and exploitation. The major challenge has been how to protect the rights of mobility of migrant workers, especially of women in the context of foreign employment. Although the Foreign Employment Act (FEA) 2007 and Foreign Employment Regulations (FER) 2007 are crucially important legal measures that eliminate the gender discrimination in mobility, ensure the welfare measures for the migrants and their families and regulate the recruiting agencies and service providers, these legal measures have not been effectively implemented. Fraud, deception begins from pre-departure to departure stage and migrant workers end up in conditions of forced labor, slavery and slavery like conditions including sexual exploitation at the destination countries.

In this context, this Chapter critically reviews the magnitude and patterns of foreign labor migration, processes of migration, nexus of

migration and trafficking and migration and exploitation. It further goes on critically discussing on the efforts to regulate the foreign labor migration especially in the FY of 2011/12 and emerging challenges to regulate the foreign labor migration.

3.1 Magnitude and Patterns

Data on international migration are available from Census returns and the records of Department of Foreign Employment. In the following discussion both the sources have been used as relevant.

The Population Census of Nepal 2011 observed 1,917,903 absentee populations (1,663,237 males and 254,666 females) who were residing at abroad at the time of enumeration. This figure was only 762,181 (679,469 males and 82,781 females) in 2001 (CBS, 2011). Thus, census statistics suggests that during the last 10 years, the number of people residing at abroad increased by 152 percent. Not only the number of absentees increased, but also the number of females being absentees has also increased from 11 per cent in 2001 to 13 per cent in 2011.

In 2011, among the absentees, males accounted for 86.7 per cent and female 13.3 per cent. More than 85 per cent absentees originated from rural areas and the rest from the urban areas. Among the ecological belts – hill accounted the highest proportion (52%), followed by Terai (42.3%) and the least for mountain (5.6%). Among the development regions, western development region stood the first one (30.2%), followed by central (24%), eastern (23.3%), far western (11.9%) and the least from mid-western development region (11.6%). Absentee population originated from across the 75 districts. Yet there are 25 districts with absentees ranging from 282 to 13,131 (low magnitude); 29 districts with absentees from 13,132 to 31,485 (medium magnitude) and 21 districts with absentees from 31,846 to 97,626 (high number). The districts with large number of absentees come mainly from eastern Terai, west hills and Terai and far-west Terai. Districts with low number of absentees include mainly mountain districts, some mid-western hills and some central Terai districts. Districts with medium number of absentees mainly come from hill ecological belt and some Terai districts (Box 3.1).

Box 3.1 Magnitude of absentee population, (abroad), Nepal, 2011

Absentees (abroad)	Number of districts	Districts
High (31,846-97,626)	21	Jhapa, Morang, Sunsari, Siraha, Dhanusa, Mahottari, Kathmandu, Chitawan, Nawalparasi, Rupendehi, Tanahun, Kaski, Syanja, Baglung, Gulmi, Palpa, Arghakanchi, Pyuthan, Dang, Kailali and Kanchanpur
Medium (13,132-31,485)	29	Panchthar, Illam, Dhankuta, Bhojapur, Khotang, Udayapur, Saptari, Sindhuli, Sindhupalchok, Kavre, Sarlahi, Nuwakot, Lalitapur, Makwanpur, Dhading, Gorkha, Lamjung, Myagdi, Parbat, Kapilbastu, Rolpa, Salyan, Surkhet, Banke, Bardiya, Achham, Doti, Bajhang and Baitadi
Low (282-13,131)	25	Taplejung, Terhathum, Sankhuwasabha, Solukhumbu, Okhaldhunga, Ramechhap, Dolakha, Rasuwa, Bhaktapur, Manang, Mustang, Dolpa, Rukum, Jajarkot, Dailekha, Jumla, Mugu, Kailkot, Bajura, Humla, Darchula, Dadeldhura, Parsa, Bara and Rautahat.

Source: CBS, 2011: Preliminary Results of Population Census 2011.

The census figures come close to the data of Nepal Migration Survey 2009⁶ carried out by NIDS and World Bank. The survey estimated 3 million foreign labor migrants in Nepal (2.1 million current labor migrants and 817 hundred thousand returned migrants). This accounted for 10.8 per cent of the 27.5 million estimated residence population of Nepal in 2009. Of the 2.1 million current foreign labor migrants, nearly 41 per cent were in India, 38 in the Gulf countries, 11.5 per cent in Malaysia and nearly 9 per cent in developed countries. Those migrating to developed countries were mainly from urban areas, hills and central development region. Nearly 90 per cent labor migrants originated from rural areas. Terai accounted for half the labor migrants while the hills and mountains accounted for 45 per cent and 4 per cent,

⁶ The survey was carried out in May-June 2009 by NIDS and World Bank utilizing two two-stage probability sampling. The survey covered 3,200 households (199 wards * 16 households/per ward) and covered all the development regions and ecological belts and captured three types of households: i) households with current migrants abroad; ii) households with returnee migrants from abroad and iii) households with non-migrants for abroad.

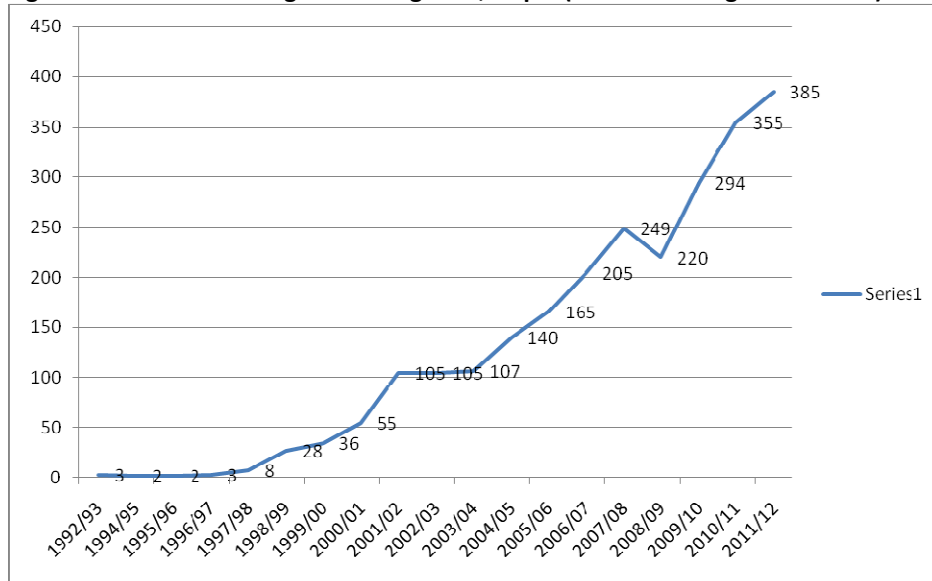
respectively. Among the development regions, the highest proportion of foreign labor migrants originated from eastern (28%), followed by central (28%), west (22%) while the mid-western and far-western regions share 11 per cent and 10.5 per cent, respectively. With respect to sex of the labor migrants, nearly 7 per cent accounted for females.

Levels and Trends of Foreign Labor Migrants According to Department of Foreign Employment

Figure 3.1 shows the levels and trends of foreign labor migrants since early 1990s to the FY 2011/12 drawing data from Department of Foreign Employment (DoFE). Labor migration prior to 1990 was almost entirely directed to India, mainly because of a long historical tie between Nepal and India and open border between two countries. In early 1990s, Nepal adopted liberalized economic policy – deregulation, privatization of enterprise and linking Nepal’s economy with the global economy through labor migration. Initially, the key destination countries were of Middle East and South East Asia. By this FY 2011/12, the Government of Nepal has opened 108 countries comprising of all the Continents.

Department of Foreign Employment (DoFE) maintains data for those who go via Nepal by taking labor permit. Thus, the DoFE data do not cover the foreign labor migrants who go via India. As presented in Figure 3.1, the number of foreign labor migrants in the FY 1992/93 was merely 3,065 which increased to 55,025 in FY 2000/01. From the year 2001/02, the number of foreign labor migrants exceeded one hundred thousand till FY 2005/06 and by FY 2006/07 it reached to more than two hundred thousand annually. By the FY 2010/11, the number reached to more than three hundred fifty four thousand and by the FY 2011/12, it reached to 385,000 – suggesting that each year the number of foreign labor migrants has been increasing rapidly in Nepal. In the FY 2011/12, it is reported that, on the average, a total of 1,700 persons took labor permit daily from the Department of Foreign Employment.

Figure 3.1 Trends of foreign labor migrants, Nepal (Number of migrants in '000)



Note: data were tabulated in Nepali calendar years and the Nepali dates of FY 2050/51 = 1992/93; 2051/52=1994/95 and so on. The data for 2012 year covers from January to June.

Source: http://www.dofe.gov.np/np/innerpage.php?page_id=102 (Accessed on September 19, 2012).

Looking at the number of foreign labor migrants by destination countries from FY 2006/07 to 2011/12, it is revealed that the major destination countries of Nepali labor migrants emerged as Malaysia (31%), Qatar (28%), Saudi Arabia (20%) and United Arab Emirates, UAE (13%) while countries of Kuwait and Bahrain together accounted for nearly 4 per cent of the total foreign labor migrants. Other major destination countries include: Oman, South Korea, Lebanon, Israel, Afghanistan and Japan (Table 3.1).

Table 3.1 Distribution of foreign labor migrants by destination countries, FY 2006/07-2011/12, Nepal

Country	Number			Per cent			Share of females out of total (%)
	Male	Female	Total	Male	Female	Total	
Malaysia	473,814	4,094	477,908	28.7	7.2	31.4	0.9
Qatar	483,745	2,164	485,909	29.3	3.8	28.0	0.4
Saudi Arabia	344,647	746	345,393	20.9	1.3	20.0	0.2
UAE	224,962	9,374	234,336	13.6	16.4	12.7	4.0
Kuwait	32,974	21,742	54,716	2.0	38.1	2.6	39.7
Bahrain	25,569	1,836	27,405	1.5	3.2	1.3	6.7
Oman	15,048	1,224	16,272	0.9	2.1	0.7	7.5
South Korea	15,344	363	15,707	0.9	0.6	0.6	2.3
Lebanon	1,759	3,297	5,056	0.1	5.8	0.4	65.2
Israel	1,759	3,297	5,056	0.1	5.8	0.3	65.2
Afghanistan	5,309	24	5,333	0.3	0.0	0.2	0.5
Japan	5,076	320	5,396	0.3	0.6	0.2	5.9
Others	21,232	2,237	23,469	1.3	3.9	1.5	9.5
Total	1,651,238	57,099	1,708,337	100.0	100.0	100.0	3.3

Source: http://www.dofe.gov.np/np/innerpage.php?page_id=102 (Accessed on September 19, 2012).

How Nepali Migrant Workers Go for Work at Abroad?

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

Table 3.2 shows the distribution of foreign labor migrants in the FY 2011/12 by sex, according to ways of going to foreign employment. A total of 375,057 persons left for seven major destination countries (Qatar, Malaysia, Saudi Arab, UAE, Kuwait and South Korea). Overall, 30.5 per cent went through individual basis while the rest, 69.5 per cent, went through institutional basis. Proportionally more females over males went through individual basis. For example, of the 21,305 females, nearly 70 per cent went through individual basis while the comparable figure for males is merely 28 per cent. Thus, it seems that more females are at risk of exploitation, trafficking in the process of foreign employment.

Table 3.2 Distribution of foreign labor migrants by ways of going to work, Nepal, FY 2011/12

	Number			Colum %			Row %	
	Male	Female	Total	Male	Female	Total	Male	Female
Individual basis	99,381	14,879	114,260	28.1	69.8	30.5	26.5	4.0
Institutional basis	254,366	6,426	260,792	71.9	30.2	69.5	67.8	1.7
Total	353,747	21,305	375,052	100.0	100.0	100.0	94.3	5.7

Source: http://www.dofe.gov.np/np/innerpage.php?page_id=102 (Accessed on September 19, 2012).

Majority of migrants going for foreign employment to Qatar appears to be through individual basis. This holds especially for males. In case of females, it is Kuwait where an overwhelmingly majority went through individual basis (82%). Data also reveal that a few migrants went through individual basis in Malaysia, Bahrain and South Korea. On the other hand, among the 260,792 migrants who went through institutional basis, majority went to Malaysia (37%), followed by Saudi Arab (26%), Qatar (17%) and UAE (13%) (Table 3.3).

Table 3.3 Percentage distribution of foreign labor migrants in the FY 2011/12, Nepal

Country	Individual basis			Institutional basis			Total
	Male	Female	Total	Male	Female	Total	
Qatar	60.9	4.1	53.5	17.4	6.0	17.1	28.2
Malaysia	2.4	0.1	2.1	36.9	34.1	36.8	26.2
Saudi Arab	12.6	0.3	11.0	26.6	2.9	26.0	21.5
UAE	18.0	11.9	17.2	12.6	42.9	13.3	14.5
Kuwait	3.3	81.7	13.5	3.5	5.2	3.5	6.6
Bahrain	2.5	1.8	2.4	1.1	4.1	1.2	1.6
South Korea	0.3	0.1	0.2	2.0	4.7	2.1	1.5
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Number	99,381	14,879	114,260	254,366	6,426	260,792	375,057

Source: http://www.dofe.gov.np/np/innerpage.php?page_id=102 (Accessed on September 19, 2012).

Female Labor Migration

The DoFE has maintained gender disaggregated data on foreign labor migrants since FY 2006/07. Its records show that total number of female labor migrants was 57,000 during FY 2006/07-2011/12. This figure is much lower number as believed to be. It is guesstimated that nearly 200,000 females are in the foreign labor markets – comprising of about 8 to 10 per cent of the total foreign labor migrants (NPC and IOM, 2011). The major destination countries of female labor migrants are Saudi Arabia, Malaysia, Israel, Lebanon, Oman, Kuwait, Qatar and Bahrain including Korea and Hong Kong. Among these countries, approximately 45 per cent are believed to be in Saudi Arabia (OSRT-NHRC, 2010).

It is reported that 80 per cent of women migrant workers (WMWs) are involved as domestic service in the destination countries (NPC and IOM, 2011) – an informal, unorganized and legally unprotected sector. Thus, women are high risk at exploitation and trafficking.

3.2 Nexus between Foreign Labor Migration, Migration and Trafficking

In the context of foreign labor migration, it is essential to understand the complete process of migration from pre-departure phase to departure phase, working condition at abroad and to returned/repartition status.

3.2.1 Pre-departure and Departure Stage

Several studies argue that exploitation of foreign labor migrants initiates from villages. In some cases, with the influence of middle persons, parents forced to Secretary of Village Development Committees to issue the recommendation letter for issuing citizenship certificates from the District Administration Office to their children who have not attained the eligible age for obtaining citizenship certificates. When his/her citizenship certificate is produced, he/or she becomes eligible for issuing the passport – indicating that there is also child foreign labor migration.

Nepali migrant workers going to Gulf countries and Malaysia largely come from low economic brackets, socially disadvantaged groups and those residing in remote areas (Bairacharya and Sijapati, 2012). They are unaware of basic information such as name of the country, currency of the country, religion and culture, transport system, food system, traffic system and what to do and what not to do. The Government has made the provision of pre-departure orientation training for 3 days but studies indicate that large majority of migrants do not take such training. This is because all the Government approved training centers are located in Kathmandu valley and it will be costly to come to Kathmandu and take the training – travel cost, food and lodging (NPC and IOM, 2011) . Further, it is reported that the pre-departure training certificates are sold in black-market. Although some International Non-Governmental Organization (INGOs) and Non-Governmental Organization (NGOs) provide pre-employment orientation in some districts such as by WOREC, ABC Nepal, Maiti Nepal and others, but their coverage and sustainability is limited.

Recruitment agencies are legally obliged to ensure that migrant workers have pre-departure orientation training but this frequently does not take place (Amnesty International, 2011). This training is meant to explain how the migration process works and inform migrants of their rights and duties in the destination country. By law, workers must receive a contract before they leave Nepal. Among the 62 respondents in the study of Amnesty International study (2011), 27 told that they had not taken pre-departure training.

The same study suggests that brokers are often trusted more than recruitment agencies as they are locally based. Recruitment agencies can similarly deceive and they are reported to involve in the trafficking of Nepalese migrant workers and their subsequent exploitation, including forced labor. These abuses usually begin with contractual discrepancies – including pay, type of job and working hours. Of 115 migrant respondents, 108 said that their recruitment agents or brokers had deceived them about the terms and conditions of their employment contract.

The recruiting agencies in Nepal are reported to charge much higher money than that of stipulated by the Government of Nepal. The expenses borne by the domestic migrant workers tend to increase because of the multi-layered agent involvement in the foreign labor migration process from village to district headquarter and to Kathmandu or to India. A World Bank study (2011b) estimated that a domestic worker requires paying Rs. 70,000 to go to Qatar (excluding the payment made to the agents or subagents, if any). The expenses are reported for labor permit, pre-departure orientation, fee for Welfare Fund, airfare, airport tax, commission to the recruitment agencies. Under the *Kafala* system (which will be shortly discussed), the expenses for airfare and commission to be paid to the recruitment agencies are paid by the sponsor. Thus, nearly 80 per cent of the total expenses incurred by the migrant domestic workers is the illegal commission taken by the recruitment agencies (Table 3.4).

The same study argued that the maximum amount that the Government allows the recruiting agencies to charge to the migrant workers ranges from Rs. 70,000 to Rs. 84,000 in various Gulf countries and Malaysia. However, in reality, on the average, a Nepali worker spends about Rs. 114,000 for Malaysia and Gulf countries. The Amnesty International (2011) study showed that of 57 migrant respondents, 42 paid more than the maximum set by Nepalese law.

Table 3.4 Expenses borne for a domestic migrant work to go to Qatar, 2009

Migration expenses	Nepali Rs.	Per cent
Labor permit fee	500	0.7
Pre-departure orientation fee	700	1.0
Welfare Fund	1,000	1.4
Airfare	25,000	35.7
Airport Tax	1,160	1.7
Health insurance	3,000	4.3
Commission to recruitment service company or agent in Qatar	30,000	42.9
Recruitment agency profit in Nepal	8,640	12.3
Total	70,000	100.0

Source: World Bank, 2011.

It is also claimed in the Amnesty International (2011) study that most women who migrate for domestic work face official restriction, and are also forced to pay a bribe. Pourakhi – a NGO working for the protection of migrant workers in Nepal - documented over a hundred cases where domestic workers who left from Kathmandu Airport were forced to pay a bribe of about Rs. 10,000 to 60,000 to immigration officials just to leave the country.

3.2.2 Working Condition at Destination Countries: the Case of *Kafala* System

In many major destination countries of Nepali labor migrants, it is reported that migrant domestic workers are neither covered by these countries' labor laws nor by the security laws. Studies conducted by foreign scholars as well as native scholars (Hamill, 2011 Bairacharya and Sijapati, 2012) reveal that migrant domestic workers in Arabian Peninsula are trapped into exploitative conditions and are enslaved due the *kafala* system. The *kafala* system, historically, meant to a sponsorship system for hosting foreigners in these countries. Over time, its meaning has changed and it has been used primarily to regulate labor flow by the Gulf Cooperation Council (GCC) countries⁷. In other words, this system helps governments to monitor the movement of migrant workers within these countries. Key features of the system include: i) the contract period of a worker is minimum of two years;

⁷ These countries include Saudi Arabia, Kuwait, Bahrain, Qatar, the United Arab Emirates and Oman.

ii) during the contract period, the worker's visa and legal status is tied to the sponsor and iii) doing this, the employer has complete control over the mobility of the worker. The worker cannot change employment without the consent of the employer or even leave the country without obtaining an exit visa from the employer. Eventually, employers are legally entitled to confine domestic migrant workers to the house for years. In these countries, as the domestic workers are not protected by their domestic labor laws, migrant domestic workers completely come under this system.

The *kafala* practice is also reported in Lebanon. According to authorities of Nepali Mission in Lebanon (cited in Hill, 2012), of the total 12,000 Nepali domestic workers in Lebanon, only 300 can move freely while others are confined with the employers and their rights to mobility, rights to contact with the family and other basic labor rights have been restrained.

Bairacharya and Sijapati, (2012) reviewed the implication of the *kafala* system for the Nepali migrant domestic workers vividly in GCC countries. The mechanism through which domestic workers trapped into enslavement, exploitation and trafficking involves the absence of contractual agreements, violation of labor and human rights, sexual abuse and rape, consequences of breaching of a contract agreement on the part of the workers, lack of justice to the workers by the law enforcement and judicial agencies in the destination countries, exploitation by recruitment service agencies in the destination countries and in Nepal, lack of basic information about destination countries among the workers, and no protection measures envisioned in labor laws and social security laws to the domestic workers in these countries (Box 3.2).

Box 3.2 Elements of exploitation, enslavement and trafficking under the *kafala* system, GCC countries

Areas	Elements of exploitation, enslavement and trafficking
Contractual agreements	No contracts signed between the employers and workers If exists, the domestic workers not aware on the terms and conditions
Violation of rights	Work long hours, no leave, non-payment of wage Psychological, verbal, physical and sexual abuse Restriction of mobility and contact to the family
Sexual abuse	Sexual abuse - sexual advances, molestation, unwanted folding and rape 'Forced acceptance' of sex work – to the guest of the employer Rape cases not reported due to stigma, ignorance and lack of trust in law enforcement agencies Majority of cases of rape filed becomes redundant – male witness, strong medical report requires Child borne as a result of rape not recognized and challenge to bring back to Nepal
Breach of contract	Seen as serious offences – treated as criminals Workers if run away, more likely to trapped again Employers may claim the cost incurred to hire the maids (airfare, service charge to the employment agencies and other cost)
Lack of justice	Many abuses remain unreported Cases if filed become redundant because of lack of 'evidence' Language barrier, high cost of legal and administrative process More likely failure of cases filed by the workers (charges of theft, violence etc. by the employers) outweigh the victims case
Exploitation by the recruitment agencies	Exploitation begins from Nepal – multilayered of agents, deception and fraud Extracted nearly 80 per cent of the total cost of migration (Rs. 70,000) Charges airfare and recruitment agencies service charges to the workers which should have been paid by the sponsor 'Go now and pay back' – deduction from the monthly salary
Lack of information	Majority unaware of basic information about the destination countries Few take pre-departure orientation training – centralized service, high expenses and black marketing of orientation certificate

Source: developed based on Bairacharya and Sijapati, (2012).

Contractual Agreement - There is absence of contractual agreements. If it exists, the domestic worker is unaware of the terms and conditions laid down by the employer as the contract may be signed by intermediaries without the knowledge of the worker.

Violation of Basic Rights - Long working hours, no leave, no payment on time or no pay at all are the common destiny of the migrant domestic workers including the verbal, physical and sexual abuses. There is restriction of mobility and are not allowed to contact their family at home fearing that the workers may breach the agreement between and she may run away.

Sexual Abuse - Migrants domestic workers are prone to be sexually exploited involving sexual advances, molestation, unwanted touching, rape and offers to pay money in exchange for sex. In addition, employers often expect their maids perform sexual favors for the guest they bring home. Many of the cases of rape remain unreported because of the stigma attached on it, ignorance of complaint handling agencies, and lack of trust on such agencies. Even if a case is filed for sexual abuse or rape, it is almost redundant if there is no male witness or a strong medical test. In case a worker gives a birth of a baby due to rape, the baby is not recognized and it will be difficult to get the required legal clearance to bring the baby back to home. According to Amnesty International (2011), of 17 domestic workers interviewed 11 reported being physically or verbally abused or threatened with violence, and most were not allowed to leave the house they worked in or have a rest day.

Breach of Contract - Under the *kafala* system, breach of contract by the employee is seen as serious offences regardless of the types of abuses domestic worker face. If workers run away from the house because of the abuse or exploitation, they are more likely to be trapped again by the employers. Employers can file against the domestic workers and may claim for the expenses incurred to hire the maids. Further, there are rare cases that once the employers file the cases, workers will get the justice.

Lack of Justice – Although there are hotlines run by the Governments for the domestic workers in the CGC countries, many of the domestic workers do not know about it. While attempting to search for legal justice, domestic workers face several challenges. First, many of the cases of the abuses remain unreported due to the fear of deportation and further re-victimization. Second, even if the victims filed the complaints, the cases become redundant because of lack of ‘evidence’. Slow justice procedure, language barriers, high cost of legal and administrative process are other barriers for justice for migrant domestic workers. This results the failure of the cases.

3.2.3 Violation of ILO Convention on Forced Labor and Smuggling of Migrants

Violation of ILO Convention No. 20 on Forced Labor

International Trade Union Confederation (ITUC) has written the Government of Nepal in August 31, 2011 that the Government has not fully complied with the ILO Convention No. 29 on Forced Labor while managing the recruitment of foreign employment. It argued that Nepalese migrant workers are in the forced labor situation due to the following reasons:

Deception and fraud – Deception and transfer of the migrant constitute the trafficking in persons under the Protocol of Trafficking in Persons. Among the 114 returned migrant workers interviewed by Amnesty International (2011), 93 per cent reported that they were deceived in relation to salary amount. Other elements of deception reported include the types of job offered, working hours, overtime pay and rest including a false contract with the name of the a fake company.

There are two types of contractual agreement: one which is legal one between the employer and employee – which is shown by the recruitment agency to the Department of Foreign Employment to take the labor permit and another which is given to the workers at the International Airport by the broker/recruiting agency. The first contract letter is not given to the migrant workers when they go but they are given the latter contract. This contract latter, which states much lower salary than said to be or even the different work than said to be. The

workers when they arrived in the destination country are obliged to work under this agreement. As the contractual agreement is in Arabian language in case of Gulf countries, workers do not know in what type of paper they are signing on.

A worker in Saudi Arab from Dhanusa district says,

Before departure, I was told by the agency that I would be paid SAR 1,200 [US\$320]. In fact on my contract, it stated my name, the name of the company and a salary of SAR 1,200. But when I received my first months' salary, I was surprised to receive only SAR 500 [US\$130]. I called the recruitment agency repeatedly from Saudi Arabia to complain about the wage difference. I even used my friend's phone, just in case the agent was avoiding my calls. But despite all my efforts, my agent didn't do anything about getting me the salary that I was due.

Source: cited in ituc_ilo_cearc_nepal_pdf (Accessed on November 2, 2011)

Indebtedness and Forced Labor – According to ILO convention 'induced indebtedness is a key instrument of coercion' and that the menace of penalties can be of a financial nature including economic penalties linked to debts. As there is limited access to financial institutions in Nepal, workers are forced to borrow from the money lenders at the very high interest rates ranging from 36 per cent to 60 per cent annually. Once workers approach to the destination country and they are forced to work even they find that the contractual agreement was a fake. In some of the cases, the workers have to wait weeks and months to go to abroad for work.

Another means from which the workers compel to work is the retention of identity documents by the recruiting agencies which makes the workers' compliance to work in the forced labor situation. Of the total 114 returned migrants interviewed by Amnesty International, 97 per cent reported that their identify cards were withheld by the recruiters.

Among the 114 returned migrant workers interviewed by the Amnesty International in 2011, three female migrants were trafficked into

prostitution. For example, one female migrant worker was promised domestic work in Lebanon, but was sold to a brothel for Rs. 100,000 (US\$2,000):

At the brothel, I was forced to have sex with 35 customers per day and on Sundays, 45 customers. I worked all day and evening, and was only allowed to sleep from 11pm to 4am but if I had an overnight customer, then I had to continue working. I tried so many times to refuse, but the brothel owner would beat me with an iron pole until I changed my mind. I was not allowed to contact my family, go outside, meet anyone or even talk to people. My movements were constantly controlled by the brothel owner. She did not pay me so the only money I had was from tips that customers occasionally gave me.

Source: cited in ituc_ilo_cearc_nepal_pdf (Accessed on November 2, 2011).

Smuggling Nepali Migrants to Developed Countries

In recent years, there have been media reports inside and outside the country that Nepali people are smuggled to developed countries such as North America, Europe, Australia and Far-East Asia. Smuggling of migrants⁸ is not the same as trafficking but it may turn to be trafficking when turns to be exploitative one. Initially, people start their journey by agreeing to be smuggled into a country but find themselves deceived, coerced or forced into an exploitative situation later in the process. This is the case that Nepali people are promised jobs and work in developed countries and smuggled. Once they are on the way, they turned to the victims of trafficking: they are made captive, their movement is restricted and they face physical and psychological abuse.

⁸ Article 3 of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (the Smuggling of Migrants Protocol) defines smuggling of migrants as: "...the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a state party of which the person is not a national".

There are no studies to understand the dynamics of smuggling of migrants and smuggling turned to be trafficking in Nepal: magnitude, processes and destination countries and working condition of the migrants smuggled. Despite this, major sources of smuggling of Nepali migrants may be Consultancy Firms of Education, Labor Recruiting Agencies, Travel Agencies and Nepali people residing in the destination country. Much research is needed to comprehensively understand how smuggling of migrants has been taking place and how it turned to be trafficking and extent of problem. The following case extracted from IOM Haiti website shows how smuggling of Nepali migrants turned to be victims of trafficking (Case 3.1).

Case 3.1 Nepali men rescued in Haiti and returned to Nepal

Two Nepalese men, 30s, were rescued by IOM in Haiti and returned to Nepal after 11 months of their departure. They were recruited in Nepal by a human smuggling network that charged very high fee with the promise of legal migration and work in USA. They began journey in the last November and arrived in Haiti in January through Singapore, China, and Brazil, Panama and finally Haiti and supposedly their last stop before reaching to USA.

When they arrived in Haiti, they were taken to a private home in north city of Cap Haitian, and made captive. The family confiscated their travel documents and passports and made constant threats and demanded money. They were allowed to call their families in Nepal to ask for the money demanded by their captors.

The relatives in Nepal contacted the Nepal Army in their village, who in turn contacted the Nepal Battalion in Port-au-Prince and the Nepal Formed Police Unit (FPU) in Cap Haitian, both part of the United Nations Peacekeeping Mission in Haiti. A rescue mission was successfully led by the Haitian National Police (HNP), with the support of the Nepal FPU and the coordination of UNPOL.

After their rescue, IOM enquired the men and determined that they were victims of human trafficking and offered support to return them to Nepal.

Source: (IOM Haiti) <http://www.iom.int/cms/en/sites/iom/home/news-and-views/press-briefing-notes/pbn-2012/pbn-listing/nepalese-victims-of-trafficking.html> (Accessed on October 23, 2012).

3.2.4 Death of Foreign Labor Migrants

Table 3.5 shows the distribution of foreign labor migrants who died during May 2008 to September 30, 2012 in different destination countries and their families were provided financial support by the FEPB. During the four years, 1,884 persons were reported to die. Of them, male consisted of 97 per cent and rest females. Majority of deaths were reported due to cardiac arrest (21.5%), followed by natural death (21%), traffic accident (14%), suicide (9%), workplace accident (8%), heart attack (5%) and murder (2%). Nearly 18 per cent of the total deaths were reported to be 'others' – and the categories of others were not known.

Table 3.5 Distribution of deaths among foreign labor migrants by sex, according to causes of deaths, May 2008- September 30, 2012, Nepal

Causes	Male	Female	Total	% of total
Cardiac arrest	402	4	406	21.5
Heart attack	102	0	102	5.4
Murder	45	0	45	2.4
Natural death	375	13	388	20.6
Others	330	7	337	17.9
Suicide	166	12	178	9.4
Traffic accident	264	6	270	14.3
Workplace accident	151	7	158	8.4
Total	1835	49	1884	100.0
Row%	97.4	2.6	100.0	

Source: data file of Foreign Employment Promotion Board, FEPB (accessed on October 4, 2012).

Table 3.6 shows the foreign labor migrants who died due to different causes by country of destination. Among the total deaths, more than one-third were reported to be in Malaysia. This is followed by Saudi Arab (27%), Qatar (23%) and UAE (9%). A considerable number of deaths were also reported from Kuwait, Bahrain, South Korea, Lebanon and Oman. There was four deaths in Israel, two in Afghanistan and Japan each and one death each in Libya and Sri Lanka. Among the total 637 deaths in Malaysia, causes of death of 235 persons were not reported i.e. 'others'. In Saudi Arab, majority of deaths were reported due to 'natural death' (n=220), traffic accident (n=167) and workplace accident (n=55). In Qatar, of the total 440 deaths, majority were reported due to cardiac arrest

(n=255) and others (n=55). In UAE, of the total deaths of 165, majority were reported to be due to cardiac arrest (n=49) and 'natural deaths' (n=35). Among the 30 deaths in Bahrain, majority was due to 'natural deaths' (n=18). For other remaining countries presented in the Table 1.6, main causes of deaths were reported to be 'others', suicide, and traffic accident and workplace deaths.

Table 3.6 Distribution of deaths among foreign labor migrants by causes of deaths, according to destination country, May 2008- September, 2012 (in number)

Country	Cardiac arrest	Heart attack	Murder	Natural death	Others	Suicide	Traffic accident	Workplace Accident	Total	% of total
Malaysia	77	57	19	74	235	79	36	60	637	33.8
Saudi Arab	21	6	1	220	15	27	167	55	512	27.2
Qatar	255	14	20	16	54	33	27	21	440	23.4
UAE	49	12	3	35	16	16	24	10	165	8.8
Kuwait	1	10	2	5	8	6	4	2	38	2.0
Bahrain	0	0	0	18	1	1	8	2	30	1.6
South Korea	2	2	0	3	5	7	1	0	20	1.1
Lebanon	1	0	0	6	1	6	0	3	17	0.9
Oman	1	0	0	6		3	3	2	15	0.8
Israel	0	0	0	2	0	0	0	2	4	0.2
Afghanistan	0	0	0	0	2	0	0	0	2	0.1
Japan	0	0	0	1	0	0	0	1	2	0.1
Libya	0	0	0	1	0	0	0	0	1	0.1
Sri Lanka	0	0	0	1	0	0	0	0	1	0.1
Total	407	101	45	388	337	178	270	158	1884	100.0

Source: data file of Foreign Employment Promotion Board, (accessed on October 4, 2012).

3.2.5 Empirical Evidences of Woman Migrant Workers in Violence, Abuse and Torture

Table 3.7 summarizes the status of woman migrant workers (WMWs) who face violence, abuse and torture in different destination countries during 2009-2011 drawing upon data from UN Women Study (2011). The study shows that 3,576 WMW faced some types of problem. Among them, nearly 80 per cent were rescued while 111 were in jail in the destination countries, 86 returned with pregnancy and 31 with babies. There were 80 suicide cases and 30 cases were missing.

Table 3.7 Distribution of WMWs who faced different problems, 2009-2011, Nepal

	Number	Percent
In custody	111	3.1
Mental health problem	415	11.6
Rescued cases	2,820	78.9
Pregnancy cases	86	2.4
Returned with babies	31	0.9
Suicide cases	80	2.2
Status not known	30	0.8
Total	3,573	100.0

Source: UN Women Research Study (2011).

Of the total who committed suicide, 45 were from Saudi Arab, 21 were from Lebanon, 6 each in Kuwait and UAE. Of those who returned with pregnancy, 43 were from Saudi Arab, 15 from Lebanon, 15 from Oman, 7 from Kuwait and another 6 from UAE. Similarly, 415 WMWs returned with mental stress – a large majority being from Saudi Arab (Table 3.8).

Table 3.8 Number of WMWs who committed suicide, returned with pregnancy and mental stress, 2009-2011, Nepal

Country	Committed suicide	Returned with pregnancy	Returned with mental stress
Saudi Arab	45	43	400
Lebanon	21	15	12
Kuwait	6	7	3
U.A.E.	6	6	-
Oman	2	15	-
Total	80	86	415

Source: UN Women Research Study (2011).

In 2011, Nepali Embassy at Saudi Arabia recorded 381 Nepali WMWs who approached to Saudi Arabia and came to contact to Nepali Embassy as they were facing abuse, violence from the employers. Among them, 53 per cent were deported to Nepal by the Government of Saudi Arabia, 30 per cent were still in Embassy, 16 per cent were in Housemaid Department and only 1 per cent was sent back to the sponsor. Of the total WMWs majority were Janajati (38%), followed by Dalit (26.5%), Chhetri (15%), Brahman (%), Madheshi (8%) and Tharu (4%) (Table 3.9 and Annex 3.1).

Table 3.9 Distribution of Nepali Housemaids recorded in Nepali Embassy of Saudi Arabia, Riyadh, 2011

	Number	Percent
Deportation to Nepal	203	53.3
Currently in Embassy	113	29.7
In Housemaid Department	61	16.0
Went back to sponsor	4	1.0
Caste/ethnic groups		
Chhetri	56	14.7
Brahman	31	8.1
Hill Janajati	146	38.3
Dalit	101	26.5
Madheshi	31	8.1
Madheshi Janajati (Tharu)	16	4.2
Total	381	100.0

Source: <http://www.neksa.org/index.php/status-of-housemaids> (Accessed on December 5, 2012).

Of the total 381 Nepali WMWs who contacted to Nepali Embassy at Saudi Arabia, they originated from 53 districts in Nepal. Yet majority came from Jhapa (n=53), Nawalparasi (37), Morang (n=28), Sunsari (n=28), Rupandehi (n=26), Chitawan (n=25), Banke and Dang (n=12 each) (Annex 5.1).

Drawing on the information of website of Nepali Embassy at Saudi Arabia, 76 Nepali Labor migrants were recorded in imprisonment in Riyadh, Saudi Arabia in 2011 for charging them various criminal cases (Table 3.10). Of them, majority were in Malaaz jail and rest were in Al-Haier jail. The major crime charges include: alcoholic (42%), theft (20%), traffic accident (10.5%), bribe (9%) and forgery (8%). Other crime charges include abuse of ladies, murder, entering the house for illegal purposes, assault, entering in the rest house without permission and breach of trust. Among the total inmates 76, 20 per cent had already deported to Nepal and others were in jail.

Table 3.10 Distribution of Nepali Labor Migrants who were imprisoned in Riyadh, Saudi Arabia, 2011

Categories	Number	Percent
Name of Jail		
Malaaz	59	77.6
Al-Haier	17	22.4
Types of crime charged		0.0
Alcoholic	32	42.1
Theft/ stolen	15	19.7
Traffic accident	8	10.5
Bribe	7	9.2
Forgery	6	7.9
Abuse of ladies	2	2.6
Murder	2	2.6
Entering house for illegal purposes	1	1.3
Assaulting	1	1.3
Entered in rest house without permission	1	1.3
Breach of trust	1	1.3
Current status of inmates		0.0
In process	61	80.3
Departed to Nepal	15	19.7
Total	76	100.0

Source: <http://www.neksa.org/index.php/status-of-imprisoned> (Accessed on December 5, 2012).

3.2.6 Impact of Foreign Labor Migration on the Family

A number of impacts of the foreign labor migration have been reported due to foreign labor migration in Nepal, especially in the families and communities. Positive impact is obvious in the sense that many families with no income sources at home received a substantial amount of remittances, thereby contributing to schooling of children, health treatment and escaping out of poverty. In central and eastern Terai, many *Haruwa-Charuwa* (agrarian semi-landed labor) families also escaped from the aged old system of bondage.

On the other hand, foreign labor migration has a social cost – being breakdown of the family, increase in divorced cases, abortion and unwanted pregnancy, incest, violence against women and even murder. Media reports that the number of divorced cases in Nepal has increased mainly because of the foreign labor migration. For example,

in Palpa district, of the 35 cases filed in the court, 33 cases were of those whose husbands were at abroad for work.

There are few studies in Nepal reflecting the consequences of foreign labor migration on those who have been left in Nepal, especially on women and children. Yet Terai Human Rights Defender's Alliance (2012) study is one of the pioneering ones that revealed the impact of foreign labor migration in central Terai of Nepal. The study was conducted in 476 households of five VDCs of Mahottari district in which at least one family member was in foreign employment at the time of survey. The study obtained the views and experiences of both head of the households and young women (daughter-in-laws) whose husbands were in foreign employment at the time of survey.

As presented in Table 3.11, the study findings indicate that one of the key changes brought by the foreign labor migration in Terai Nepal is the increasing use of means of communication and electronic goods such as TV sets, mobile phone. When asked about what the households received at first from their family members working at abroad, 54 per cent households reported that they received TV set, followed by other electronic items (24%) and mobile (15%). Almost 96 per cent of the households surveyed contact their family members through mobile set, 2 per cent through Internet and another 2 per cent through Webcam.

On the other hand, it was found that majority of households spent their remittance amount when they received first for settling loans; 5 per cent used for household purchase, 2 per cent for buying house, 2 per cent for buying gadgets like Television, mobile sets and another 2 per cent for buying vehicles. The survey also revealed that 45 per cent of households received up to Rs. 100,000 annually as remittance from their family members and remaining 55 per cent in the range of Rs. 200,000 and Rs. 500,000 annually. When asked about in what they spent the remittance amount at first, it was known that nearly one-third of the households spent on food and clothing, 30 per cent in education and 13 per cent in health.

Table 3.11 Percentage distribution of head of the households by their opinion on foreign employment of their family members, Terai Nepal (N=476 households)

Categories	Per cent
First sent item by the foreign employee	
Mobile set	15.1
TV set	53.8
Others	23.7
Means of communication to family member at abroad	
Mobile set	95.8
Internet set	2.1
Webcam	2.1
Utilization of money received first time	
To settle loan	86.1
To purchase	4.8
To build house	2.3
To buy gadgets like TV, mobile sets	2.1
To buy vehicles	2.3
Others	2.3
Amount of remittance received annually	
Up to Rs. 100,000	45.0
Rs. 200,000	30.0
Rs. 300,000	18.1
Rs. 400,000	5.0
Rs. 500,000	1.9
Money spent at first remittance received	
Food and clothing	32.5
Education	30.0
Health	13.2
Others	21.3
Perceived major change brought by the family member left for foreign employment	
Increase in social status	25.2
Changes in food habit and clothing	35.3
Changes in educational status	4.6
Increase in self-confidence	23.5
All	12.0
Perception on family member's decision to leave for foreign employment	
It was a correct move	87.4
It was not a correct move	6.7
Should have done something in the country	3.2
He save himself for being spoilt	2.4
Reasons for leaving for foreign employment	
Was in need of money	87.0
He was going to be spoiled here	6.1
Followed his friends or peers	3.8
Could not study further	3.1

Source: Terai Human Rights Defender's Alliance, 2012.

The head of the household perceived that major changes brought in the family due to the family members in the foreign employment include 'changes in food habit and clothing' (35%), 'increase in social status' (25%), 'increase in self-confidence' (23.5%) and 'increase in educational status' (nearly 5%). An overwhelmingly majority of the head of the households perceived that migration of their family members to abroad for work was as correct move and majority of them view that it was due to need of money.

Table 3.12 shows the perception and feeling of the young women whose husbands are at abroad for work. An overwhelming majority of these young women felt lonely (85%) due to absence of their husbands. It is also reported that many young women face domestic violence such as beating, not providing adequate food, scolding and abandonment. The main perpetrators of such violence are reported to be father-in-law, mother-in-law and other family members. In the sample, nearly 3 in 10 women experienced such violence regularly and another 32 reported so sometimes. These young women reported that they are forced to work long hours in the family firms and domestic chores (62%), not allowing them to use money sent by their husbands for personal needs such as shopping, buying of cosmetic goods (24%) and not allowing them to participate in social activities (14%). Further, majority of young women did not collect the money sent by their husbands from abroad. In the sample, only one-thirds did so while 54 per cent reported that it is their father-in-law or mother-in-law who collected the money sent by husbands.

Table 3.12 Perception of young women whose husbands are in foreign employment (N=477 women)

Indicators	
% felt lonely during the absence of your husband overseas	84.9
% faced violence in the family always due to your husband staying overseas	29.2
% faced violence in the family sometimes due to your husband staying overseas	32.4
% reporting the main reason for violence due to forced to do heavy workload	62.2
% collects the money sent by husbands themselves	33.2
% allowed to spend the money spent by your husband as you work	57.6
% reporting dominated those in your neighborhood whose husbands are in foreign employment	35.8
% reporting dominated those in your neighborhood whose husbands are in foreign employment	45.8

Source: Terai Human Rights Defender's Alliance, 2012.

3.4 Policy and Legal Framework

3.4.1 Policy

The GoN has given priority in foreign employment in its development plan since its Eighth Development Plan (1992-97) and the subsequent plans have provided emphasis in management of foreign employment for the reduction of poverty and creation of employment of young people. The Three Year Plan Approach Paper (2010/11-2012/13) aimed at promotion of foreign employment for the i) reduction of unemployment by developing competent and skilled human resources capable of competing in domestic and international labor markets and ii) increasing the contribution of foreign employment to poverty reduction by maximizing the benefits and minimizing the risks. The strategy is to make foreign employment safe, decent, dependable and more rewarding while initiating qualitative reforms in the entire migration cycle. Its working policy includes i) establishing high level coordination structure; ii) appointment of professional labor attaché; iii) mobilization and expansion of Non-Residence Nepali (NRN) at abroad; iv) establishing a special channel at airport; v) exploring the collaboration with the SAARC countries; vi) negotiation of labor

agreement; vii) expansion of awareness programs widely; viii) providing quality foreign employment training; ix) seeking collaboration with the financial institutions; x) encouraging outbound of migrants via International airport and xi) establishing updated data base system (Box 3.3).

Box 3.3 Foreign Employment Policy in Development Plan, Nepal

Key areas	Description
Establish high level coordination structure	Coordinate all related affairs and institutional structure dealing with foreign employment will be expanded down to the local level
Appointment of labor attaché	Prioritize labor diplomacy within economic diplomacy
Mobilize and expand NRN at abroad	Expand and promote Nepali labor market and protect and support migrant workers through NRN
Establish a special channel at International Airport	Facilitate outbound and incoming Nepali migrant workers
Explore collaboration with the countries of the SAARC region	Develop security and support systems for female workers in destination countries
Negotiation of labor agreement	Protect the rights of migrant workers
Expand awareness programs	Provide safe migration information widely
Mobilize Foreign Employment Welfare Fund	Ensure security, protection, economic relief and reintegration of migrant workers for education and health of their family members
Provide Foreign employment oriented quality training	Focus on women, Dalit, poor, marginalized communities and people from remote areas
Seek collaboration with financial institutions	Facilitate loans for foreign employment especially for the poor, disadvantaged communities and women
Encourage outbound migration from Nepal	To promote and protect the rights of migrant workers
Improve and systematize record keeping system	Establish updated and disaggregated data system of foreign employment

Source: based on NPC (2011).

In line with Development Plan, the Government of Nepal adopted Foreign Employment Policy 2068 in 2012 to increase access to Nepali workers in global labor market by increasing skills, knowledge, capacity and competitiveness and arranging appropriate management of it. Major working policies are the following:

- Identify opportunity of international labor market and promotion of it;
- Utilize maximum benefits of the foreign employment by increasing competitive and skilled human resources;
- Make easy, transparent, trustworthy and safe foreign employment processes in all life-cycle of migration (preparation, pre-departure, departure, working at destination country, return and use of the remittances);
- Ensure rights of the WMWs by addressing the issues of women rights violation in all migration cycles;
- Ensure good governance in foreign employment management;
- Mobilize local, national and international resources for the management of foreign employment and develop the regional coordination and
- Mobilize remittances for human development and productive sector.

In 2012, the GoN has formed a Task Force to provide suggestion for the well management of foreign employment. The Report of the Task Force dealt with the problems and challenges of foreign employment management and juxtaposed action plan in matrix form (areas for problem, ways to address the problem, indicators for monitoring, leading responsible organization for addressing the problem, facilitating organization and timeframe). The Report provided immediate actions to be taken by the Government of Nepal in the following areas:

- Control of fraud and deception through reform and improvement in service delivery of the DoFE, Foreign employment Tribunal, Immigration Office and strengthening the Embassy to deal with the cases of fraud related to foreign employment

- Control of corruption by establishing CC TV in the Branches of DoFE and arranging banking system for daily transition
- Management of agents in foreign employment by posting of the name of registered agents in the website of the DOFE, providing information about the agents to the concerned district administration offices and punishing the agents illegally operating in the country
- Facilitation of the labor permit for individual basis by establishing counters in appropriate places for registration and by mobilization of the volunteers from NGOs for registration of migrant workers on free basis
- Verification of employment agreement of caregivers and domestic workers in Gulf countries, Israel and Malaysia by the concerned Embassies
- Design separate stickers with different colors of those who go through institutional basis, individual basis and as domestic workers
- Establishment and operation of online system in the Ministry, Embassies
- Make labor renewal easy if the following documents are submitted: passport, evidence of labor approval, departure and arrival sticker in the passport, and receipts of Welfare Fund and Insurance
- Make adequate infrastructure in the DoFE and employ trained human resources in the DoFE with knowledge and skills in handling computers and do not transform the staff frequently
- Appoint immediately labor attaché in countries with 5,000 or more workers
- Develop software to verify the salary, work, name of company, security, duration of work, airfare and ticket for ensuring security in contract agreement
- Establish on line information of recruiting agencies, medical centers, orientation institutions
- Establish separate labor desk in the Tribhuvan International Airport and provide adequate information about foreign labor migration

- Ensure that the domestic workers and caregivers are provided adequate skill training by monitoring of training institutions
- Fix the minimum remuneration in countries where it has not been done and conduct MOU
- Control of fraud in advertisement
- Ensure that the workers are not sent in visit visas in Gulf countries, Israel and Malaysia
- Request Government of India through diplomatic channels that regulate the Nepali labor migrants who go through Indian airport without labor permit
- Provide adequate skill and language training to workers
- Arrange loans for foreign employment for females in collaboration with *Nepal Rastra Bank* (central bank)
- Establish records of returnees in the airport
- Make provision of issuing passports from all districts in the country
- Manage the branch offices of recruiting agencies outside the valley
- Monitoring of service delivery institutions – Insurance company, orientation institutions and Recruiting agencies

3.4.2 Legal Framework

The following are the legal measures to regulate foreign employment adopted by the Government of Nepal:

- Foreign Employment Act 2064 (2007) and Foreign Employment Regulations 2064 (2007) (First Amendment);
- Guideline for Operation of the Department of Foreign Employment 2066 (2009);
- Guideline for the Operation of Foreign Employment Promotion Board 2068 (2010);
- Regulation of Foreign Employment Tribunal 2068 (2012);
- Operational Guideline for the Management of Domestic Workers 2067 (2011);
- Instruction Manual for Technical Workers to Send to Japan 2066 (2010) and
- Operational Guideline for Nepali Caregiver 2068 (2012).

Key provisions included in these legal instruments include enhancing protection mechanism, obligation of recruiting agencies to provide comprehensive employment contracts to the workers and provision of penalties. Protection mechanisms are enhanced by making mandatory skill and orientation training; establishment of a Welfare Fund; provision of health check-ups, shelters and legal assistance; appointment of labor attachés; creation of a Labor Desk in international departure point in Tribhuvan International Airport, Kathmandu. The penalties are provisioned as fines and imprisonment from 3 to 7 years for offenses such as sending of minors abroad, operating recruiting agencies without a license and sending workers to countries not approved by the government. Further, the FEA and FER reserve the right of the GoN to enter into bilateral labor agreements with foreign countries; prohibits gender discrimination and creates the legal basis for the appointment of Labor Attachés and the establishment of Foreign Employment Welfare Fund, the Foreign Employment Promotion Board, and the Foreign Employment Tribunal.

Several scholars as well as organizations such as American Bar Association (2011) pointed the loopholes in the FEA that it does not differentiate between the formal and informal sectors, such as domestic work. Domestic work is also not governed by the labor laws of many major destination countries of Nepali migrant workers. Therefore, the Ministry of Labor and Employment (MoLE) has recently issued a directive recognizing domestic work as a legitimate form of employment. The directive requests employers in Kuwait, the UAE, Saudi Arabia, and Qatar to follow special procedures prior to hiring a Nepali domestic worker. These include submitting documentation about their economic status to the Embassy of Nepal and obtaining the Embassy's approval to hire a Nepali citizen. In addition, the directive prescribes the conditions of work, namely, minimum wage, safety assurance, accommodation standards, and insurance. The directive, however, has no legal status in the destination countries.

It is also argued that both HTTCA 2007 and FEA 2007 do not sufficiently define trafficking in persons in relation to foreign employment migration. This has led to a critical lack of conceptual clarity among key justice system stakeholders in Nepal about the legal classification of cases involving exploitation of Nepali migrant workers (American Bar Association, 2011).

3.4.3 Institutionalization of Migration Process

Ministry of Labor and Employment (MoLE) is the key line agency for the regulation of foreign employment. It can also play a significant role in combating trafficking in persons for the purpose of labor exploitation. The MoLE 's foreign employment-related functions are handled by the DoFE while the promotional and welfare functions are handled by the FEPB.

The DoFE is the central body which prime function is to exercise regulatory function: i) provide licenses of recruiting agencies and renewing, cancellation and monitoring of the recruiting agencies; ii) provide labor permit to those who go for work at abroad; iii) handle complaints related to foreign employment and investigate and prosecute; iv) control the fraud in foreign employment; v) provide permission to the pre-departure orientation training institutes and monitoring and vi) work for the protection of the rights of the migrant workers.

The FEPB deals with the welfare of migrants, promotion of overseas employment, monitoring of pre-departure orientation and conducts research. It provides the rescue services, economic support, support to strengthen the diplomatic missions, repatriation of corps to home country, rehabilitation and reintegration programs, information about safe migration through its website of fepb.gov.np and other means, establishment and operation of safe houses, promotion of foreign employment, study and research. Under the information on safe migration, the FEPB in the FY 2010/11 updated its website of fepb.gov.np which includes: things to be remembered by the workers; Nepalese Embassies/Consulate and Labor Attaché; Helping institutions/agencies; Economic support provided through the Board; Work and services of Migrant Resource Center; Countries opened up for foreign labor employment; Institutions permitted to provide the orientation training (50 institutions with information on Permit number, name of the institution, address and phone number); Recruiting agencies permitted dealing of foreign employment recruitment; Expenditure required for foreign employment and Jingle (12 jingles – songs, information, etc.) and Television Spot.

Another structure for the regulation of foreign employment is the Foreign Employment Tribunal. It is an autonomous authority that deals with cases related to foreign employment in a speedy manner.

Pursuant to FEA 2007, the GoN is obliged to appoint Labor Attachés in countries which receive 5,000 or more Nepali migrant workers or 1,000 woman migrant workers. The Labor Attachés have the responsibility of ensuring the rights and interests of workers, providing the GoN with information on the conditions of labor and employment, assisting in the resolution of disputes between workers, employers, and recruiting agencies, managing the rescue and repatriation of Nepali workers, undertaking steps to conclude bilateral labor agreements. The Government of Nepal has already appointed six Labor Attaches (in Malaysia, Qatar, South Korea, Saudi Arabia, UEA and Kuwait). It is reported that GoN is planning to appoint four Labor Attachés in Hong Kong, Israel, Japan and Oman.

The GoN has established a Labor Desk at the international airport to examine whether workers proceeding for foreign employment in accordance with the FEA 2007 or not. The workers are expected to show the labor permit, labor agreement, health insurance certificate, orientation certificate, receipt or voucher of payment of money as well as necessary documents at the desk. While this provision has helped regulate the illegal outflow of workers, it has also added to the bureaucracy and a place for corruption. Further, NGOs such as ABC Nepal and Maiti Nepal have jointly established an Information Desk at the international airport for providing information and services of safe migration.

The MoLE with the support of IOM established a migration resource center to provide information and counselling to potential migrant workers in February 2010. In addition, a number of I/NGOs including the Ministry of Information and Communication conducted awareness program on safe migration through Radio, and Television and distributed Information, Education and Communication (IEC) materials about the specific countries. Major media houses have also been publishing news and views about safe migration and foreign employment.

Foreign Employment Recruiting and Service Agencies

Nepal has developed a large foreign employment infrastructure, namely, recruiting agencies and service agencies such as medical check-up, pre-departure orientation training centers and insurance companies. However, majority of them are located in Kathmandu valley and there is also lack of strong monitoring of these foreign employment infrastructures.

In the FY 2011/12, the records of the Department of Foreign Employment show that there are 765 recruiting agencies in operation in Nepal (Table 3.13). Among them, 45 recruiting agencies were permitted to operate outside the Kathmandu valley⁹. A total of 49 medical centers have been authorized to conduct medical tests and there are nine Insurance companies permitted for insurance for the workers. Data also reveal that there were 116 license holder agents in 80 recruiting agencies (ranging from one agent to four in a recruiting agency). The process of issuing license for agents initiated since the FY 2007/08 but record indicates that the majority of agents, namely, 107 out of 116, took license in the FY 2011/12. Among the 116 agents, 7 agents' working areas have not been fixed while for the rest, the working districts were defined. Accordingly, there were 15 working districts of the agents – being highest number of agents in Jhapa district (48). This is followed by Sunsari (25), Kaski (9), Dang (4), Udayapur and Taplejung (3 each), Illam, Chitawan, Dhankuta, Dhanusa, Panchthar, Banke, Morang, Rupendehi (2 each) and one in Sarlahi.

⁹ They were located in Sunsari (14), Jhapa (12), Kaski (9), Rupendehi (4) and one in Chitawan, Tanahun, Illam, Dang, Siraha and Taplejung each.

Table 3.13 Number of agencies providing foreign employment services, Nepal

Agencies/Agents	Number
License holder agencies currently in operation	765
License holder agencies permitted for operation of Branch Offices	45
Medical check-up services	205
Orientation institutions approved and currently running	49
Orientation institutions cancelled	9
Insurance companies	9
Agents	116
Recruiting agencies provided licenses for agents	80
Agents registered year	
2007/08	3
2008/09	0
2009/10	3
2010/11	3
2011/12	107

Source: <http://www.dofe.gov.np/en/#> (Accessed on November 2, 2012).

3.4.4 Responses of Government and Constitutional Bodies

Activities Carried out by the Ministry of Labor and Employment

The MoLE and its subordinate offices have carried out the following activities to regulate foreign employment in the FY 2010/11 and FY 2011/12.

Pre-departure orientation training and caregiver training – The MoLE has prepared curriculum for caregiver training in the FY 2011/12.

Relief Package – As the relief package, the GoN provides economic support to the families of the deceased and persons who were injured/disabled at abroad.

Coordination and Networks – As per the coordination and networking, the Government has initiated Inter-ministerial Coordination Committee.

Welfare Activities – In the FY 2010/11 and 2011/11, the Government established Safe House in UAE, Qatar, Saudi Arabia and Kuwait. It also established Fund for Blood Money for those in stringent crime cases in the foreign country and Seed Money Fund for the legal advocacy.

Protection of Measures for Women Workers –According to the Director General of DOFE (based on paper presented in NHRC, 2012 workshop), diplomatic missions at abroad have been facing challenges to protect the rights of Nepali migrants workers especially of women. This is because the demand for labor in the main preferred destination countries such as Hong Kong and Israel for women has declined. Majority of WMWs are undocumented in Gulf countries where Operational Guideline of Domestic workers could not be effectively implemented. The Guideline covers Saudi Arabia, Qatar, Kuwait and UAE. The Guideline has following nine sectors: determination of minimum wages, requirement of insurance, economic status of the employer of the domestic workers, safe shelter for the workers, social status of the employers, permission letter from the concerned authorities to keep the domestic workers, guaranteeing the security of the workers, regular communication including other required information as needed by the Embassy. Further, there is lack of legal treatment to the victims of domestic workers and no proper management of Safe Houses.

For further protection of WMWs, the GoN on August 2012 decided 30 years as minimum age to those women who go for foreign employment for domestic work. The decision was made on the ground that domestic workers have to work long (18-19 hours/day) and face several violence and abuses. It is also reported that minor women are sent to as domestic workers by increasing their age in their citizenship certificate and passports. Although the restriction aimed to protect minors from exploitation and violence, it also restrains the rights to mobility and employment of adult women (those who already attained 18 years and above) as equivalent to men.

Concerns of the Prime Minister Office and Constitutional Bodies

On time to time, the Office of the Prime Minister and Council of Minister, Commission for the Investigation of Abuse and Authority and National Vigilance Center has instructed the MOLE for the regulation of foreign employment. The key instructions, decisions and suggestions provided by these organizations mainly relate in the following issues.

- Verification of the employment agreement by the concerned Embassies of the those who go on the individual basis;
- Updating of data in the DoFE and maintain records of emigrants and immigrants every day in the Tribuvan International Airport;
- Establishment of First Track complaint handling system in DoFE, and deputation of experienced and skilled human resources in the Investigation and Complaint Handling Section.
- Reduction of corruption and irregularities in DoFE and FEPB and managing CC TV in major places of labor permit in DoFE ;
- Reduction of fake dealing in foreign employment by the recruiting agencies and agents and stringent punishment who are found guilty;
- Strong monitoring of recruiting agencies and agents from the central level to the district level by devolution of monitoring authority to the District Administration Offices;
- Well regulation of Tribhuvan International Airport to discourage corruption and fraud (Labor Desk, Immigration Desk, Aircraft Counter and Security personnel);
- Discouraging the sending of persons on the individual basis rather than institutional basis so that the agencies to be made responsible for foreign employment dealing and processes;
- Making sticker distinct for those who go on the individual basis and institutional basis;
- Revision of amount of deposit required to offer licence of recruiting agencies;
- Fast service delivery from the DoFE and FEPB and decentralization of authorities of these organizations to the district level;
- Appropriate use of the Welfare Fund established under FEPB and reduction of misuse of the Fund by the Ministers and Government authorities from the Fund;
- Timely compensation to the victims; and
- Strengthening Nepalese Missions at abroad for dealing with labor issues in coordination with Ministry of Foreign Affairs.

3.4.5 Responses of National Human Rights Commission Nepal

The Interim Constitution of Nepal, 2063 (2007) has envisioned NHRC as a constitutional body for the protection, promotion and effective implementation of human rights (Article 32). Since its establishment in 2000, the NHRC has expressed concern on the complaints, information received by the victims of foreign employment and taking actions on the complaints. NHRC has been dealing with the problems of migrant workers by coordinating its activities with the human rights organizations, national human rights institutions, GOs and NGOs in the country and in the major destination countries of Nepali migrant workers. NHRC receives complaints and investigates it and makes recommendations based on the investigation on the complaints. In addition, it carries out the following activities: promotional and awareness activities; coordinating and collaborating with concerned agencies; publishing and disseminating materials on monitoring, study, research and promotional activities; organization of trainings, interactions, seminars and talk programs regarding safe migration issues and international treaties and national laws regarding the rights of migrant workers.

The following are some of the key initiatives and activities carried out by NHRC since its establishment in relation to the protection and promotion of rights of Nepali migrant workers (see NHRC, 2012: Rights of Migrant Workers: Thematic Booklet for detailed):

1. Signed a Memorandum of Understanding (MoU) with national human rights institution of South Korea. The MoU allows Nepali workers to file a complaint in Nepali language in the NHRC of Korea and it also allows Korean citizens to file complaint in the Human Rights Commission of Nepal and work for the protection of their rights.
2. Drew attention to the human rights institutions at abroad to give support to the Nepali migrant workers who have received death sentence such as Japan, Qatar, Indonesia and Yemen.
3. Took various measures to protect the rights of migrant workers by requesting to the Human Rights Commissions of Afghanistan, Malaysia and India. It appealed to the Human Rights

Commission in Meghalaya of India on the matter of the violation of human rights of the Nepalese speaking migrant workers.

4. Conducted a residential national workshop in April 2012 on the subject of current situations, challenges and different measures to be taken up in future for the welfare of the migrant workers. In that program, a 34-point conclusion as Way Forward was conceived on the matter of the protection of rights of the migrant workers.
5. Received 103 complaints related to fraud, deception on foreign employment in its central office and its regional and sub-regional office since its establishment to June 2012.
6. Undertaking coordination and collaboration with MoLE , DoFE, FEPB and Ministry of Foreign Affairs for the implementation of policy recommendations.
7. Undertaking collaboration with the civil society through its regional and sub-regional offices in all five Development Regions in Nepal. It has been maintaining its collaboration with the NGOs including Pourakhi, People's forum, and National Network for Safe Migration (NNSM) and PNCC. NHRC involved in the Human Rights National Magna Meet - 2009, 2010 and 2011 where more than 150 organizations involved.
8. Undertaking collaboration with the media and NHRC has been broadcasting messages on the rights of the migrant workers through media such as radio and television.
9. Developed cordial relationship and collaboration with the Office of the United Nations High Commissioner for Human Rights in Nepal (OHCHR-Nepal), European Union and UN Women for the protection of rights of migrant workers and enhancing the capacity of the staff of NHRC.

3.5 Law Enforcement Status and Judicial Responses

The mechanism for law enforcement is as follow: migrant workers register a complaint with the Department of Foreign Employment. Once a complaint is registered, an investigation is carried out. If there is enough evidence against the accused, then the case is tried at the Foreign Employment Tribunal. Table 3.14 shows the number of complaints registered in the DoFE since FY 2008/09 to FY 2011/12.

Data reveal that there are two types of complaints registered in the DoFE: individual basis and institutional basis. An individual complaint means that a person is cheated by an agent or sub-agent at his/her individual capacity in the process of sending the person to foreign employment. An institutional complaint means that a recruiting agency is accused of cheating a person in the process of sending the person to foreign employment. The following may be inferred from the data. First, the number of complaints registered in the DoFE in relation to fraud in foreign employment has been increasing. Second, the complaints are directed for both individual basis and institutional basis – but the number of complaints against individuals is almost twice than that of the institutional basis in each of the fiscal year – indicating that large majority of complaints constitute against individuals – the agents or sub-agents. Although large majority of agents and sub-agents work under recruiting agencies in Nepal, when it comes to complaints it is not the recruiting agencies but it is the individuals. This reflects the fact that many recruiting agencies deal with migrant workers through agents or sub-agents in order to avoid the legal compliance of the recruiting agencies.

Table 3.14 Number of complaints registered in the Department of Foreign Employment, Nepal

Fiscal Year	Individual basis	Institutional basis	Total
2008/09	506	359	865
2009/10	323	332	655
2010/11	721	483	1,204
2011/12	1,370	802	2,172
4-yearly average annual number	730	494	1,224

Source: Bhattraï, 2012 (paper presented in NHRC, November 5, 2012).

In addition to complaints related to individual and agents, the Department of Foreign Employment also has the authority to renew the recruiting agencies or cancellation of the registration. A total of 265 recruiting agencies licenses have been cancelled by the Department of Foreign Employment up to August 2012 due to violation of measures and provisions set forth in the FEA 2007 such as deception of migrant workers, providing the false contracts, collection of higher fees than the Government stipulated fees, no renewal of the agencies.

Responses to Foreign Employment Tribunal on Cases Related to Foreign Employment

Examining the records of the Foreign Employment Tribunal, there are generally two types of cases registered in the Tribunal. One related to individual and another related to institutional (against recruiting agency). Yet more than 90 per cent of the cases registered are against the individuals (agents).

As summarized in Table 3.15, a total of 276 cases were registered in the Foreign Employment Tribunal from January 2011 to September 2012. Among them, 252 cases are pending: 160 cases within one year, 42 cases 1-2 years and 50 cases 2 years and more. When enquired about the long pending of the cases to the Tribunal authorities, it was found that it was difficult to call on the complainants in the Tribunal as in some of the cases there are more than 35 defenders. The defenders come from different parts of the country and it was difficult to locate them due to the wrong address and name provided in the cases.

Among the 24 cases decided in 2011, 7 cases were accused, 16 cases were convicted and one case was in *Multabi* (pending of cases due to various reasons). The record of the conviction reveals that both imprisonment and fine are imposed by the Tribunal. The imprisonment ranges from one year to three years and fine ranges from as minimum as Rs. 150,000 to Rs. 300,000 excluding the amount of compensation claimed by the complainants. *Multabi* case was related that the offender registered the case in the district court claiming that the case was not related to foreign employment, but rather related to household affairs.

Table 3.15 Number of cases related to offences of foreign employment registered in the Foreign Employment Tribunal (from January 1, 2011-September 30, 2012)

Categories	Number
Number of cases	
Cases from the past year	246
Cases of this fiscal year	30
Total cases	276
Pending cases	
Within one year	160
1-2 years	42
2 years and more	50
Total pending cases	252
Number of cases decided in 2011	24
Accused	7
Convicted	16
<i>Multabi</i>	1

Source: Office Record of Foreign Employment Tribunal, data access on October 10, 2012.

With the discussion of the Chairperson of the Tribunal, it was found that all the cases registered in the Tribunal may not be related to the real offences of foreign employment. There has been increasing trend to register the cases even related to *Dhukuti* (a type of group in which money is deposited and invested among the group members in rotation), exchange of household affairs, buying and selling of land. This happens mainly with the female complainants. It is reported that the false foreign employment cases may come to the Tribunal in order to avoid the Court Fee and once the case is registered in the Tribunal, the case becomes the Government case.

The Chairperson of the Tribunal reported that there are no cases registered till now in the Tribunal related to sexual exploitation and children.

According to the Chairperson of the Tribunal, there are three reasons for low conviction rates in the foreign employment related cases. First, it is mainly due to low competency of the investigation authorities and negligence in registration of the case in the Tribunal. In the case of foreign employment, the investigation authority is the Department of Foreign Employment. But, its investigation capacity in terms of trained human resources, equipment and commitment is questioned. The

statement of the Investigation is reported not often in *Kanuni dhacha* (legal design). Driver and non-graduates staff are often sent to register the cases from the Department of Foreign Employment to the Tribunal. They may not properly understand the instruction from the Tribunal about the cases. Second, there is lack of awareness of the applicants that they should present *Baka patra* (statements) in the Department of Foreign Employment. Finally, there is lack of evidence as the Tribunal verdict is mainly based on the evidence and FEA 2007. The Chairperson of the Tribunal confessed that the Tribunal has not yet studied the similar cases from other countries.

The Chairperson of the Tribunal reported that the Government has not provided adequate staff to the Tribunal. Currently, there is 16 sanctioned staff but not all are posted in the Tribunal. The Supreme Court has not heard about the Tribunal as the Tribunal was established by the Government. So, the management of the Tribunal lies on the Government. It was complained that there is no computer operators, officer helpers and security (Police). Security of the Judges and staff is very vital.

Responses to Courts on Cases Related to Foreign Employment

Drawing on the information provided by the Annual Report of Office of the Attorney General, the caseload and decision status of the cases on foreign labor migration in the Supreme Court, appellate court in the FY 2010/11 were the following:

- In the Supreme Court, nine cases were registered. Of which 3 cases were decided – 1 case convicted and 2 cases acquitted.
- There were 30 foreign employment cases registered in appellate court in the FY 2010/11. Of them, 28 were in Patan and 2 in Biratnagar appellate courts. It appears that the number of cases registered in the appellate courts started declining since FY 2008/09. For example, in FY 2009/10, a total of 155 cases were in appellate courts in the country and the figure was 126 in the FY 2008/09.

- A total of 317 cases were registered in Kathmandu and Lalitapur district courts. Note there was only one case in Lalitapur and there were no cases registered in other remaining districts in the country. Of the total cases registered in all district courts, 118 were decided by the courts and the overall conviction rate was 67 per cent (Table 3.16).

Table 3.16 Overview of foreign labor employment cases in the District Courts, 2010/11, Nepal

Categories	Number
Total cases registered	317 (763)
Number of cases convicted	79 (242)
Number of cases acquitted	39 (117)
Number of cases pending	199 (404)
Total cases decided	118 (359)
Conviction rate (% of the decided cases)	66.7

Note: Figures in parentheses refer to the number of defenders.

Source: Annual Report of OAG, Nepal, 2010 and 2011.

3.6 Responses of NGOs and Civil Society

There are number of NGOs/Civil societies that are working for the protection/promotion of rights of migrants and their families. Some NGOs entirely focus on safe migration while other organizations such as Maiti Nepal, ABC Nepal and WOREC have shifted their focus from entirely anti-trafficking issues to the safe migration issues. Some of the leading NGOs/civil societies mainly focusing on safe migration issues include the following: National Institute of Development Studies (NIDS), Pourakhi, People Forum, PNCC, Migrants Center, NRN, Nepal Health Professional Association including trade unions such as General Federation of Nepalese Trade Unions (GFONT) and Nepal Association of Foreign Employment Agencies (NAFEA).

National Network for Safe Migration – It was established in 2003 to respond to the modern phenomenon of foreign labor migration and to protect the rights and interests of Nepali migrant workers. The Network currently encompasses 12 organizations, including NDIS, PPR Nepal,

Pourakhi, Civic Concern Nepal, Forum for Women, Law and Development (FWLD), WOREC, NAFEA, and Youth Action Nepal (YOAC).

NIDS – It is a non-governmental research organization established in 1998. It carried out studies on migration patterns and linkages between remittances and gender, livelihood, and development. It also pursued safe migration lobbying and policy advocacy.

Pourakhi – It was established in 2003 by the returnee WMWs. It aims to ensure safe migration and the rights of WMWs in the entire process of foreign employment by providing pre-departure sensitizing training on safe migration and raising public awareness through the National Radio program. It also provides post-return counselling and legal services to victims of exploitation. In the FY 2010/11, Pourakhi provided shelter to 222 distressed WMWs and paralegal services to more than 500 WMWs. Majority of them were rescued from different destination countries. Pourakhi has been implementing safe migration related programs in 76 VDCs of 15 districts: Kathmandu, Sindhupalchok, Dhading, Makwanpur, Chitawan, Rupandehi, Gulmi, Kaski, Bardiya, Kanchanpur, Jhapa, Morang, Sunsari, Sarlahi and Nawalparasi (Box 3.4).

Box 3.4 Safe migration related activities of Pourakhi, Jan 2011 – Dec 2011

Activities	Districts	Outcomes
Prevention Home	Kathmandu	Provided shelter to 117 migrant workers
Non-formal education	15 districts	More than 5000 people
Formal education	5 regions	32 children's are getting scholarship through Child Education Fund.
Micro-credit/Income generation	Kathmandu, Sunsari, and Kaski	
Awareness raising	15 districts	More than 5000 people aware
Dissemination of existing laws/policies	15 districts	More than 5000 people are informed
Community surveillance	15 districts	836 people are involved in reducing unsafe migration
Lobbying and advocacy	Central Level and 15 districts	Government is more sensitive towards the issue of safe migration

Pourakhi in partnership with United States Agency for International Development (USAID) has been implementing Counter Trafficking in Persons (C-TIP) project in Sindhupalchok and Kathmandu districts since August 2010 and the project will terminate in mid-2015. In Kathmandu, it has formed Safe Migration Network (SMN) in 10 VDCs and in Sindhupalchok; SMNs have already been formed in 40 VDCs. The Safe Migration Networks conduct community awareness programs such as rally, street drama, documentary show, interaction with the local government bodies and communities. In addition, Pourakhi provided different entrepreneurship and skill training to the returnee WMWs.

*People Forum*¹⁰ - It has been working in safe-migration issues since FY 2009/10 in partnership with ILO, Foreign Employment Promotion Board, Safe Immigration Plan, Helvetas, Swiss Interoperation Nepal, UN Women and European Union.

Its main activities since its establishment are the following:

- Conducted research study on the implementation status of Foreign Employment Act;
- Created lobby in the Constituent Assembly to include the rights of the migrant workers in the Constitution;
- Provided training to the VDC Secretaries about the legal provision of foreign employment and migration;
- Registered writ petition in the Supreme Court for the establishment the Department of Foreign Employment, Foreign Employment Tribunal and Labor Attaché and the Supreme Court gave verdict on this issue;
- Conducted legal literacy program about the law of foreign employment at the village level and schools; publication of books regarding the labor laws of the destination countries and other IEC materials;

¹⁰ The activities are based on the paper presented by Mr. Som Luitel, President, People Forum about the Foreign Employment Act 2007 and Challenges of Implementation of it. The Paper was presented in March 19, 2012 in a workshop organized by NHRC in Kathmandu.

- Provided para-legal training to the migrant workers and providing the advice to the Government about the legal and policy aspects of foreign employment.

In the FY 2010/11, its program activities were in some VDCs of Kathmandu, Jhapa, Dolakha, Kanchanpur, Gulmi, Kaski, Rupandehi, Chitawan, Nawalparasi, Dhading, Kathmandu, Makwanpur, Sindhupalchok, Sarlahi, Sunsari and Morang. In these districts, it provided legal aid, training for the social teachers, and orientation program for government and NGOs service providers and media advocacy on safe migration. It has been conducting a Baseline Survey in 15 districts about migrant workers, policy makers and service providers (Final Report has yet to come up). From January 2011 to December 2011, it handled 61 cases related to foreign labor migration. Of them 27 were assisted to file in the Police and 18 cases were assisted to police investigation/prosecution (Table 3.17).

Table 3.17 Legal Aid Support provided by People Forum, January 2011-December 2011

	Number of cases	Number of accused persons	
		Male	Female
Total cases handled on foreign labor migration	61	45	16
No. of cases assisted to file in the Police or Dept. of Foreign Labor(FIR)	27	16	11
No of cases assisted to Police/Investigation officer (Foreign Employment Tribunal)	18	14	4

Pravasi Nepali Coordination Committee (PNCC) – It was established in 2009 as a non-profit and membership-based organization formed by migrant workers, especially from the Gulf countries. The organization works to ensure the rights of migrant and domestic workers through counselling, advocacy, lobbying, and empowerment initiatives. It works in municipalities of Chitawan, Jhapa, Palpa, Bara and Kailali districts. It carried out the following prevention, protection and legal aid related activities during January 2011-December 2011:

- Conducted awareness program on safe migration process which benefited more than 10,000 potential migrants for foreign employment.
- Conducted more than 50 lobbying and advocacy activities in Kathmandu, Khotang, Chitawan, Kaski and Palpa districts for safe migration and protection and promotion of rights of migrant workers and their families.
- Rescued 1,092 persons from labor exploitation in Gulf and Malaysia. Of them, 37 were women.
- Reintegrated 20 returnee migrants from Gulf countries and provided self-employment training and support.
- Received 93 applications for missing persons. Of the total applications, 7 were of women.
- Provided referral services to other organizations for legal counselling, compensation from the Foreign Employment Promotion Board, Department of Foreign Employment and Embassies (no figure provided).
- Received victims of foreign employment through referral services from other organizations to facilitate victim or their family members in filing cases and getting compensation from UN Women, WOREC, Jana Sewa Samaj, Youth Action (figure not provided)
- Carried out Safe Foreign Employment Question-Answer.

Nepal Association of Foreign Employment Agencies (NAFEA) - It is an umbrella organization of 750 recruiting agencies of Nepal. Its main focus areas include: building the capacity of the members for making the foreign employment dignified and professional, implement the Code of Conduct, facilitate Government for signing the MOU and bilateral agreement with destination countries to protect the rights of migrant workers; organize national and international job fair to promote the safe labor migration, sensitize the issues of WMWs, contribute to formulate and reform the foreign employment laws and regulations and policies, publish IEC material for safe migration, help establish the investigation and sensitization program with media.

It has opened its own website: <http://www.nafea.org.np/index.php>. It provides information about FEA and FER, number of member list of the NEFA, number of license cancelled, name list of branches of recruiting agencies. NAFEA Code of Conduct outlines 37 points which should be strictly followed by the Foreign Employment Recruiting Agencies. Some of the key points relevant to combat for trafficking in persons included in the Code of Conduct have been extracted in Box 3.5. Although the Code of Conduct states that the recruiting agencies should not involve in fraud, deception and exploitation, but there has been wide criticism that many of the recruiting agencies do not comply with the Code of Conduct.

Box 3.5 NAFEA Code of Conduct

- Workers should not be sent to any foreign countries without making foreign employment agreement.
- Recruiting Agencies should encourage towards transparency of their enterprises. They should maintain transparency the service charge and promotion expenditure and keep a record of each transaction.
- The workers going on foreign employment should be made clear about the expenses like service charge, air charge, promotional expenditure and other expenses.
- Workers should not be sent for doing odd jobs, work that have adverse affect on to the health of the workers or works in which the worker is discriminated, suppressed or humiliated.
- Worker should be given required training before being sent on foreign employment, on demand, trained workers should be chosen for foreign employment.
- The worker going on foreign employment should be made well aware about the country's politics, geography, labor law, weather condition, service conditions and facilities that include salary, work hour, over time payment etc.
- Should be aware of national and international labor standards and follow them accordingly.
- Register and record of the details of the workers should be maintained. In case of accident, death or in cases where worker is sent back without any genuine cause, their family should be provided with possible support through NAFEA or any social organizations.
- It is the prime duty of the Recruiting Agency to collect information whether the worker sent for foreign employment has got the assigned job in the company or not.
- It should be immediately notified to the concerned association if any female worker or children have been used or trafficked or are bonded labor.
- Appoint Representative according to the need of the company and monitor his/her work according to the rules of the Recruiting Agency. If the Representative involves in any illegal work or works against the rules of the Recruiting Agency, it should be notified to all other Recruiting Agencies.
- Should maintain record of Staff, their qualification, appointment, terms and conditions of service and office management.

Source: <http://www.nafea.org.np/index.php?linkId=35> (Accessed on October 23, 2012).

Non-Resident Nepali Association (NRNA) – It was established in 2003 as an association of NRN residing in various countries. The NRN is defined as a Nepali citizen or a person of Nepali origin who has been staying outside Nepal for at least 183 days for employment, business or self employed excluding those residing in SAARC countries. NRNA members are reported to be spread over 56 countries. Although the strengths of the NRNA has not been known, the members of the NRNA also spread across the major foreign employment destination countries of Nepal such as Bahrain, Israel, Kuwait, Lebanon, Malaysia, Qatar, Saudi Arabia and UAE (see Annex 3.2). One of the key aim of the NRNA is to create a global network of Nepali and streamline their energy and resources to contribute to economic and social transformation of Nepal; protect the interest of NRNs in foreign countries; establish global networking and coordinate among NRNs worldwide; develop partnership with home government, business community and civil society for investing human and capital resources for overall development of Nepal; promote Nepali tourism, language, culture and literature in foreign countries; and be catalyst for attracting NRN and foreign investment in Nepal.

World Education – One of the key intervention areas of World Education is safe migration/anti-trafficking activity. Currently, it has C-TIP Project (August 2010- September 2015) funded by US Department of Labor. The project focuses on three areas: prevention, protection and prosecution and the World Education implements prevention component. The program covers Kanchanpur, Banke, Makwanpur, Kathmandu, Kavre and Sindhupalchok districts and the program has been implementing with local partner organizations.

World Education has been implementing its prevention component of C-TIP project at three layers. At the grass-route level, safe migration networks have been formed in all Village Development Committees (VDCs) of the project districts. The male, female and children are organized in the safe migration networks. The safe migration networks are expected to increase awareness on foreign labor migration and trafficking in the community and mobilize the local resources for safe migration and anti-trafficking activities. At the district level, the project works with the District Coordination Committee against Trafficking and District Development Office. At the central level, the project has

partnership with NIDS and NNSM. The main aim is to increase awareness about pre-departure, and increase advocacy for the safe-migration. The project plans to link the national networks to the district and community level in order to increase the effectiveness of the safe migration campaign.

The key intervention areas include: capacity building training to the safe migration networks, District Coordination Committee against Trafficking and VDC secretaries; sensitization of the journalists about the victims friendly news; vocational training, entrepreneurial skills to the trafficking victims and vulnerable girls and women; financial package program to the vulnerable groups (distribution of the educational materials for the proper management of the loans for foreign employment, remittance and school program) and carrier counselling training provided to the school children of grades 8,9 and 10 grades.

International Organization for Migration (IOM) – It works on economic empowerment of the victims/potentially victims of trafficking through awareness raising, capacity development and economic support, and arranging rescue and repatriation. IOM in collaboration with GoN and with NGOs like ABC Nepal, Shakti Samuha, Bishowasha Nepal, Maiti Nepal, Mahila Ko Lagi Mahila Manch and private sector implemented Trafficking Risk Reduction Project (March 2010-July 2012). The main of the project was to contribute to economic empower of trafficking victims and vulnerable groups of trafficking through multi-stakeholder approach i.e. by mobilization of Government, NGOs and Corporate Houses. Government facilitated overall implementation of the program. NGOs identified the victims/potentially victims, provided psychosocial counselling to the victims/potentially victims, carried out need assessment of the victims/potentially victims and day to day program. Corporate Houses provided technical skill development training to the victims and vulnerable girls and women for trafficking.

There were 11 Corporate Houses involved in the project. A total of 30 entrepreneurial training was provided to the victims/potentially victims related to manufacturing, operation of Canteen, beauty parlors, tailoring, handicraft, beautician, security, selling of dairy products, painting, peak

farming. A total of 210 trafficking victims/potentially victims benefited from the project. The victims comprised of those working in the dance restaurants, cabin restaurants and those who were rescued from sexual exploitation in the country and outside of the country.

According to the IOM program officer, the project was successful in its objectives but it was also learnt that it was difficult to provide psychosocial counselling as the victims/potentially victims were mobile population and it was also difficult to provide the advanced skill training to them because of their low education.

In addition, IOM assisted the Government of Nepal to enhance positive impact of labor migration (2009-2011). Under this project following activities were carried out:

- Establishment of migrant resource center in FEPB and its website is: mrcnepal.gov.np; The Migration Resource Centers were also established in Chitawan and Jhapa districts.
- Recording of the clients who contacted in the Migrant Resource Center by district, sex and purpose of the called.
- Support to FEPB to prepare Five-Year Strategic Plan of Foreign Employment.
- Establishment of Labor Migration Information System.
- Training to the Government authorities on Bilateral Labor Agreement.
- Facilitate Colombo Process.
- Financial Support to the high level visit (NPC, Ministry) to the Philippines to learn about the management of foreign labor migration.
- Study about – Remittance and Its impact on Economy in Nepal (soft copy available in IOM)
- Foreign Employment Policy Review.
- IEC materials on foreign employment – Five country specific information with basic knowledge on money, name of city, language, religion (Qatar, UAE, Malaysia, and Kuwait).
- Support to the Labor Desk in Tribhuvan International Airport.

- Distribution of IEC materials in the premises of the Ministry of Foreign Affairs for those who were issuing the passports.
- Operation of two Television- programs with safe migration message (*Muglanko dayari* – Account of Foreign Country) in Tribhuvan International Airport.

These NGOs/Civil societies perform a number of programs. However, it is reported that these programs are mainly concentrated in urban areas and relatively accessible areas – and thereby not reaching to the remote and most vulnerable places of trafficking in Nepal. Further, the sustainability of the NGOs activities was also questionable as NGOs are largely dependent on donors.

Swiss Development Co-operation – It has been providing financial and technical support to the MoLE and NGOs to promote safe migration.

3.7 Nepal in International Cooperation and Migration Forums

The Government of Nepal has initiated undertaking bilateral agreement and Memorandum of Understanding (MOU) with some of the key destination countries. Nepal has signed MOU with South Korea, UAE, Qatar and Bahrain in 2007. It also has bilateral labor agreement with Japan (JITCO - 2003), Qatar Lebanon and Malaysia (2005), UAE (2007), South Korea (2007) and Bahrain (2008). It is reported that Government of Nepal has been attempting to make labor agreement with Israel, Malaysia and Jordan. This shows increased cooperation among destination countries. The shift indicates that countries are beginning to recognize that effective migration management cooperation. This process has been facilitated by various international and regional level migration dialogues such as Global Forum on Migration and Development (GFMD); ii) the Colombo Process; iii) the 'Abu Dhabi Dialogue'.

Global Forum on Migration and Development (GFMD) – It is a non-binding initiative of the United Nations Member States to address issues of migration and development interconnections in practical ways. Its key objectives are to i) provide a venue for policy-makers to discuss about challenges and opportunities of the migration-

development nexus; ii) exchange good practices and experiences to maximize the development benefits of migration; iii) identify information, policy and institutional gaps to foster synergies in migration and development policy area at national, regional and international; iv) establish partnerships and cooperation between countries including relevant international organizations v) place the international priorities and agenda on migration and development.

Since 2007 to 2011, five meetings have already been held and discussed in different thematic areas (Box 3.6).

Box 3.6 Annual GFMD Meeting's Themes

GFMD	Where and when?	Key themes
1 st	Held in Brussels from 7-9 July 2007	Impact of migration on social and economic development (human capital development and labor mobility) Contribution of migrant resources (financial as well as skills) Policy coherence between migration and development Issues such as human rights, gender and root causes of migration
2 nd	Held in Manila, Philippine, from 27-30 October 2008	'Protecting and Empowering Migrants for Development' Introduction of shared responsibility of governments and other concerned actors in protecting and empowering the migrants and their families
3 rd	Held in Athens, Greek from 2-5 November, 2009	'Integrating Migration Policies into Development Strategies for the Benefit of All' – achieving MDGs Impact of economic crisis for the migration and development nexus
4 th	Held in Puerto Vallarta, Mexico from 8-11 November 2010	'Partnerships for Migration and Human Development -- shared prosperity, shared responsibility'
5 th	Held in Geneva, Switzerland from 1-2 December 2011	'Taking Action on Migration and Development-Coherence Capacity and Cooperation' Labor mobility and development (cluster I) Addressing irregular migration through coherent migration and development strategies (cluster II) Tools for evidence-based migration and development policies (cluster III)

Source: <http://www.gfmd.org/en/process/annual-themes> (Assessed on November 5, 2012).

The Colombo Process – It is a Regional Consultative Process on the management of overseas employment and contractual labor for countries of origin in Asia. From 2003 to April 2011, four Ministerial Consultations have already been held in different Asian countries. To date the consultations have evolved around three thematic issues of protection of and provision of services to migrant workers; optimizing benefits of organized labor migration and capacity building, data collection and interstate cooperation.

The 'Abu Dhabi Dialogue' – It is the Ministerial Consultation held between Asian destination countries and Colombo Process countries in Abu Dhabi on 21 and 22 January 2008. It brought together for the first time the Colombo Process countries with the Gulf Cooperation Council (GCC) states, Yemen, Malaysia and Singapore. Its main purpose was to provide a forum for the discussion of new ideas and concrete activities towards the development of a comprehensive framework for the management of temporary contractual labor mobility in Asia. It focused on promoting the welfare and well-being of workers in both origin and destination countries through labor mobility, inter-governmental cooperation and collaboration with the active support of international and regional partners
(<http://www.colomboprocess.org/images/stories/abu%20dhabi%20dialogue%20-%20report.pdf>).

A number of countries took part in the dialogue as participants and observers¹¹. Nepal participated in the Abu Dhabi Dialogue as the country of origin of labor.

¹¹ Other participants' countries of origin were Afghanistan, Bangladesh, China, India, Indonesia, Pakistan, Philippines, Sri Lanka, Thailand and Vietnam. Participants of countries of destination were Bahrain, Kuwait, Malaysia, Oman, Qatar, Saudi Arabia, Singapore, United Arab Emirates and Yemen. Observer countries were France, Germany, Japan, Korea (Republic of), Mauritius, Poland and the United States of America and observer organizations were Arab Labor Organization, European Commission, Gulf Cooperation Council, ILO, UN Development Fund for Women; and the United Nations Development Program (UNDP).

3.8 Ratification Status of UN and ILO International Instruments

Committee on the CEDAW General Recommendation No. 26 on WMWs 2008

Pursuant to article 21 of the CEDAW Convention, the Committee on the CEDAW issued a general recommendation on some categories of WMWs in 2008 to contribute to the fulfilment of the obligations of States parties to respect, protect and fulfil the human rights of WMWs. The Committee provides the general recommendations in three situations: pre-departure, in transit and in destination countries as violations of the human rights of WMWs occurs in all these situations.

In countries of origin before departure – WMWs face various human rights concerns such as restrictions of outmigration on the basis of age, marital status, pregnancy, occupation, specific restrictions or requirements that women must have written permission from male relatives to obtain a passport to migrate. Women are sometimes detained by recruiting agents and they may also face restricted access to education, training and reliable information on migration. WMWs may also face gender-based discrimination such as compulsory HIV and AIDS testing, requirement of ‘rehabilitation’ while they return at home. In this context, common responsibilities of countries of origin are to i) formulate a comprehensive gender-sensitive and rights-based policy; ii) involve actively WMWs including NGOs in policy formulation, implementation, monitoring and evaluation and iii) conduct research, data collection and analysis about WMWs.

In countries of transit – WMWs may face a variety of human rights violations in transit countries such as abandonment and vulnerable to sexual and physical abuse by agents. In this context, the common responsibilities to the countries of transit are to provide training, monitoring and supervision of government agents; protect against violations of WMWs rights; take active measures to prevent, prosecute

and punish all migration-related human rights violations and provide appropriate services to the abandoned WMWs.

In countries of destination – WMWs may encounter multiple forms of discrimination including labor exploitation and sexual exploitation. In this context, the general recommendations to the countries of destination include: lifting of discriminatory restrictions on immigration; legal protection for the rights of WMWs; access to remedies; legal protection for the freedom of movement; non-discriminatory residency regulations; training and awareness-raising and monitoring systems to ensure that recruiting agents and employers respect the rights of all WMWs; access to culturally and gender-sensitive services; ensuring the rights of WMWs in detention; social inclusion of WMWs by adopting policies and programs with the aim of enabling WMWs to integrate into the new society and protect undocumented WMWs.

In addition, establishing bilateral and regional cooperation and monitoring and reporting system on the enforcement and effectiveness of laws, policies and programs and ratification or accession to relevant human rights treaties especially the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

By December 2012, a total of 58 countries have either signed or ratified UN Convention on the Rights of Migrants Workers and their Families, 1990. None of the major destination countries of Nepali migrants such as Gulf countries has not either signed or ratified the Convention. In SAARC countries, only Bangladesh signed the Convention and Sri Lanka ratified it while Nepal, India, Pakistan, Bhutan and Afghanistan, Mali have yet not either signed or ratified the Convention (Annex 3.3).

International Steering Committee for the Campaign for the Ratification of the Migrants Rights Convention discussed about reasons for ratification of the UN Migrant Workers Convention as follows:

- Putting in place the legal foundation essential for national migration policy;
- Upholding and strengthening the rule of law by ensuring that legal norms define the basis of labor migration policy;
- Contributing to ensuring that legal parameters define treatment of all persons on the territory of a country by setting the extent and limits of human rights of migrant workers and members of their families;
- Signaling that origin countries demand respect for the human rights of their nationals abroad; reinforcing the sovereign exercise of a State's prerogative to determine labor migration policy;
- Obtaining public support for and compliance with labor migration policy;
- Strengthening social cohesion by establishing that all persons must be treated with respect;
- Discouraging the 'commodification' of migrant workers;
- Reducing irregular migration by eliminating labor exploitation;
- Facilitating the establishment of effective national policy by calling on advisory services;
- Obtaining clear guidance for bilateral and multilateral cooperation and obtaining international guidance on implementation of legal norms.

3.9 Challenges

In Nepal, foreign labor migrants comprise of a substantial share of the Nepalese population and the share has been increasing over the years. It has become widespread and an across the board phenomenon spatially, socially and economically. Foreign labor migration has been taken place across the country despite some central Terai districts and west hills have large proportion of foreign labor migrants. Nepal has

been increasingly experiencing not only the male migration – a traditional form of migration – but also female migration. However, Nepalese labor migrants largely constitute an unskilled labor and more than 80 per cent of WMWs are in informal, unorganized sector working as domestic workers and caregivers. This means workers to end up in more laborious, time consuming, low paid and more exploitative nature of work. Studies¹² reveal that migration is successful when the participant has:

- a reasonable level of educational attainment, preferably to high school level;
- a skill base and a training such as carpentry, plumbing, masonry, electrician etc.;
- a social network in order to obtain timely and authentic information;
- a reasonable asset base at the household for provision of loan and self-confidence

Widespread fraud, deception is involved in foreign employment by the recruiting agencies, agents and sub-agents. The deception and fraud also involve in the service providing agencies such as Pre-Departure Orientation institutions, medical centers and insurance companies. Corruption and irregularities are also frequently reported in the DoFE, FEPB, service providing agencies including in the Tribhuvan International Airport. Ensuring that all migrant workers have access to an effective complaints mechanism is crucially important to protect migrant workers from deception and fraud. These mechanisms should be decentralized, transparent and have adequate resources.

¹² Based on paper presented by Dr. Bhim Prasad Subedi (2012) in a national consultative workshop with Youth about International Conference on Population and Development Beyond 2014 Review Process organized by Ministry of Health and Population on November 25, 2012 in Kathmandu.

All the Government's service providing agencies are located in the Kathmandu valley while the foreign labor migration has widespread across the country. This demands decentralization of Government services at least to the district level.

One of the key challenges is to protect the rights of WMWs while ensuring the rights to mobility as par with the men. Protection of women from violence, abuse and exploitation in the destination countries especially in GCC countries requires intervention program within the country and in the destination countries. Within the country, there is need of effective implementation of FEA 2007 and FER 2008 and ending discriminatory practices against women migrants, such as introducing absolute bans based on gender alone, and requiring women to get written permission from family members before receiving government permission to migrate.

There is also need of expansion of awareness programs reaching to the most unreached population. There should be mandatory provision for skill training and pre-departure training for women domestic workers and caregivers.

In the destination countries especially in Gulf countries, there is difficulty in filing and fighting cases for migrant workers and lack of long term Safe Houses for victims. The GoN has appointed Labor Attaché only in six countries and has yet to appoint in other major destination countries of Nepali labor migrants. While the GoN has opened up 108 countries for foreign labor migration for Nepali people but there are only 27 Nepali Embassies at abroad.

Bilateral agreements should be promoted between Nepal and country of destination with adequate provisions to ensure security and mechanisms to deal with violence against women during employment. There should be special MOU and/or contracts to ensure protection

and security of WMWs working in informal sectors. There is need to ratify and implement ILO Convention 189 on Domestic Work; the 1990 UN Convention on the Protection on the Rights of all Migrant Workers and Members of their Families; UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, including incorporating into national legislation a definition of trafficking which includes trafficking for labor exploitation.

Finally, reintegration programs have to be introduced by Government for returnee WMWs to minimize force migration and as alternatives.

Chapter 4

MONITORING OF ANTI-TRAFFICKING ACTIVITIES

This Chapter assesses the anti-trafficking activities and programs carried out by GOs, external development partners (EDPs), INGOs and NGOs.

4.1 Nepal in TIP Reports

The United States of America has been publishing Trafficking in Persons Report annually since 2001. It places countries around the globe in monitoring of trafficking in four categories: Tire 1, Tire 2, Tire 2 Watch List (WL) and Tire 3. Tire 1 are countries whose governments are fully comply with the Victims of Trafficking and Violence Protection Act 2000 minimum standards. Tire 2 are countries whose governments do not fully comply with the Act's minimum standards, but are making significant efforts to bring themselves into compliance with those standards. Tire 2 WL are countries whose governments do not fully comply with the Act's minimum standards, but are making significant efforts to bring themselves into compliance with those standards and Tire 3 are countries whose governments do not fully comply with the minimum standards and are to making significant efforts to do so.

Box 4.1 summarizes the compliance in combating trafficking in five countries of SAARC region. Nepal has been remained in Tire 2 since 2006. This indicates that Nepal has yet to make a sustained effort to combat trafficking in relation to: i) investigation and prosecution of trafficking crimes; ii) protection of trafficked victims/survivors, iii) adoption of effective preventive measures; iv) cooperation and

collaborative efforts with other Governments in investigation and prosecution of trafficking, v) extraditions of persons charged with trafficking as a serious crime and vi) monitor migration patterns for evidence of trafficking and investigations. Bangladesh has slipped into Tire 2 WL in 2010 and 2011 from Tire 2 in 2009 mainly because it did not show evidence of increased efforts to prosecute and convict labor trafficking offenders and prevent the forced labor of Bangladeshi workers aboard. India remained Tire 2 WL from 2004 to 2010 but raised its place to Tire 2 in 2011; Pakistan has been remained in Tire 2 since 2005 and Sri Lanka was placed in Tire 2 WL in 2010 but again placed in Tire 2 in 2011.

Box 4.1 Comparing Nepal’s progress in combating trafficking in persons with other SAARC countries, 2004-2012

Year	Nepal	Bangladesh	India	Pakistan	Sri Lanka
2004	Tier 2	Tire 3	Tire 2 WL	Tire 2 WL	Tire 2
2005	Tire 1	Tire 2 WL/2	Tire 2 WL	Tire 2	Tire 2
2006	Tier 2	Tire 2	Tire 2 WL	Tire 2	Tire 2
2007	Tier 2	Tire 2	Tire 2 WL	Tire 2	Tire 2
2008	Tier 2	Tire 2	Tire 2 WL	Tire 2	Tire 2
2009	Tier 2	Tire 2	Tire 2 WL	Tire 2	Tire 2
2010	Tier 2	Tire 2 WL	Tire 2 WL	Tire 2	Tire 2 WL
2011	Tier 2	Tire 2 WL	Tire 2	Tire 2	Tire 2

Source: UNODC TIP Reports of 2009, 2010, 2011 and 2012 of US Government.

4.2 Government Activities in Response to Trafficking

The GoN for the first time adopted NPA against Trafficking in Women and Children and their Sexual Exploitation in 1998. The plan identified six thematic areas for intervention: i) Policy, Research, and Institutional Development; ii) Legislation and Enforcement; iii) Awareness Creation, Advocacy, Networking and Social Mobilization; iv) Health and Education; v) Income and Employment Generation; and vi) Rescue and Reintegration. In 2001, two priority areas, namely, Trans-border, Regional and International Issues and Monitoring and Evaluation were added. There is no evaluation studies conducted in Nepal to what extent the NPA was implemented.

The GoN has introduced a new NPA against Trafficking in Persons 2011-2016. The NPA takes into account the current socio-political context of trafficking in persons and new trafficking patterns, such as those associated with foreign labor migration. The NPA was developed with the wider consultation of civil society, community based organizations, GOs including the trafficking survivors. The NPA is in line with the Human Trafficking and Transport (Control) Act, Regulations, the UN Trafficking Protocol, and the SAARC Convention. The NPA identifies the five broad areas for interventions: prevention, protection, prosecution, capacity building, and cooperation. The followings are key strategies identified in these areas:

Prevention

- Identification of most risk districts, VDCs/Municipalities and status of anti-trafficking groups
- Design programs to reduce the risk of trafficking focusing on the marginalized groups
- Address the root causes of trafficking focusing on adolescents girls and boys
- Formulate and implement programs to include all disadvantaged groups as empowerment programs
- Monitor and regulate dance bars, cabins, massage parlors to eliminate internal trafficking and to protect the rights of workers
- Design and implement self-employed training, income generating activities to women and adolescents of potential foreign labor migrants
- Establish unified database system at central, district and VDC level – disaggregated by gender, age, social groups
- Incorporate safe migration and trafficking issues in school education
- Establish Information Desk/Help Desk to increase awareness on safe migration
- Increase capacity of media and their sensitiveness towards human rights, safe migration and combating trafficking
- Conduct regularly monitoring, evaluation and maintenance of records

Protection

- Identify the status of returnee migrants and rescued of trafficking victims
- Establish alliances/networks/mechanisms to rescue the victims and protection of their rights
- Build effective mechanism to help to return migrants willingly
- Develop Unified Standards of Operation Guideline for rehabilitation centers which must ensure the identity of victims, address the concerns of security of victims, manage reintegration of victims with the family/community, provide STI/HIV/AIDS and RH services to the victims)
- Develop profile of the rehabilitation centers (name, district, types of services provided)

Prosecution

- Strengthen the criminal justice/investigation system in Nepal
- Revise current legislation regarding trafficking
- Manage alternative care for children without parents and children abandoned by parents (Develop guideline)
- Implement effectively laws regarding child victims of trafficking
- Simplify the First Information Report (FIR) Process and Make Victims Friendly FIR
- Develop accountability and responsibility to law enforcement agencies and
- Develop Monitoring System

Implement effectively laws related to trafficking, foreign labor migration and children in relation to the following:

- Respect the rights of the victims - fee legal aid to the victims, witness protection, protection of victims and their families and relatives;
- Develop brief guideline for court proceeding, effectively implement close hearing and mobilize Crime Investigation Department (CID)
- Enforce punishment of the criminals of trafficking, those operating sex scandals and visiting the prostitutes according to their age;

- Protect informants, maintain their privacy and offer award/reward
- Reward of honest Government personnel and punishment to the dishonest;
- Provide immediate relief and compensation;
- Legal provision to suspend the property of the offenders (*Pratibadi*);
- Full commitment to implement the court decisions;
- Additional punishment to the traffickers of human organs and Government authorities involved in trafficking;
- Provision of translators and symbolic language
- Make provision for internal trafficking and punishment on the basis of crime (number and extent of crime);
- Make effective investigation in relation to foreign labor employment to bring the culprit into justice;
- Provide citizenship certificate to children of victims without parents with the recommendation of District Committee.

Capacity Building

- Enhance the capacity of MoWCSW, Department of Women and Children, District Women and Child, CCWB and DCWB
- Enhance the capacity of National Committee and District Committees against Human Trafficking
- Enhance the capacity of the law enforcement agencies
- Enhance the capacity of the organizations working against trafficking of persons from the central to the Village level (GOs, NGOs, Community-based Organizations (CBOs), child clubs and other key stakeholders)
- Develop WCSC as authoritative body of the Special Police Unit for dealing with the internal and cross border human trafficking
- Enhance the capacity of the Foreign Diplomatic Mission and Labor Attaché
- Enhance the capacity of the relevant personnel for the monitoring and evaluation through training and interaction
- Enhance the capacity of the constitutional bodies like NHRC, National Women Commission, National Surveillance Center, Commission on Investigation Abuse of Authority and

Parliamentary Committee (Women and Children Sub-Committee, and Women and Children Caucus Groups of the Parliamentarians) to effectively monitor and combat corruption

Coordination, Cooperation and Collaboration

- Increase the coordination and cooperation at the international and regional level to combat trafficking in persons
- Establish coordination, cooperation and collaboration among the GOs, NGOs, Private Sectors and EDPs at the national level for reduction of trafficking in persons
- Review and revise the provisions of laws and policies of combating trafficking in order to increase the international cooperation
- Increase the collaborative work and cooperation through the networks and alliances established in the SAARC region
- Increase the bilateral relations between the neighboring countries in order to control the cross-border trafficking in persons
- Increase the collaborative work and relations among the key stakeholders involved in the combating trafficking at the local level
- Involve in the movement of South Asia Initiatives to End Violence Against Children (SAIEVAC) formed as the SAARC region to combat trafficking of children

In addition to the NPA, the MoWCSW adopted Operation Guideline of Rehabilitation Center 2068 (2011), National Minimum Standards for the Protection and Care of Victims/Survivors of Human Trafficking 2068 (2011) and Operational Guideline for Rehabilitation Fund 2068 (2011).

NHRC Recommendation on 4-Rs Policy 2011

National Human Rights Commission (NHRC) recommended policy for rescue, repatriation, rehabilitation and reintegration (4-Rs) of the victims/survivors of trafficking to the Office of the Prime Minister on January 25, 2012 and the Office of the Prime Minister ordered the

Ministry of Home Affairs (MoHA) for the implementation of the policy on January February 10, 2012. The policy aims to promote and protect the rights of the victims/survivors for realization of their dignified live by well managing 4-Rs and to create a situation for providing the justice for the victims/survivors and bring the perpetrators into the justice. The policy is developed based on the principles that GoN as the prime responsible agency; ii) that the domestic laws and regional and international legal instruments ratified by the GoN; iii) that the human rights of the victims/survivors; iv) that coordination and collaboration among the stakeholder organizations and v) policy as interdisciplinary, cross-cutting and inter-country coordination issue. The policies are recommended in four heading: comprehensive policy, rescue, repatriation, rehabilitation and reintegration. Some of the major provisions have been discussed below.

Comprehensive Policy

- Make realize the responsibility of the GoN for rescue, repatriation and rehabilitation and reintegration of the victims/survivors and establish the coordination among the service providers
- Conduct Memoriam of Understanding (MoU) or agreement to the destination countries and establish mechanism to effectively rescue the victims/survivors
- Make responsible and accountable to the Government task force or mechanism involved in the rescue, repatriation and rehabilitation processes
- Prepare the list of NGOs and INGOs involved in the rescue, repatriation of the victims/survivors and update their profile annually
- Prepare Standard Operating Procedure for rescue, repatriation, rehabilitation and reintegration of the victims/survivors
- Expand the diplomatic relations to the major destination countries of Nepali migrants and conduct MoU for the effective rescue and repartition
- Ensure the participation of the NGOs in the implementation of 4-Rs policies and activities

- Establish effective monitoring system and procedure for all the activities related to 4-Rs
- Support to prepare the Annual National Report of NHRC on Trafficking in Persons by providing information related to 4-Rs
- Establish Emergency Fund for 4-Rs by managing economic resources from the GOs and I/NGOs and others

Rescue

- Prepare planning for rescue by collecting information of the victims/survivors
- Obtain information about the documents, cash or other kinds of the victims/survivors and manage effective security measures
- Collect basic information of the victims/survivors and maintain records considering their rights to privacy
- Facilitate complaints filing in the concerned agencies for providing justice to the victims and bringing the perpetrators into justice
- Collect evidences of trafficking keeping in view that the victims/survivors shall not be re-victimized in all aspects of their live
- Establish high level national mechanism representing from the MoWCSW, MoHA/Nepal Police, MoFA and other stakeholders to facilitate rescue work
- Manage Safe Homes at abroad for providing temporary shelters for the victims/survivors rescued
- Manage Nepal Police in the foreign diplomatic mission at abroad and mobilize them
- Ensure the security of the organizations/individuals involved in the rescue work
- Develop and mobilize the bilateral, multilateral, regional and international coordination
- Provide training and awareness programs to the personnel working in the diplomatic missions at abroad
- Update data and information about the persons rescued
- Arrange priority in the court in dealing with the cases of trafficking in order to provide the speedy justice to the victims/survivors

Repatriation

- Establish and expand external and internal coordination through the Government of Nepal
- Provide the full information to the victims/survivors about the repatriation process and rehab services before repatriation of the victims/survivors to Nepal
- Maintain the privacy of the victims/survivors by keeping their records, documents safe and safety
- Arrange appropriate programs to the border security force and administrative personnel for making them aware and sensitive towards the victims/survivors
- Provide psychosocial counselling to the victims/survivors' families for making conducive environment for the reintegration
- Adopt special measures to hand-over the children, women who have been repatriated

Rehabilitation

- Develop Standard Operation Guideline for Rehab center for providing the uniform services to the victims/survivors
- Run the rehab centers by the GOs and I/NGOs
- Provide physical, mental and psychosocial health services to the victims/survivors
- Design appropriate plan for providing education, skill training, leadership development training, training for empowerment to the victims/survivors and livelihood options
- Manage free-legal services and prepare and update the list of legal centres, psychosocial counselling centers that provide the free legal services
- Facilitate for realization of identity of the victims/survivors and issuing the citizenship certificates of them and their children and provide appropriate care and education for the children of the victims/survivors
- Monitor the rehab centers and submit the report to the concerned bodies annually

Reintegration

- Initiate reintegration process immediately after the rehab services being provided
- Make responsible to the GOs, NGOs, social organizations, political parties and cultural organizations for the successful reintegration of the victims/survivors as a common responsibility
- Formulate family reunion program for those who have families and those who do not have families and who do not want to go to home, formulate special programs
- Provide prerequisites for the reunion of the victims/survivors in the families and develop a favourable environment for the reunion
- Ensure the security of the victims/survivors during the reintegration process

Operation Guideline of Rehabilitation Center 2011

The GoN adopted Operational Guideline for Rehabilitation Center in 2011 in line with the clause 11 (1) of Human Trafficking and Transport (Control) Act 2008 and Rule 11 (1) of the Human Trafficking and Transport (Control) Regulation 2008 aiming to provide victims/survivors of trafficking the minimum standards of physical and mental treatment and reintegration services. In addition, the Guideline's main objectives are to i) provide the immediate temporary shelters with adequate facilities in a secure environment to the victims/survivors of trafficking; ii) facilitate victims/survivors to promote their sustained and permanent livelihood opportunity; iii) provide the quality care and support to the individual victims/survivors as per their needs; iv) provide multi-sect oral care services by trained and gender friendly human resources; iv) support to the victims/survivors for punishing the traffickers. According to the Guideline, the rehab centers shall provide the following minimum services: secure shelter, adequate food, clothing, psychosocial counselling, legal aid, education and skill training, reintegration with the family and management for repatriation. The Guideline has been developed on the basis of principles of respect of human rights, gender sensitiveness; maintaining privacy;

non-discrimination; coordination and collaboration between and among the GOs and NGOs working to provide the rehab services; efficiency and regularity of services; respecting the best interest of the victims/survivors; ensuring the security of the victims/survivors; rights to information; respect the victims/survivors' political rights.

According to the Guideline, the rehab centers shall ensure following minimum facilities: common hall with various objectives; working rooms; bedrooms and kitchens; sanitation and personal care facilities and security. Special measures shall be applied in case of children such as separate rooms for them, entertainment facilities and all facilities shall be strictly in child friendly environment. Additionally, the rehab centers shall have adequate human resources especially a management officer, an account and administrative officer, a psychosocial counsellor, a physician, a social worker, a warden and a security guard. The rehab centers shall fulfil the following measures while reintegrating the victims/survivors with the family: initial inquiry about the family members; locating the address of the family members; preparing the initial report regarding prospective challenges of reintegration; providing counselling to the family members; creating environment for the regular meeting and communication between survivors and family members and all the information relating to the survivors and reintegration shall be kept confidential.

National Minimum Standards for the Protection and Care of Victims/Survivors of Human Trafficking 2011

The GoN has developed the Minimum Standards for the Protection and Care of the Trafficking Survivors in line with the Human Trafficking and Transport (Control) Act 2008 and Regulation 2008. The objectives of the Standard are the following:

- To standardize the service providers' care and protection services to the victims/survivors of trafficking
- To maintain the uniformity of service providers' services to the victims/survivors of trafficking
- To ensure the rights of the victims/survivors while providing the care and protection services

- To establish the coordination, cooperation and collaborative work among the service providers of the victims/survivors of the trafficking
- To ensure the transparency, responsibility, accountability among the service provider and make effectiveness of the services
- To increase the effectiveness of the National, District or Local Committees against human trafficking for the monitoring of the activities of service providers.

The scope of the Standard covers three areas: prevention, protection and prosecution and calls for the service providers (GOs and NGOs) to perform rescue, repatriation, rehabilitation, and reintegration activities. The Standard outlines the Principle of care and protection as follows:

- Provide the services without discrimination and gender sensitive ways
- Depending upon the case, providing care and protection services in two phases: i) initial care – primary health care, legal aid, psychosocial counselling, shelter, diagnosis of the diseases like HIV, tuberculosis etc. and ii) secondary care – education, skill training, opportunities for income generation, seed money and loan including referral services
- Establish the standard processes for all cycle of care and protection (rescue, repatriation, rehabilitation and reintegration) of the victims/survivors of the trafficking
- Ensure the informed consent in all cycle of care and protection of the victims/survivors of trafficking
- Inform compulsorily to the Diplomatic Mission of Nepal about the repatriation of the victims/survivors
- Ensure the security of the victims/survivors of the trafficking in all the processes of care and protection

The Standard provides a long list of rescue, rehabilitation, rehabilitation and reintegration processes.

Although the MoWCSW adopted the Operation Guideline and Minimum Standard for Care and Protection of Victims/Survivors of trafficking, there have been little efforts to familiarize these instruments among the service providers. With the discussion of the officials in MoWCSW, it is known that the neither the National Committee nor the District Committees has taken initiatives to monitor whether the provisions envisioned in these instruments are fulfilled by the service providers. It is also important to note that according to the Minimum Standard, all the rehab centers must be registered in the MoWCSW by December 2012 and it is known that a few rehab centers applied for registration. Monitoring of rehab centers is crucially important as there have been reports that some rehab centers have violated the minimum standards. According to a Sub-Inspector of Metropolitan Police Commissioner Office, Kathmandu, in some of the rehab centers, victims/survivors have been kept as bonded labourers; they are physically and mentally tortured; their mobility is restrained and their best interest has not been serviced by these centers. There are also limited numbers of actual victims/survivors of trafficking in the centers.

Policy on Child Rights

- Prepared and implemented Conditions and Standards on Operating Children's Home 2011, and National Child Protection Policy 2011
- Drafted Child Rights (Promotion and Protection) Act, 2012
- Implemented Child Rescue Fund (Operations) Rules, 2010
- Prepared and implemented Terms and Processes on allowing foreigners to adopt foster children - 2009,
- Prepared and implemented Juvenile Justice Research and Case Proceeding Manual-2009

4.3 Government Institutional Mechanism for Combating Trafficking in Women and Children

Ministry of Women, Children and Social Welfare – The institutional mechanism to implement the NPA against Trafficking in Persons envisioned three layers of institutions: central, district and grass route level.

At the central level, MoWCSW has the responsibility of formulating policies and legislations to combat trafficking in women and children, coordination and collaboration with other sectoral ministries, EDPs, and civil society in relation to protection and promotion rights of women and children. Under the Ministry, there are Department of Women and Children Development (DWC), and child protection body of the CCWB, the Central Child Welfare Committee (CCWC). In addition, the MoWCSW set up the National Center for Children at Risk (NCCR) in 2006 in collaboration with Central Child Welfare Committee, Nepal Police, and various international organizations. It maintains a toll-free number of 1098 to report missing children and those in need of protection and supports family reunification. Further, the MoWCSW processes inter-country adoptions through its Inter-Country Adoption Committee and monitors the implementation of international instruments relating to human trafficking.

The Central Child Welfare Board (CCWB) is a statutory body working under the MoWCSW. It is responsible for the development of rights of the child monitoring mechanisms; the development of a national level resource centre on children; advocating on children's issues at all levels; coordination of policies and practices on children between line ministries and civil society, development partners, and others; promoting the rights of the child; formulation of national policies and priorities concerning children; and mainstreaming children's issues into all the development activities and strengthening and mobilizing DCWBs.

At the district level, there are three Government agencies to ensure the rights of Children: DCWBs, Women and Children District Office (WCDO) and District Child Protection Committees (DCPC). District Child Welfare Boards are responsible for to ensure the implementation of the UN Convention on the Rights of Children (CRC) and monitoring and regulating Child Care Homes and child welfare centers in the district. The Government has already established DCWB in all 75 districts.

Women and Children District Office are responsible for formulation, implementation and monitoring of women and children related programs in the district. The DCPC have recently been formed under the Ministry of Federal Affairs and Local Development (MoFALD) aiming

to provisioning child protection and referral mechanisms under the framework of Child Friendly Local Governance. The DCPC have been already established in 23 districts and is in the process of extending in all the districts in the country. Under the CFLG, the MoFALD has provisioned to allocate 15 per cent of capital grant of local bodies (Village Development Committee-VDC, Municipalities and District Development Committees, DDC) to fund activities targeted for declaring child friendly VDC, Municipality and DDC. The DCPC also aims to establish Village Child Protection Committees.

At the grass route level, VDC/Municipality is the coordinating agency while NGOs/Civil society and child clubs/Community based organizations functions act as the implementing agencies for programs related to issues of child rights in Nepal. The civil society has evolved as a vibrant institution in promoting and protecting rights. There are some 27,000 NGOs affiliated with Social Welfare Council (SWC) - a responsible Government body for the promotion, facilitation, coordination, monitoring and evaluation of NGOs. Of the total NGOs, about 30 per cent are working for child rights, welfare and development. There are 569 institutionalized Child Care Homes in Nepal and among them, 122 are registered in the SWC. Similarly, there 178 INGOs registered in SWC. Among them, 36 are involved in child rights issues (CCWB, 2007).

National Committee on Combating Human Trafficking – Pursuant to the Human Trafficking and Transport (Control) Regulation 2008, the GoN formed National Committee against Human Trafficking under the MoWCSW in November 2008. It consists of the representatives of MoWCSW, MoLE, MoHA, MoFA, Office of the Attorney General (OAG) and Nepal Police including three women nominees with anti-human trafficking expertise and two female victims of trafficking in persons. In addition, by realization of the TIP as the cross-cutting issue, five permanent invitee members were added in the National Committee in 2011 representing from Ministry of Education, Ministry of Federal Affairs and Local Development, Ministry of Law and Parliamentary Affairs, Ministry of Finance (MoF) and Ministry of Health and Population. Thus, the Committee represents the interministeral representation.

The National Committee's primary functions are to formulate and execute anti-human trafficking policies, plans, and programs; rescue and repatriate trafficking victims; coordinate and monitor the work of the District Committees and maintain national-level statistics about human trafficking.

In FY 2011/11, under the National Committee, three sub-committees have been formed related to protection, prevention and prosecution. Each sub-committee is led by the Joint Secretaries of MoHA, MoLE and the Office of the Attorney General, respectively. It is reported that the National Committee meets normally three times a year and it has already conducted 17 meeting since its formation by mid-2012. There is no separate Division in the Ministry's organogram to look after the anti-trafficking issues. Currently, anti-trafficking issue is looked after by the Women and Children Division.

District Committees on Combating Human Trafficking – The GoN has already set up District Committees in all 75 districts in the country. The Committees are chaired by the Senior District Officer (CDO) and consists of the WDO, district government attorney, Chief of District Police, three women nominees with anti-human trafficking expertise in the district, and a representative from the Federation of Nepali Journalists. The Committee is responsible for i) forming and operating anti-human trafficking committees at the local level; raising public awareness against human trafficking; inspecting rehabilitation centers; enhancing multisectoral cooperation aimed at combating trafficking in persons; rescuing trafficking victims within the district and obtaining documents that confirm their identity; and maintaining district-level statistics about human trafficking.

Discussion with the officials of the MoWCSW and other stakeholders, it is known that the National and District Committees have yet to be institutionalized with a separate office, adequate resources, employing expert in anti-trafficking issues, conducting regular meeting and commitment of the member agencies. Further, the National Committee has yet to establish a unified database system for monitoring anti-trafficking activities and situation of trafficking in persons. There is very little coordination between the MoWCSW, the National Committee

including NHRC, the MoLE, the MoFA, the OAG, and the Gender-Based Violence Unit within the Prime Minister's Office. Also, there is almost no coordination at the local level. There is no record in the MoWCSW to what extent the District Committees effectively working for combating trafficking.

Directorate of Women and Children Service (DWCS) – This is a special Police unit under the Nepal Police Crime Investigation Department dealing with the cases of violence against children and women. By 2011, WCSCs have been established in all 75 districts within the District Police Offices. The Government of Nepal has approved additional vacancy of 1035 women police in FY 2011/12 and the advertisement for the vacant posts have yet to be done. However, the DIG of the Directorate reported that there is gross lacking of women police in the WCSC, especially outside of the Kathmandu valley.

In addition to WCSC, there are Women and Children Cells under the Metropolitan Police Commissioner, Kathmandu. There are seven Women and Children Cells in DSP offices such as Kalimati, Thimi, Baneshowar, Maharjgunj, Baudhaya, Balaju, Chapagaoun in Kathmandu valley. These Women and Children Cells collect data on crime against women and children, handle the cases of domestic violence among Police, work in collaboration with NGOs, provide training to police about human trafficking laws and policies and conduct rescue of children in worst forms of child labor, domestic violence and trafficking.

The DWCS has been implementing *JFPR 9135-NEP: Establishing WCSC Project* (January 2010-January 2014) with the technical and financial support of Asian Development Bank. The project aims to strengthen WCSCs in five districts: Doti, Jumla, Bara, Rautahat and Dhanusa. The goal of the project is to reduce the vulnerability and helplessness of the women and children in the project districts by providing professional and coordinated protection and assistance to women and child victims of rape, domestic violence, polygamy, alleged witchcraft, child abuse, child marriage, and trafficking. The project has five components i) civil society consultation prior to establishing WCSWs, ii) establishing of WCSCs, iii) capacity building, iv) outreach and networking and v) project management. The project's expected outcome include i) a 30% increase

in the number of convictions for reported crimes against women and children in the districts; ii) a decrease of 20% in the number of crimes against women and children by the end of the project period and iii) 50% of woman and child victims reporting crimes get reintegration in the community.

According to the DIG of DWCS, the project has achieved a lot especially in formation of district and VDCs networks to combat violence against children and women. The DIG, however, confessed that Directorate could not well manage data related to trafficking in persons; there is lack of women police in the WCSC and physical infrastructure such as rooms. She commented on the anti-trafficking programs in Nepal that it has not reached to the needy population. She says, 'I do not believe that the traffickers actually get punished'.

Rehabilitation Centers Supported by the Government - Pursuant to the Human Trafficking and Transport (Control) Regulation 2008, the GoN has to establish the Rehabilitation Fund at the central and district levels and operate rehabilitation centers. The GoN can establish rehabilitation centers by itself or it can allow NGOs to manage the centers. The GoN established Rehabilitation Fund in FY 2008/09 with the amount of Rs. 10 million but the fines acquired from the conviction of traffickers have not been initiated yet. With the support of the Rehab Fund, the GoN has been supporting eight rehab centers run by different NGOs since the FY 2008/09 in Kathmandu, Sindhupalchok, Kailali, Jhapa, Parsa, Rupandehi, Banke and Chitawan and allocated Rs. one million for each rehabilitation center. In the FY 2011/12, the GoN continued to support these rehab centers.

Efforts of National Judicial Academy

National Judicial Academy (NJA) was established under the National Judicial Academy Act 2006 in order to 'enhance the functional capacity and professional efficiency of judges, employers and legal professionals working in the judicial organ and conduct study and research in the field of law and justice' (National Judicial Academy Act 2006:2). In 2011, it carried out the following activities related to combating trafficking and protection and promotion of migrant workers and women.

- Prepared and published Operational Guideline for Prosecution and Court Proceeding of Human Trafficking Cases 2068 (2011) – The main aim of the Guideline is to provide guidance to the prosecutors about the systematic, sequential, effective prosecution for effective adjudication of human trafficking cases.
- Prepared and published Training Manual for Relating to Human Trafficking 2068 (2011b) – The manual was developed for a four day training targeting to the judiciary, prosecutors and defence lawyers. The Manual is divided into Practical and Theoretical Parts. The Theoretical part covers background of human trafficking; definition and conceptual clarity on human trafficking; international, regional and national legal instruments and obligation of the state; minimum human rights standards of victims of trafficking; access to justice of trafficking survivors; process of investigation to beyond prosecution and the role of prosecutors and victims and witness protection in human trafficking cases. In Practical part, the Manual covers the following: studies of the verdict cases of the courts relating to the human trafficking; problems of the implementation of the human trafficking act and its solution; interaction and discussion with the persons working against trafficking among prosecutors (participants); role of the law enforcement agencies of human trafficking including other issues.
- Prepared and published Procedural Guideline for Special Type of Cases on Maintaining Privacy – The Procedural Guideline was developed to facilitate the implementation of the Supreme Court’s Guideline January 23, 2008. The Procedure Guideline deals with the cases to be maintained privacy include: cases relating to rape, abortion, sexual violence against women, human trafficking, incest, violence against women, children’s cases in the juvenile courts or juvenile bench, cases relating to HIV infected people. The Procedure is applicable for the following: courts and other authorities dealing the cases; attorney; police and investigation authorities; lawyers and

courts employers; media; laboratories and other concerned agencies (schools, office of the vital registration, medical institutions, Child Homes, prison, detention place, Women Rehab centers); experts, witness, guardians, and patrons and others who are aware on the case.

As per the legal mandate of the NJA, NJA conducted training for the judicial officers, prosecutors, police officers, defence lawyers and courts' employers on different issues in 2011 about juvenile justice, gender justice, human trafficking and organized crime and money laundering (Box 4.2).

Box 4.2 Training activities of NJA related to juvenile, gender and human trafficking issues, 2011

Types of Training	No. of trainings	Total participants	Avg. no. of participants per training	Key target groups	Place of training held
Juvenile Justice	10	238	24	Judicial Officer, Prosecutor, Police Officer, Defence Lawyer, Employers	Kathmandu, Dhanghadi, Chitawan, Nepalgunj, Biratnagar and Pokhara
Gender Based Violence, Gender Equality and Gender Justice	7	157	23	Judicial Officer, Prosecutor, Police Officer, Defence Lawyer, Employers	Kathmandu, Surkhet, Rajbiraj and Sindhuli
Workshop/Round Table Meeting on Right of the Migrant Workers/Migration Law	2	23		Officers	Kathmandu
Training of Trainer Guideline of Prosecution, Court Proceedings for Human Trafficking Cases	1	22	22	Judicial Officers and Prosecutors	Kathmandu
Organized Crime and Money Laundering	1	22	22	Prosecutors	Kathmandu

Note: the numbers of participants were not mentioned in one workshop.

Source: Annual Report 2011c, NJA.

4.4 Government Programs Relevant to Prevention of Trafficking in Persons

In addition to the directly responsible programs for combating trafficking and protection and care of the victims/survivors of trafficking, the GoN in collaboration with various EDPs as well as civil societies has been implementing women empowerment programs; child rights programs; adolescent and youth empowerment programs; poverty alleviation and employment promotion programs; scholarship programs targeting to the disadvantaged social groups, girls and conflict affected families; social security programs (free health services and HIV/AIDS, sexual and reproductive health programs); inclusive development programs in the country. These programs have been implemented through different Ministries and Departments.

Further, the GoN has initiated allocation of annual development budget in development activities directly or indirectly contributing to reduction of poverty and empowerment of women. Table 4.1 shows the allocation of Nepal's development budget by pro-poor budget and neutral budget for the FYs 2010/11 and 2011/12. The former is the type of budget that directly helps to the reduction poverty while the later refers to the budget that indirectly helps in poverty reduction. The pro-poor indicators are the following: i) investment in rural sector; ii) income generation program in rural areas; iii) capacity enhancement program in rural areas; iv) budget allocated for social mobilization; v) investment in social sector especially in education and health sectors; vii) social security programs; grants for local bodies and viii) expenditure focusing on poverty reduction.

In the FY 2010/11, nearly 47 per cent of the total development budget was pro-poor budget while the rest was neutral. The share of pro-poor budget has slightly increased in the FY 2011/12 – reaching to 48.5 per cent of the total development budget. This indicates that GoN has increasingly allocating budget in addressing poverty issues in the country.

Table 4.1 Pro-poor budget in FY 2010/11 and FY 2011/12, Nepal
(Amount in Rs. million)

	FY 2011/12		FY 2010/11	
	Amount	%	Amount	%
Pro-poor budget	186.6	48.49	158.3	46.86
Neutral budget	198.3	51.51	179.6	53.14

Source: MoF, www.mof.gov.np (Budget Speech of Government of Nepal in FY 2010/11 and FY 2011/12) (Accessed on December 1, 2012)

Table 4.2 illustrates the allocation of development budget from the FY 2007/08 to FY 2011/12 according to the status of gender responsive budget adopted in Nepal. The GoN initiated evaluating gender responsive budget since 2007/08. The GoN has classified gender responsive budget as direct responsive one with more than 50% of budget directly beneficial for women; as indirect responsive one with 20% to 50% of budget directly beneficial for women and as neutral budget with less than 20% of budget beneficial for women. The following indicators have been taken to evaluate budget: i) budget allocated for women capacity development (20%); ii) women participation in formulation and implementation of program (20%); women's share in benefit (20%); support in employment and income generating to women (20%) and quality reform in time consumption and minimization of work load to women (20%).

Table 4.2 Gender responsive budget adopted in Nepal, 2007/08-2011/12
(amount in Rs. billions)

FY	Direct responsive		Indirect responsive		Neutral	
	Amount	%	Amount	%	Amount	%
2007/08	19.09	11.30	56.03	33.16	93.7	55.54
2008/09	32.91	13.94	83.58	35.41	119.53	50.64
2009/10	49.46	17.30	104.16	36.43	132.32	46.27
2010/11	60.61	17.94	122.16	36.30	154.64	45.76
2011/12	73.33	19.05	196.6	45.78	135.35	35.17

Source: MoF, www.mof.gov.np (Accessed on December 1, 2012).

Looking at the budget allocation from FY 2007/08 to 2011/12, the following may be inferred. The share of budget allocated for women only program has been increasing in Nepal as reflected by the fact that the share of gender direct responsive budget increased from 11 per

cent in 2007/08 to 19 per cent in FY 2011/12. Second, the share of gender indirect responsive budget has also increased from merely 33 per cent in 2007/08 to 46 per cent in FY 2011/12. Finally, Nepal has been increasingly allocating its development budget to directly or indirectly gender responsive issues.

Women Empowerment Program

The Department of Women and Children has been implementing Women Empowerment Program across the country. The program aims to promote and expand women and adolescent girls' spheres in every sector: political, economic, cultural, social and body. The program has been implemented through formation and social mobilization of targeted deprived women and institutional development and basic and subjective training. At the district-level, Woman Development Offices serve as focal agency for implementation of the women empowerment program. For the holistic development of girls who are deprived of schooling, information and counseling and integrated livelihood program's provision have been implemented.

Table 4.3 summarizes an overview of the achievement of Woman Development Program implemented by Department of Women and Children in the FY 2010/11 and mid-March 2012. The program covers all 75 districts in the country (3,360 VDCs and 37 municipalities). By the FY, 2011/12, 107,958 Women Groups have been formed having 653,083 members. Women Groups appear to be inclusive as reflected by the fact that 16 and 34 per cent women members constitute Dalit and Janajati, respectively. The Women Groups mobilized Rs. 1216.2 million in FY 2011/12. In addition to saving and credit, these women groups are also involved in awareness rising against gender based violence, education and training, advocacy for implementation of laws and policies on trafficking, gender based violence and foreign employment.

Table 4.3 Major achievements of women and development program, Nepal

	FY 2010/11	FY 2011/12
Program coverage		
Number of program operating districts	75	75
Number of program operating VDCs	2,963	3,360
Number of program operation Municipalities	37	37
Number of program operating Wards	18,254	19,507
Institutional Development		
Number of women groups formed	97,240	107,958
Number of women in the groups	554,264	653,083
Number of Dalit	90,282 (16.3%)	106,369 (16.3%)
Number of Janajati	208,809 (37.7%)	219,952 (33.7%)
Number of others	255,173 (46.0%)	326,762 (50.0%)
Number of women committees formed	8,936	5,548
Number of women organizations registered	1,245	1,323
Number of Ad Hoc Women Organizations	295	107
Resource Mobilization (in million Rs.)		
Group Savings of women	1060.3	1216.2
Total Invested	999.6	1419.3
Operating Fund	106.5	119.9
Principal	101.0	111.8
Interest	5.5	8.1
Still in investment	74.9	

Source: Department of Women and Children cited Ministry of Finance, 2012
Economic Survey 2011/12.

In addition, the Department of Women and Children implemented or have been implementing several other projects with the financial and technical support of EDPs. The projects mainly relate to gender equality, equity and women's empowerment; improving the livelihoods of conflict affected families and children; providing comprehensive Sexual and Reproductive Health Services; elimination of traditional harmful practices such as *Chaupadi* (Box 4.3). Although the details of the achievements of the projects are not discussed here due to limited space by critically reviewing the project documents and evaluation reports, looking at the project districts/areas, it appear that the projects selected as the most deprived districts in terms of Gender Development Index, Women Empowerment Index or districts/areas hardly hit by armed conflict (1996-2006) or districts/areas having traditional harmful practices against girls and women.

Box 4.3 Program under Department of Women and Children funded by different EDPs, Nepal

Project Name	EDPs	Coverage/Activities
Gender Equality and Empowerment of Women Project (Nov. 2006 – Nov. 2011)	ADB	100 thousand households in 82 VDCs of 15 districts (Baitadi, Bajhang, Bajura, Doti, Achham, Kailkot, Jumla, Mugu, Bara, Rautahat, Sarlahi, Mahottari, Dhanusa, Sindhuli and Ramechhap)
Strengthening Decentralised Support for Vulnerable and Conflict-affected Families and Children (Feb. 2008 – Jan. 2012)	ADB JFPR 9110	4,000 households of 31 VDCs in 5 districts (Achham, Bardiya, Banke, Rukum and Rolpa)
Decentralised Action for Children and Women (Jan. 2008 – Dec. 2010)	UNICEF	23 districts (Panchthar, Sunsari, Saptari, Udayapur, Parsa, Kavre, Chitawan, Nawalparasi, Tanahun, Kaski, Kapilbastu, Dang, Achham, Dadeldhura, Humla, Bajhang, Bajura, Mugu, Jumla, Kailkot, Dolpa, Jajarkot and Rukum)
Population and Reproductive Health Integrated Project (Jan. 2008 – Dec. 2010)	UNFPA	6 districts (Saptari, Mahottari, Rautahat, Kapilbastu, Dang and Dadeldhura)
Gender Mainstreaming and Social Inclusion Project (Jan. 2009 – Dec. 2013)	JICA	2 districts (Morang and Syanja)
<i>Chaupadi</i> Elimination Project (Jan. 2007 – Dec. 2009 and Jan. 2010 – Dec. 2012)	Save the Children, Norway	3 districts (Achham, Doti and Bajura)

Source: <http://www.dwd.gov.np/menu.php?p=12&page=Development%20Partners> (Accessed on Dec 4, 2012).

Despite these efforts to empower women and prevent trafficking of girls and women, our discussion with different stakeholders and literature review suggest that the forthcoming priority policy agendas for achieving gender equality, equity and empowerment of women in Nepal are to:

- Increase women’s participation in the formal and informal economy;
- Increase women’s representation in political processes and public life;

- End gender based violence including harmful traditional practices; and
- Prevent trafficking and smuggling in persons, particularly girls and women

National Women Commission (NWC)

The NWC aims to protect, promote, safeguard the interest and rights of women and uphold justice through overall development of women. The NWC also handles complaints under the Domestic Violence Act. National Women Commission adopted Five Years Strategic Plan (2009-2014) aiming to contributing to elimination of all forms of gender based discrimination (violence) by ensuring equal access, implementation of national and international legal frameworks and meaningful participation of women at all levels and sectors of the state. One of its key objectives of the Strategic Plan is to contribute to elimination of violence against women (VAW) by monitoring implementation of instruments related to VAW, reviewing and strengthening the monitoring and investigation mechanisms for VAW and develop local, national and international networks to combat VAW. In 2010, the NWC drafted a bill to criminalize and punish acts of violence against persons accused of practicing witchcraft and submitted to the MoWCSW in August 2010. In 2011, the Commission published Nepal's Implementation Status of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) as an independent report to supplement the Combined 4th and 5th Periodic Report Submitted to the CEDAW Committee by the Government of Nepal. In addition to concerns in other provisions of CEDAW, the Commission paid special attention to furnish information relating to rape, domestic violence and violence against women resulting from the allegation of practicing witchcraft.

Child Rights Programs

- Constituted Juvenile Justice Coordination Committee at the central level and formed Juvenile Justice Program in 32 districts.
- Established SAIEVAC and process to establish its permanent secretariat in Nepal is ongoing.

- Established and regularly functioning of National Center for Children at Risk in Kathmandu
- Established a missing children search and coordination center with facility of toll free telephone number 104.
- Operated Child Welfare Homes in Biratnagar, Saptari, Birgunj and Butwal
- Established Emergency Child Rescue Fund at the central level and updated Child Reform Home's capacity. In Biratnagar, Kaski and Nepalgunj Child Reform Homes are under construction.
- Under operation of Child Improvement Home in Sarangkot of Kaski with its regular monitoring.
- Collected Rs. 5.2 million revenue by allowing adoption of 24 children by mid-April of FY 2011/12.
- Formed Child Rights Organizations (CROs) aiming to protect and promote child rights and combat violence against children including trafficking. External development partners such as Save the Children, World Vision International, Terre des hommes (TDH), Plan Nepal and United Nations Children's Fund (UNICEF) have supported to form and mobilize the CROs in the country. There are altogether 52 districts in which CROs have been formed (Annex 4.1).
- Mobilized and run Child Helplines in 13 districts (Kathmandu, Morang, Makwanpur, Banke, Kaski, Bardiya, Chitawan, Dang, Rupandehi, Surkhet, Dailekha, Kapilbastu and Udayapur) with telephone number 1098 for taking immediate action by immediately addressing incidents of abuse of Rights of children. CWIN Nepal, Aawaj Nepal, Diyalo Nepal, Radar Nepal, Sahaj Nepal and Nespek have been implementing Child Helplines programs. In 2011, these Child Helplines provided services to 1605 children (635 girls and 980 boys), majority (i.e.841) being in the Kathmandu valley (Annex 4.2). The services provided by the Child Helplines include: free telephone services; psychosocial counselling (face-to-face or through telephones); access to ambulance and rescue equipments; emergency rescue, relief and protection; first aid services; health services in the hospital; seeking of missing children; family reintegration; referral for rehabilitation and other types of services and legal aid and mediator services.

Addressing the Root Causes of Poverty among Adolescent and Youth

Although there are few programs targeted to address the root causes of trafficking focusing on adolescent and youth, there are generic programs implemented by different Ministries especially MoWCSW, MoFALD and Youth and Sports that contribute to prevent trafficking of adolescent and youth in the country. The *Three Year Plan Approach Paper (2010/11-2012/13)* provides a separate Chapter for 'Youth and Development'. Among others, the Plan aims to discourage youth migration, elimination of poverty, illiteracy and discrimination and registration of personal incidents (migration). The Plan reads:

Youth migration will be reduced by creating youth friendly environment to enhance positive thinking and creativity as well as opportunities for their career development and resolving the problem of unemployment.

Special programs for youth mobilization will be carried out to eliminate poverty, illiteracy, untouchability, caste and gender-based discriminations and customary social evils existing in the society.

Registration, documentation and verification of incidents will be carried out effectively by establishing local bodies as the initial and legitimate source for information (NPC, 2010:106-108).

The Ministry of Youth and Sports is the main responsible agency for the implementation of the policy. The Ministry adopted *National Youth Policy, 2010* and has been running National Youth Mobilization Programs in all 75 districts on 18 topics in accordance with Policy by selecting 165 institutions. Programs are running in prescribed areas through 75 DDCs by availing funds of Rs. 60,000 per program.

The key achievements regarding the promotion and protection of the adolescent and youth are the following:

- Mobilized around 300 local institutions for capacity building of adolescent and youth at central and local levels (Three Year Interim Plan, 2010/11-2012/13);
- Established Youth Information Centres in more than 50 districts (Economic Survey 2011/12);

- Reduced unemployment rate among youth (15-24 years) from 7.3 percent in 1995/96 to 3.6 percent in 2010/11 (Nepal Living Standards Survey, NLSS-III).
- Increased literacy rate among female youth (15- 24 years) from 75.2 per cent in 2006 to 82.7 per cent in 2011 (Nepal Demographic Health Survey, NDHS, 2006 and NDHS 2011).
- Reduced birth rates of adolescents from 98 per 1,000 in 2006 to 81 per 1,000 in 2011 (NDHS, 2006 and NDHS, 2011).
- Collected richer database on various facets of adolescent and youth for programming (Nepal Adolescents and Youth Survey 2010/11 conducted by the MoHP, Population Census 2011 and NDHS 2011, NLSS-III, 2010/11, and Nepal Labor Force Survey 2008/09).

Ministry of Health and Population has the partnership with the Family Planning Association of Nepal (FPAN), Nepal Red Cross Society and Maiti Nepal, Children Workers in Nepal (CWIN), United Nations Children’s Fund (UNICEF), United National Population Fund (UNFPA) especially for adolescent sexual and reproductive health and rights SRHR, safe abortion information, education and services, HIV/AIDS continuum of care, access to SRH information and services to the poor and marginalized people, advocacy on SRHR, combating gender based violence (GBV), human trafficking, and empowerment of women through education.

Despite these efforts from the government and civil society, our discussion with the key stakeholders and review of literature suggests that much effort is needed to incorporate safe migration, trafficking related issues in formal and informal education system, awareness raising programs about safe migration targeting to parents and children and maintaining the out-migration records of adolescents. The forthcoming policy agendas for addressing the root causes of trafficking of adolescents and youths in Nepal requires ensuring universal access and utilization of SRH information, counselling and services; mitigating the issues related to various types of violence; addressing the causes and consequences of poor parenting due to migration, shifting family structures, and drugs abuse; addressing the vulnerability related to out-

migration; establishing and expanding the information system comprising of details about employment and life-skill and designing education curriculum linking with the skill development.

Poverty Alleviation and Employment Promotion Programs

Poverty Alleviation Fund (PAF) - established under the Poverty Alleviation Fund Ordinance 2003 is an autonomous body under the Poverty Alleviation Fund Act, 2006. Its main objective is to support to the inclusive development and targeted programs as set forth in Poverty Reduction Strategy Program and the subsequent period Plans of Nepal. The Fund is operational on the basis of social inclusiveness, transparency, demand based, and direct fund flow to the community as the guiding principles. Programs have been conducted by forming CBOs and establishing collaboration with local bodies, NGOs, CBOs, and private sector.

According to the Report of Economic Survey FY 2011/12 (MoF, 2012), various programs have been operated under the PAF-II with the grant assistance of US \$100 million. PAF's programs have been implemented regularly in 40 districts and additional 15 districts were added in the FY 2011/12. From the initiation of PAF program to the early 2012, a total 593,888 households have been benefited from 1,582 VDCs of 49 districts and 19,138 CBOs have been mobilized. Of the total members benefited from the PAF program, Dalit and Janajati constitute 29.0 and 28.6 per cent, respectively and nearly three-fourth of the CBO members are females. The CBOs have been implementing income generating, small infrastructure development and innovative programs in the communities. The grants were provided to the poverty hit and remote districts of Nepal (Box 4.4).

Box 4.4 Districts provided PAF grants from FY 2008/09-Mid-March, 2012, Nepal

Development regions	Mountain	Hills	Terai
Eastern	Solukhumbu, Taplejung	Khotang, Okhaldhunga, Panchthar, Terhathum Udayapur	Siraha, Saptari, Morang
Central	Rasuwa, Sindhupalchok	Ramechhap, Sindhuli, Dhading, Kavre, Lalitapur, Makwanpur,	Mahottari, Rautahat, Sarlahi, Bara, Dhanusa, Parsa, Chitawan
Western		Pyuthan, Baglung	Kapilbastu, Nawalparasi
Mid-western	Mugu, Jumla, Kailkot	Dailekha, Jajarkot, Rolpa, Salyan, Surkhet	Bardiya,
Far-western	Darchula, Bajhang, Bajura, Dolpa, Humla,	Achham, Baitadi Dadeldhura, Doti	Kanchanpur

Source: Poverty Alleviation Fund cited in MoF, 2011 (Economic Survey 2011/12).

Youth and Small Entrepreneur Self-Employment Fund - established in FY 2008/09, aims to provide self-employment and vocational training to the unemployed youths to increase their employment opportunity through the provision of collateral-free periodic loans at low interest rate from financial institutions. The Fund lends Rs. 200,000/person at the maximum. The Fund targets to the unemployed youths especially of economically deprived groups, women, Dalit, Janajati and conflict affected people, disabled persons and people having traditional skills. The Fund provides loans to invest especially on commercial farming, livestock farming, agro-forestry, mines, high valued gemstones industry, rickshaws in cities and markets, carts service, plumbing service, repair and maintenance of electronic goods to run service oriented self-employment programs. From its establishment to the early 2012, a total of 3,265 unemployed youths have been benefited by participating in various types of Fund's skill oriented training programs in the country. The GoN has approved Rs. 2.69 billion for the operation of the self-employment program by mid-March 2012. Of which, Rs. 335.1 million have already been invested. From this, 3,343 persons have been self-employed in areas of animal husbandry, agriculture, floriculture, service and cottage industries.

Poverty Alleviation and Employment Promotion Programs under Ministry of Local Development - Karnali Employment Program, Western Upland Poverty Alleviation Project, and Program on Connecting Local Initiatives with Local Skills and Nepal Food Security Program are the poverty alleviation and employment promotion programs running under the MoFALD in the country. The Karnali Employment Program has been in operation since FY 2006/07 with the objective of making employment opportunities available of the families of Karnali zone. During the FY 2010/11, a total of 1,222 small infrastructure projects were carried out thereby generating 1,717,885 person-days employment opportunities to the local people. The Western Upland Poverty Alleviation Project has been in operation with the main objective of enhancing living standards of very poor in mid-western and far-western Mountain and hill districts. In the FY 2010/11, 20,209 households were benefited from rural infrastructure development projects and 61 leasehold forest user groups were formed covering 4,490 poor households. The Connecting Local Initiatives with Local Skills Program was implemented with the assistance of Swiss government in 1997 and since FY 2005/06, the GoN initiated allocation of budget in the program. In FY 2010/11, 13,500 families of Achham, Dailekha, Jajarkot and Kailkot districts benefited through operation of various income generating activities, market management of goods and commodities and small physical infrastructure development projects. The Nepal Food Security Program has been in operation since FY 2008/09 with the objective to provide immediate relief to the poor stained by sky-rocketing food prices.

Saving and Credit Cooperatives Under the Ministry of Agriculture and Cooperatives (MoAC) – It is one of the important poverty alleviation programs implemented under the MoAC by the formation and mobilization of Saving and Credit Cooperatives. The number of cooperatives registered under the Cooperatives Act, 1991 reached about 11,000 having more than 1.48 million members. The share capital of the cooperative reached to Rs. 14,167.1 million by Mid-March 2012 (Table 4.4). These cooperatives spread over the country and are engaged in lending activities by collecting deposits from their members.

Table 4.4 Number of saving and credit cooperatives, Nepal

Description	Saving and credit cooperatives		
	Mid-April 2010	Mid April 2011	Mid-Jan 2012
Number of Cooperatives	8,888	10,558	10,997
Members	960,648	1,406,021	1,489,671
Share capital (in million Rs.)	7,278.6	14,222.0	14,167.1
Savings (in million Rs.)	42,930.6	98,453.8	94,033.8
Investment (in million Rs.)	48,885.6	80,700.0	89,308.7

Source: Ministry of Agriculture and Cooperatives cited in MoF, 2012 *Economic Survey 2011/12*.

Education Support Programs in School Education

Scholarship Program Under the Ministry of Education – The Ministry of Education provides various scholarships to different levels of school education aiming to encourage school participation rates (enrolment, continuation and achievement) of children from the marginalized communities, girls, very poor and people living in remote areas. This program as per the scholarship criteria is selected by the school and amounts are annually availed to targeted students through District Education Offices. Table 4.5 provides an overview of scholarships provided from FY 2009/10 to 2011/12. Data reveal that 88 per cent of the target of the girl scholarship in FY 2009/10 and 100 per cent in the FY 2010/11 was achieved while target for handicapped (1-8 grades) was 89 per cent and 93 per cent in FY 2009/10 and FY 2010/11, respectively. Noticeable failure in achieving the targets of distribution of scholarship amount was of Dalit (1-8 grades) scholarship and near extinction and ultra-marginal group scholarship in FY 2010/11.

Table 4.5 Overview of scholarship awarded to students, Nepal, FY 2009/10 to FY 2011/12 (Rs. in 000)

Scholarship categories	FY 2009/10		FY 2010/11		FY 2011/12	
	Target	% achieved	Target	% achieved	Target	% achieved
Girls	1,213,870	87.9	2,293,744	100.0	2,330,680	68.5
Handicapped (1-8 grade)	39,943	89.1	66,635	93.3	77,348	100.0
Handicapped (9-10 grade)	35,003	96.4	4,940	91.0	6,838	100.0
Dalit (1-8 grade)	1,142,777	96.3	1,306,088	40.0	91,124	49.0
Children of Martyrs	58	96.6	48	77.1	64	54.7
Capacity development of <i>Kamlari</i>	2,946	100.0	6	83.3	–	
Conflict Victims	758	100.0	5,718	100.0	6,804	100.0
Mountain Hostel Students	–	–	437	94.5	457	124.3
Feeder Hostel Students	–	–	400	100.0	400	100.0
Model Schools	–	–	148	100.0	222	100.0
Mountain Hostel Dwellers	–	–	280	78.6	140	100.0
Secondary Education	–	–	61,198	96.1	60,000	100.0
Near Extinction and ultra-marginal groups like <i>Haliya</i>	–	–	21,012	64.7	33,904	32.0
Higher Secondary School's Science Student	–	–	80	100.0	80	100.0

Source: Ministry of Education cited in MoF, 2012 Economic Survey 2011/12.

Food Program for Education - This program is being implemented in 17 districts having food scarcity with the aim to increase the enrolment and daily attendance rates of students, reduce class dropout rates, increase the studying capacity of students, bring improvements in health condition of students, and increase the number of girls in school enrolment.

Table 4.6 presents the targeted amount and percentage achievement by the types of programs from the FY 2009/10 to 2011/12. Data reveal that the achievement of the Day Snacks Program for Girl Students

against targeted amount reduced from 88 per cent in FY 2009/10 to 81 per cent in FY 2010/11 to 48 per cent in FY 2011/12. The achievement of the Encouragement Program against targeted amount was only 65 per cent in FY 2011/12 and the comparable figure is even lower for Child Health Care Program (62%) – revealing the failure of programs reaching to the unreached population.

Table 4.6 Overview of Food for Education Program, Nepal, from FY 2009/10 – 2011/12

Types of programs	FY 2009/10	2010/11	2011/12
Day Snacks Program for Girl Students (in monthly basis)			
Target (in Rs.)	182,000	194,000	194,000
% achieved	88.3	81.3	47.8
Encouragement Program (in monthly basis)			
Target (in Rs.)	58,700	65,352	62,000
% achieved	67.6	87.1	64.8
Child Health Care Program (in monthly basis)			
Target (in Rs.)	31000	29000	26000
% achieved	70.8	66.1	61.7

Source: Ministry of Education cited in MoF, 2012 *Economic Survey 2011/12*.

The GoN also provides cash grants to students studying from 0 to 5 grades in Karnali zone. A total of 105,000 students got getting Rs. 15/day under this program for day-Tiffin in the zone. Under the same program, all students studying from 0-5 grades in 14 districts – Sunsari, Saptari, Siraha, Sindhupalchok, Rasuwa, Bara, Dhading, Nawalparasi, Kapilbastu, Dang, Bardiya, Kailali, Pyuthan and Rolpa – has been getting Rs 12/day of their schools for day-Tiffin.

Non-formal Education and Open Schools –The non-formal Education Centers have been conducting national literacy campaign, non-formal education program, literacy program, women education II, alternative schools and open school programs. The main aim of the program is to provide basic education to the people of various age groups who are deprived of formal education. Elimination of illiteracy program has been conducting in 9 districts of Terhathum, Solukhumbu, Rasuwa, Manang, Mustang, Myagdi, Humla, Dolpa and Mugu. Open School

Program is also in operation for those who have failed to complete formal secondary level education. In this program, class 9-10 education can be completed in one year. In academic calendar of 2011, 85 Open Secondary School program in 75 districts are running with 10,600 students enrolled and a total of 1,154 beneficiaries are participating in the program.

Health Support Programs

Social Security Program - The GoN initiated 'Free Health Service to All' since FY 2008/09. In this program includes: free distribution of 25 kinds of medicines from sub-health posts, 35 from health posts, and 40 from primary health centers and district hospitals; free treatment from district hospitals or health institutions having a capacity of 25 beds; free delivery service from all government health institutions; free cardiac, heart and kidney treatment to children below 15 years of age and senior citizens above 75 years of age. In FY 2010/11 about 187,308 individuals, including children, senior citizens and disadvantaged social groups, female community health workers (FCHV) received free treatment from various government hospitals. Similarly, 4,67622 extreme poor and poor, 42,374 disables and 95,368 elderly persons including FCHV received the most essential free health services for 26,092 times.

National AIDS and Sexually Transmitted Disease (STD) Control Program - The National Centre for AIDS and STD Control is the key GoN agency to implement and coordinate the HIV/AIDS prevention related programs in the country. In order to raise awareness against HIV/AIDS and STD, the following programs have been implemented in the FY 2011/12: provision of free medication, extension of three community based CBPMTCT services, 4,200 Anti Retro Viral (ARV) medication to infected and PMTCT program affiliated pregnant females and children below 15 years. From 113 ARV Centers medicine is distributed and DACC is formed in district public health office in order to run several programs to control HIV/AIDs. By the FY 2011/12, intensive treatment program was also provided to homosexuals, sex workers, injection drug users, migrants and the inmates. However, our review of literature and discussion of the health personnel in the Department of Health suggests that GoN has yet to provide comprehensive SRH services to

the adolescent and youth that are confidential, private and affordable. Further, the GoN has yet to target the victims/survivors of trafficking and provide special care for them.

Inclusive Development Programs

The GoN has adopted National Indigenous Empowerment Act 2001 to promote and protect the rights of indigenous communities in Nepal. The MoFALD is the key line agency to implement the Act. The GoN has continuously allocated budget for the indigenous communities focused empowerment programs since 2006. Under the MoFALD, inclusive development programs targeting to indigenous people, ethnic groups, Dalit, Madheshi, Muslim, disadvantaged class and remote and special area, women and children are in operation. These programs have been implemented through District Development Committees (Box 4.5). Although the effectiveness of each of these programs have not been discussed here due to limited space, it appears that the projects have targeted the most needy groups and have focused on education, health and income generation programs – thereby contributing to reduction of poverty and vulnerability for trafficking in persons.

Box 4.5 Overview of inclusive development program under MoFALD, Nepal

Program	Achievement
Program for Uplifting the Near Extinction Indigenous and <i>Chepang</i> Development Program	In FY 2009/10, works on conserving 79 languages completed 346 students were provided with scholarships 355 individuals received various trainings Chepang development program is in operation in 6 districts.
Neglected, Oppressed and Dalit Empowerment Program	Aimed at holistic development of Dalit community by bringing them into the mainstream of development through media campaign, free medial camps, distribution of educational materials, construction of drinking water and job oriented training
Madheshi-Disadvantaged Class and Muslim Strengthening Program	The GoN with its own resources started this program in 26 districts from FY 2007/08. Employment oriented and awareness programs, reproductive health, health education, sanitation, language training, literacy and educational motivation programs, single women empowering program are being carried out.

Source: MoF, 2012 (Economic Survey 2011/12).

Much effort, however, is needed to ensure the indigenous language and cultural development, protect the environment regarding the indigenous communities, implement the ILO Convention 169 and ensure skill employment for marginalized and highly extinction ethnic groups.

Vital Statistics Registration Program (VRSP) - Under the MoFALD, VDC and Municipalities maintained the personal incidents of births, deaths, marriage, divorce and migration. In the FY 2010/11, the VDCs/Municipalities recorded 316,189 persons as migrants (out-migration and in-migration) in the country (Table 4.7). Given the magnitude of internal and cross-border migration of Nepali people, the figure of 139,268 registered as out-migrants appears to be far lower. Further, with the absence of disaggregated data, it is not clear whether it is permanent or temporary out-migration and whether it is internal or cross-border out-migration.

Table 4.7 Incidents registration, Nepal, FY 2010/11 and mid-March 2012

	FY 2010/11	Till Mid-March 2011
Birth registration	696,716	234,843
Male	322,556	109,316
Female	374,160	125,527
Death registration	97,520	55,466
Male	37,812	13,097
Female	59,708	42,369
Marriage registration	183,436	73,029
Divorced registration	339	123
Migration registration	316,189	110,672
Out-migration	139,268	50,813
In-migration	176,921	59,859

Source: MoFALD cited in MoF, 2011 (Economic Survey 2011/12).

National Dalit Commission – The Commission has been working for the protection of rights, entitlements and overall development of Dalit people. In FY 2010/11, the major activities carried out by the Commission were: updating the Dalit castes, strengthening and expanding Dalit Information Centre, preparing the profile of inter-caste married couple and maintaining coordination with stakeholders for collecting real data of Dalit in National Population Census 2011. The Commission also handles the complaints of domestic violence against Dalit women and trafficking cases.

4.5 External Development Partners' Responses to Trafficking in Persons

In addition to GOs, many international organizations, donor agencies, and technical assistance providers have supported Nepal's counter-trafficking efforts and promotion of safe migration.

UN Women Nepal – It has been working to enhance the capacity of government officials, justice sector actors, and local NGOs to combat gender-based violence and human trafficking. It also facilitates the National Network on Safe Migration, works with the MoLE on policy issues affecting women, and implements awareness raising, community mobilization, and income generation projects for female returnee migrant workers.

United Nations Children's Fund (UNICEF) – Its Child Protection Program aims to strengthen the capacity of the GoN and civil society to protect children against violence, exploitation and abuse, and seeks to support the building of protective systems covering all types of child rights violations.

International Labor Organization (ILO) – ILO through its Decent Work Country Program for Nepal aims to promote decent and productive employment opportunities for Nepali people. Its key thematic areas include: implementation of international labor standards, child labor, employment promotion, equality and discrimination, labor migration, and informal economy. ILO is also working in safe migration issues as well as combating forced labor.

United States Agency for International Development (USAID) – It has funded Combating Trafficking in Persons (C-TIP) Program in Nepal for 2010-2015. The funding of the project is US \$ 6.8 million. The overall goal of the C-TIP program is to reduce and prevent the incidence of TIP. The project adopts a holistic approach in addressing issues of protection, prosecution, and prevention of trafficking in persons related to labor migration, sex trafficking, and organ trafficking. It seeks to strengthen coordination, collaboration, and technical skills across a diverse group of government and civil society stakeholders. The program utilizes a strategy to work at the national and local level simultaneously on national policy,

institutional capacity building, and community-based service delivery. The project has three intervention areas: prevention, protection and prosecution. Under the protection component, the project aims to protect survivors' human rights and provides measures for the physical, psychological, and social recovery of survivors of trafficking. Under the prosecution component, the project addresses the policy and operational needs to encourage civil participation and cooperation with TIP survivors in the prosecution of traffickers. In addition, trainings are also being conducted to ensure that insensitive investigations and prosecution processes do not further traumatize TIP survivors. The third component of the project is prevention through providing vocational skills, alternative livelihood opportunities, and mobilization and strengthening of both local government and civil society to combat trafficking.

The project covers six districts representing from major source districts of trafficking (Kavre, Sindhupalchok, and Makwanpur) and cross-border transit districts (Banke and Kanchanpur) and Kathmandu district as a source, destination, and transit district. Immediate beneficiaries of this project include those vulnerable to trafficking, trafficking survivors, their families/communities. Other beneficiaries include trafficking survivors (men, women, and children), particularly those in rehab centers. In addition, the project aims to reduce trafficking through improving the capacity and effectiveness of civil society and government including District Committee against Human Trafficking, security forces, teachers, court staff, judges, and prosecutors.

The Asia Foundation is the primary grantee of the project. It has been working in partnership with 13 local NGOs. In the protection component of the C-TIP project, the Asia Foundation is working in collaboration with World Education and Transcultural Psychosocial Organization to enhance and expand shelters, strengthen rehabilitation outreach efforts, and improve return and reintegration mechanisms with SAATHI, Change Nepal, and POURAKHI. In the prosecution component of the C-TIP project, the project has been supporting legal aid service provision and has developed victim-centered counter-trafficking expertise with the police, prosecutors and judiciary. The key partners under this umbrella are Kathmandu School of Law (KSL)/Center for Legal Research and Resource

Development (CeLRRd), Forum for Protection of People's Rights, Nepal (PPR), FWLD; LACC; NJA and Transcultural Psychosocial Organization-Nepal (TPO). World Education, the sub-guarantee, has taken the lead role on the Prevention Component by building capacity of major stakeholders and conducting awareness campaigns and safe migration activities with the following six local partners: Nepal Institute of Development Studies (NIDS); SAATHI; Change Nepal; Nepal Tamang Women's Ghedung; and Pourakhi. In addition, the project also works in close collaboration with the MoWCSW to strengthen its capacity by providing technical and financial support.

The achievements and effectiveness of the C-TIP project have not been known as the Funding Agency has yet to carry out the mid-term evaluation of the project.

World Education – In addition to its programs related to exploitative child labor, poverty and children's access to education, it has been implementing C-TIP Project in Nepal. It looks at the Prevention component of C-TIP.

Terre des Hommes (TDH) Nepal – It has been implementing anti-human trafficking programs in Nepal since 2004. It focuses on such issues as safe repatriation of trafficking victims from India, development of minimum standards on the protection of trafficking victims, establishment of shelter homes, educating children of sex workers, and preventing trafficking and exploitation of children.

Tiny Hands International – It operates 12 to 16 border surveillance stations at a time aimed at preventing traffickers from transporting girls and women to India. It has also five safe homes for intercepted victims in Kanchanpur district as well as a Women's Empowerment Center in Kathmandu.

Plan International – It helps to the poor children to access their rights to health, education, economic security, and protection. One of Plan's six core areas is Child Protection and Participation. Under this area, Plan Nepal aims to eliminate childhood marriage, child labor, and human trafficking, while supporting children affected by conflict and ensuring juvenile justice.

Free the Slaves – It has been implementing anti-slavery programs in Nepal since 2007. In the FY 2011, it worked to end slavery in over 120 rural communities and entertainment industry in Kathmandu with ATTWIN and Shakti Samuha.

Planète Enfants – It has been working in Nepal for almost 20 years with extremely poor populations such as street children, children in remote area and conflict affected children. Currently Planete Enfants in partnership with Change Nepal – an NGO- has been implementing ‘Not for Sale’ project and ‘Childhood at Risk: Building a Better Future for Mothers and Children’ project’ designed for the protection of women and children in entertainment sector. Through these projects, PE provides following services to the victims/potentially victims in entertainment sector: psychosocial service to survivors, psychological assist to survivors’ families, legal assistance, medical care, education support, vocational training, income generating activities support and reintegration. The projects also promote knowledge against exploitations and abuse and emphasize on fostering the healthy and protective environment and relation between mothers and children. In addition, it has been promoting and advocating about Standard of Operation Procedure (SOP) at National Level.

4.6 NGOs Responses to Trafficking in Persons

In addition to Governmental activities and support by the EDPs, a number of local NGOs and CBOs have been working to combat trafficking in persons in Nepal. Civil Society’s counter-trafficking efforts has recently been recognized at the international level. In 2010, the President of Maiti Nepal was awarded as CNN Hero of the Year Award and her work was documented in the CNN Freedom Project’s film, “Nepal’s Stolen Children.” In 2011, the President of Shakti Samuha received the 2011 Hero Acting to End Modern-Day Slavery Award from the U.S. Department of State.

A number of NGOs are engaged in anti-trafficking activities, safe migration issues and violence against women in the country. Many

NGOs¹³ are affiliated with anti-trafficking networks. There are three national level anti-trafficking networks: i) National Network against Girls Trafficking (NNGAT) established 1990; ii) Human Rights and Anti-Trafficking Network (13 member organizations) established in 1997; and iii) AATWIN (26 member organizations) established in 1997. In addition, there is Inter-Agency Coordinating Group on Trafficking in Persons (IACG) as anti-trafficking networks among donor organizations. The key aim of these networks is to raise collective voice against human trafficking, create lobbying for the adoption and implementation of anti-human trafficking policies and programs, enhance multisectoral collaboration and information sharing, create referral mechanisms and implement holistic approaches to eradicating trafficking in persons. Many NGOs have shifted their focus from merely anti-trafficking issues to safe migration and violence against women and children.

The leading NGOs working on anti-trafficking and safe migration issues are Family Planning Association of Nepal (FPAN), LACC, CWIN, WOREC, Saathi, Maiti Nepal, Gramin Mahila Sirjanshil Pariwar, Sindhupalchok, FWLD, Shakti Samuha, CeLRRd, Forum for Protection of People's Rights, Nepal (PPR Nepal), Easter Benjamin Trust and Change Nepal.

4.6.1 Prevention Related Activities

Family Planning Association of Nepal (FPAN) – It was established in 1959 and currently it evolved as a leading national NGO providing sexual and reproductive health information and services in 42 districts. Family Planning Association of Nepal considers victims of trafficking in persons as one of its key target population for providing sexual and reproductive health information and service. Many trafficking survivors serve as FPAN's peer educators and community counsellors.

ABC Nepal –It has been working in anti-trafficking issues since 1990 and since 2010 in safe migration issues. It works in Morang (14 VDC and 2 Municipality), Rupandehi, Makwanpur (10 VDC and 1 Municipality) and Kathmandu (Kathmandu metropolis – 35) districts. Its implementation

¹³ The profile of NGOs working against trafficking in persons especially for women and children is presented in Annex 4.3. Note that NHRC requested all leading NGOs to provide their profile but only 19 organizations provided information.

partner organizations are Care Nepal, Women and Child Office Kathmandu Metropolis and Denmark Foundation. During January 2011 to December, 2011, ABC Nepal carried out the following prevention activities related to trafficking and safe migration.

- Provided 42 women prevention Home Services
- Provided NFE to 1160 girls and women
- Provided formal education support to 50 girls
- Provided micro-credit/income generation support to 245 women
- Formed and mobilized 22 Community Surveillance groups
- Conducted awareness programs in Kathmandu, Morang, Rupandehi covering more than 1760 women
- Disseminated booklet about safe migration to more than 500 copies

Legal Aid Consultancy Center (LACC) – Established in 1987, LACC offers free legal aid (counselling, mediation, paralegal services, and court representation) to victims of gender-based violence, trafficking in persons, and child abuse. In addition, LACC runs a Women’s Rights Helpline and implements media campaigns on human trafficking and domestic violence. LACC has been working in anti-trafficking area since 2010. In the FY 2010/11, it carried out awareness raising program about anti-trafficking in Sindhupalchok (6 VDCs), Banke (5 VDCs), Makwanpur (6 VDCs), Kavre (4 VDCs and 2 Municipalities) and Kathmandu (6 VDCs) districts. It provided referral services to 12 cases of human trafficking to PPR Nepal, CeLRRd and TPO Nepal for further legal proceeding and psychosocial counselling in between January 2011 and December 2011.

Child Workers in Nepal (CWIN) – It is a pioneer organization in promoting children’s rights in Nepal. Its main areas of concern include child labor, street children, child marriage, bonded-labor, trafficking in children, juvenile justice, and commercial-sexual exploitation of children. It coordinates rescue and repatriation operations with the Child Helpline in India and implements missing children and youth empowerment programs. For prevention programs, CWIN works across the country focusing on 37 districts. CWIN operates a toll-free Child Helpline along with the ambulance service, emergency shelter, as well as medical, counselling, and legal services.

Box 4.6 CWIN's child help-lines and its coverage

Location of child helpline	Coverage districts
Biratnagar	Jhapa, Morang and Sunsari
Hetauda	Makwanpur, Chitawan, Bara, Parsa and Rautahat
Kathmandu	Kathmandu, Bhaktapur, Lalitapur, Kavre, Nuwakot, Dhading and Sindhupalchok
Pokhara	Kaski, Tanahun, Parbat and Baglung
Nepalgunj	Banke, Bardiya and Dang
Community program	Rukum, Salyan and Dolakha

During January 2011 to December 2011, the following prevention related activities were carried out:

- Provided Rehabilitation Services to 23 children in Kavre and Kathmandu (socialization, formal education, emergency shelter, psychosocial counselling, and legal counselling and aid.
- Provided NFE to 11 children in Kathmandu and Kaski
- Supported to 198 children in different CWIN's Child Care Homes
- Conducted income generating programs in three VDCs in Dolakha district
- Conducted awareness programs in CWIN's program districts
- Established cooperation and collaboration with different stakeholders in where the Child Helpline are running

In addition to the prevention activities, CWIN carried out protection and legal aid. With the initiation of CWIN, a case was filed against a trafficker accusing him that he sold four girls in Mumbai for sexual exploitation. The case was decided by the district court of Sindhupalchok and the trafficker was convicted. In a second case, a man was accused of forcing a girl in sex work in a lodge in Kathmandu. The case was filed in Kathmandu district court and the trafficker was convicted.

The Women Progress Center (WPC) – It was established in 2000 as one of the NGOs in far-western Nepal. Its office is located in Kanchanpur district. Women Progressive Center (WPC) has been implementing different programs for the empowerment, protection and promotion of the rights of women. Its program districts are all nine districts of far-western region, namely, Kanchanpur, Dadeldhura, Baitadi,

Darchula, Kailali, Doti, Achham, Bajhang and Bajura districts. It is women exclusive NGO and has been working to minimize the women exploitation and promote women welfare. It adopts the following strategies to realize its goal: counselling, training, workshops and seminars, conferences and meetings, technology and skill promotion and transfer, interaction programs, partnership and collaboration, social mobilization, saving and credit, women focused enterprises development, regional media/press conference, women's networking, report publication and conduction of rallies/advocacy/lobby. It has been currently implementing 'Social mobilization program' in Bheemdatta Municipality and 'anti trafficking awareness program' in Kanchanpur district. It implemented combating human trafficking (2009-2011) project in Kanchanpur district with the financial support of European Commission. During the January 2011-December 2011, its prevention program benefited the following:

- Provided prevention home for 46 women (of them 13 were victims of domestic violence and the rest were victims/and or potentially victims of trafficking)
- Supported for formal education for 50 women (safe migration and anti-trafficking)
- Provided NFE for 540 women (of which 230 were victims of domestic violence)
- Provided income generating program for 156 women
- Conducted awareness program about safe migration reaching to the community
- Formed and mobilized community surveillance groups in 12 districts

Women's Rehabilitation Center (WOREC) – It is one of the leading NGOs that addresses the issues of violence against women, safe migration, human trafficking, economic, social and cultural rights of women, as well as protection and recognition of women human rights defenders. WOREC has been implementing community-based programs in 9 districts, namely, Morang, Sunsari, Udayapur, Siraha, Dhanusa, Dang and Kailali. From January 2011 to December 2011, WOREC carried out the following prevention related program about anti-trafficking, safe migration and violence against women:

- Provided Prevention Home services to 392 women (of which 383 were the victims of domestic violence)
- Conducted awareness programs on safe migration, anti-trafficking and violence against women in all 9 program districts – benefiting more than 25,000 people including women.
- Conducted programs to disseminate the existing laws and policies about safe migration and violence against women – benefiting more than 2000 women including key stakeholders such as VDC Secretaries.

Saathi Nepal – It has been working in anti-trafficking related activities since 2002; in safe-migration since 2005 and in violence against women since 1992. Its program districts include: Banke, Bardiya, Surkhet, Kanchanpur and Kapilbastu with the partnership with World Education, Plan Nepal, Planate Enfants, Open Society Foundation, UNFPA, Care Nepal and the GoN. It has been implementing an Indo-Nepal Cross-Border Anti-Trafficking Program in Kanchanpur. The program coordinates documentation, protection, rescue, care and support, awareness raising, advocacy, networking, and prevention activities to protect the rights of trafficking women and children and safe migration counselling and information dissemination to potential women and girl migrants. It has two rehab centers for trafficking survivors in Banke and Kanchanpur. In between January 2011-December 2011, it carried out the following prevention related activities:

- Provided Prevention Home services to 237 women in Banke district
- Conducted awareness raising program about safe migration to more than 755 women in Banke and Kanchanpur districts
- Formed and mobilized 75 Community surveillance groups in Banke (4 VDCs)
- Supported micro-credit/income generation activities to 20 women in Banke and Kanchanpur

Maiti Nepal – It is one of the leading NGOs working in anti-trafficking, safe-migration and violence against women areas in Nepal. It has a central office in Kathmandu, 3 regional offices as well as 3 prevention

homes, 8 transit homes, 2 rehabilitation homes, and 2 hospices. Among others, Maiti Nepal identifies and intercepts trafficking victims through its border monitoring program, conducts rescue operations, provides victims with shelter and essential services, and implements Initiative Hope which offers medical treatment to victims infected with HIV. Maiti Nepal has been working in the following districts: Kathmandu, Kanchanpur, Kailali, Banke, Rupandehi, Nawalparasi, Chitawan, Nuwakot, Makwanpur, Parsa, Sunsari, Morang, Illam, Kavre and Rasuwa districts.

During the January 2011-December 2011, it carried out the following prevention related programs:

- Provided 80 trafficking victims/survivors preventive services prevention Homes in Nuwakot, Makwanpur and Nawalparasi districts
- Provided safe migration information to 47,937 persons focusing on violence against women
- Intercepted 2478 women and children from different border points: Kakarbhatta (251), Bhairahawa (184), Birgunj (174), Biratnagar (73), Pasupatinagar (507), Dhanghadi (81), Maheshpur (39) and Mahendranagar (114).
- Rescued 56 girls and women from brothels of Kolkata, Mumbai, New Delhi, and labor exploitation from Bangladesh, Saudi Arabia, Kuwait, Lebanon, Bahrain.
- Assisted filing of 25 cases of victims of trafficking in the Nepal Police
- Assisted 834 victims of domestic violence to file in the Nepal Police

Forum for Women, Law and Development (FWLD) – It was formed in 1995 as non-profit NGO aiming to protect and promote human rights and eliminate all forms of discrimination. It uses domestic and international law as well as public interest litigation as key instruments to ensure the rights of women, children, minorities, and all other marginalized populations, including survivors of trafficking in persons.

Shakti Samuha – It is the first organization in Nepal established and run by survivors of trafficking in persons since 1996. Shakti Samuha focuses on empowering trafficking survivors through social protection, rehabilitation, and reintegration programs. Its working districts include Bardiya (3 VDCs), Kaski (6 VDCs), Nuwakot (6 VDCs), Sindhupalchok (6 VDCs), Kathmandu (Kapan VDC and other slum area), Makwanpur (5 VDCs), Bara (5 VDCs), Rautahat (5 VDCs) and Jhapa (4 VDCs and Damak Municipality).

During January 2011 and December 2011, it carried out the following prevention related activities:

- Provided Prevention Home services to 50 girls/women in Kaski district
- Provided NFE to 120 girls and women in Makwanpur and Bara districts
- Provided formal education support to 473 girls in Makwanpur, Rautahat, Bara, Kathmandu, Nuwakot, Sindhupalchok, Jhapa, Bardiya districts
- Supported 83 trafficking survivors for micro-credit enterprises in Makwanpur, Bara, Rautahat, Jhapa, Bardiya, Kathmandu, Nuwakot, Sindhupalchok districts
- Conducted awareness program about anti-trafficking and safe migration in Bara, Makwanpur & Rautahat, Kathmandu, Jhapa, Bardiya, Sindhupalchok, Nuwakot districts covering more than 3200 girls and women
- Formed and mobilized 58 Community surveillance groups in Bara, Rautahat, Makwanpur, Sindhupalchok, Nuwakot, Kathmandu districts.

Gramin Mahila Sirjanshil Pariwar, Sindhupalchok – It has been working in Sindhupalchok district in anti-trafficking activities since 1994, in violence against women since 2005 and in safe migration issues since 2009. Currently, it has been working in partnership with Free the Slave, USA. In between January 2011 and December 2011, it carried out the following prevention related programs for combating trafficking in persons:

- Produced 40 persons as independent by providing skill development training

- Provided NFE to 50 persons to develop their discussion habit
- Provided formal education to 125 persons by running five REELECT class in two VDCs
- Conducted awareness program about the concept of human trafficking to more than 1000 people
- Disseminated booklets to more than 4000 about existing laws and policies
- Formed and mobilized 60 community surveillance groups thereby community started supervision by themselves
- Conducted lobbying and advocacy to 60 Village Committees of Anti-trafficking Networks covering more than 13000 people about the safe migration and human trafficking

Center for Legal Research and Resource Development (CeLRRd) – It is one of the leading law-oriented NGOs in Nepal. It aims to foster human rights culture, rule of law, good-governance, and access to justice through advocacy and trainings. ‘Anti-Human Trafficking and Gender Justice’ is one of the CeLRRd’s thematic areas. The organization cooperates with the Kathmandu School of Law (KSL) and its Legal Aid Clinic.

During January 2011-December 2011, the following prevention related activities were carried out:

- Carried out anti-trafficking and safe migration activities in Sindhupalchok (12 VDCs), Banke (12 VDCs), Kanchanpur (12 VDCs), Rautahat (9 VDCs and 1 municipality), Nawalparasi (10 VDCs) and Chitawan (10 VDCs) districts.
- Provided NFE for 1707 persons in Rautahat, Nawalparasi and Chitawan (30 VDCs), which contributes to improve quality service to TIP victims and witness.
- Conducted awareness raising at the community level and psychosocial counselling to 2061 persons (Case 4.1).
- Provided NFE including safe migration issues to 3585 adolescents in Rautahat, Nawalparasi and Chitawan districts.

Case 4.1 Orientation program helped to understand about trafficking to local community

'I was one of the participants of VDC level orientation held in Sindhupalchok in May 2011', said Sanu Tamang. He opined that the very orientation has helped him to understand different dimension and various modes applied for trafficking. He added that due to that orientation he was able to file a case and seek justice for his daughter who was about to sold by the brokers. The broker named Santosh who is also their neighbor trapped his daughter and his sister-in-law by promising attractive job in India. Both the girls ran away from home and met Santosh in Kathmandu. Santosh hired a taxi and tried to cross the Thankot border, meanwhile the Maiti Nepal team and security people suspected and interrogated the girls. In the meantime, Sanotsh and his friend ran away and the girls were handed to their respective family members. The girls returned to their home being acknowledged that they were about to be trafficked. Sanu Tamang initiated for legal counseling and legal aid service at CeLRRd about which he came to know through the orientation. He registered a FIR at police and the Police arrested Santosh. Santosh and other traffickers offered Rs. 20,000/- for withdrawing the case, but he rejected the offer saying that he is no more ignorant about his rights and said that he would not withdraw the case in any situation. Lastly, Sanu thanks CeLRRd for the work that brought transformation in this thinking and behavior.

Source: CeLRRd (Based on the case studies sent to NHRC), 2012.

Forum for Protection of People's Rights, Nepal (PPR Nepal) – It was established in 2002 to advocate and work in the area of human rights and access to justice. It offers victim-centred trainings to lawyers, judges, police, and prosecutors; provides legal aid and counselling services to the victims; conducts awareness raising activities; and strives to create a more supportive environment in which trafficking victims can reintegrate.

PPR Nepal's prevention activities against trafficking in women and children and violence against women during January 2011 and December 2011 were reported as follow:

- Conducted legal awareness programs among members of district committees and VDC groups about trafficking Act in Kathmandu, Kavre and Makwanpur districts covering more than 1260 people and about witchcraft laws to more than 600 people in Rautahat, Bara, Dang and Makwanpur districts.

- Disseminated booklets about existing laws and policies of trafficking and domestic violence including witchcraft related laws to more than 6000 people.
- Assisted to file 13 cases (20 trafficking survivors) related to trafficking in Police/Attorney for the Investigation and Prosecution.
- Assisted to file 9 cases (9 victims/survivors) related to violence against women in Police/Attorney for the Investigation and Prosecution. There were 9 accused persons. Prepared audio visual documentary about witchcraft related violence.

Esther Benjamins Memorial Foundation (EBMF) – It has been working in rescuing children who have been trafficked to Indian circuses, but also rescues children exploited in other contexts. The EBMF provides full-time residential care, education, and training to the rescued children in its two centers located in Kathmandu and Hetauda. In Lalitapur (Taukhel VDC), it has a Child Care Home. As prevention program, it has been implementing school support and vocational skills in the program areas, aiming to prevent trafficking of children for circus performance. In addition to the prevention related activities, the EBMF provided medical support to the trafficking survivors, carried out medical camp in Makwanpur district, mid-day meals to schools and financial support to the economically disadvantaged children. In addition, it carried out the following activities in between December 2011 and January 2011:

- Provided 135 child protection and development services Godabari, Lalitapur
- Provided 3500 children formal education support in Makwanpur and Rupandehi districts – resulting a decrease number of children trafficked
- Provided 30 children micro-credit and income generating training in Lalitapur – contributing to help the beneficiaries become financially independent
- Conducted awareness raising programs against child trafficking covering more than 3500 persons in Makwanpur and Rupandehi districts – contributing to reduce child trafficking for the purpose of circus performance

Nepalese Home - It has been working in anti-trafficking areas since 2005, especially focusing on awareness program and providing scholarship for those who are poor and deprived in education. In between January 2011 to December 2011, it worked in Sindhupalchok (5 VDCs), Kavre (4 VDCs and one municipality), Dolakha (4 VDCs), Jhapa (2 VDCs), Makwanpur (3 VDCs and 1 municipality), Sunsari (Inaruwa Municipality and Lauki VDC), Kanchanpur (2 VDCs and one Municipality), Rupandehi (Butawal Municipality and Madhoulia VDC) and Kathmandu (3 VDCs) districts. It carried out the following activities:

- Provided 203 women and children prevention services
- Provided NFE for 9 children
- Provided 1300 children formal education support

Change Nepal – It specializes in literacy and awareness programs for victims of trafficking in persons. The organization offers non-formal education, counselling services, vocational and skill training for alternative livelihoods, assistance for victims who plan to become entrepreneurs, and medical support, including referrals to health clinics. Change Nepal has a drop-in care center and a learning center in Kathmandu.

Centre For Awareness Promotion (CAP) Nepal - It is Kathmandu based NGO working to protect working girls/women in entertainment sector such as dance restaurants, bars, restaurants and massage parlors. It has been working since 2010. Its working areas are Kathmandu Metropolitan city including some neighboring VDCs of Kathmandu metropolitan city. During January 2011 to December 2011, it carried out the following prevention related activities:

- Conducted awareness raising program targeting to girls/women working in entertainment sector and women in domestic violence to about 2,500 girls/women in Kathmandu valley
- Conducted three lobbying and advocacy programs - thereby mobilizing networks of organizations working in entertainment sector

- Conducted meeting with the owners of the restaurants and dance bars for the protection and promotion of the rights of the girls working in the entertainment sector
- Formed and mobilized ‘a sister network’ of violence against women.

Alliance against Trafficking in Women and Children in Nepal (AATWIN) – It was formed in 1997 as an anti-trafficking network. Now, it has been working in anti-trafficking, safe migration and violence against women issues. In FY 2011/12, it carried out programs in Kathmandu, Rupandehi (Butawal) and Rautahat (Gaur). It conducted 18 activities of lobbying and advocacy through interaction, consultation, meeting, workshop, submission of memorandum signature campaign and handover, training, publication. The key outcome of the activities are to i) critically review of HTTCA 2007 and FEA 2007; ii) sensitize the stakeholders for the ratification of UN protocol on trafficking; iii) intense feedback on the process of NPA 2012 against trafficking; iv) publication and dissemination of IEC materials and v) advocacy to ensure the rights against trafficking, slavery, exploitation.

Next Generation Nepal (NGN) – It is one of the leading INGOs working to combat the trafficking of children for the purpose of exploitation within orphanages and Child Care Homes.

Analyzing the Prevention Initiatives vis-à-vis UN Protocol on Trafficking

Article 9 of UN Protocol on Trafficking defines ‘prevention’ as normative framework involving preventing a crime and reducing the conditions that make an individual vulnerable to trafficking. The Organization for Security and Cooperation in Europe identified the need for prevention related activities encompassing three broad areas:

1. Prevention through public awareness and education, reflecting a need to inform the public, including individuals who are potentially at risk of being trafficked;
2. Prevention through data collection and research in order to understand the scope and the nature of trafficking and

3. Prevention involves the development of social and economic interventions related to human trafficking - the need to generate alternatives for those potentially at risk of being trafficked.

Examining the involvement of GOs, NGOs and EDPs in prevention of trafficking in Nepal, it seems that majority of programs focus on the first category while there is less focus on the second and third categories. The question raises whether only emphasis on public awareness and education are sufficient to prevent trafficking in persons. This is not certainly. In Nepal, there is no comprehensive data base system and research from which one can scientifically understand the magnitude of trafficking in persons for different purposes. Although the Government of Nepal conduct periodic surveys such as Living Standards Surveys, Demographic Health Surveys and Labor Force Surveys and Population Censuses, they do not reflect the processes, nature, magnitude, causes and consequences of trafficking in persons in Nepal. A small, localized, project based studies exist but they are inadequate to understand the national scenarios and they only provide partial understanding of the dynamics of trafficking. In case of third category of prevention activities, review of the GOs, NGOs program suggests that although a number of Ministries and Departments including NGOs have implemented socio-economic interventions programs, but they miss linking trafficking issues in their interventions. The MoWCSW has not yet identified the most trafficking risk districts/area and most risk groups. Although the new NPA has envisioned such a comprehensive framework for prevention activities, it appears that it is difficult to implement as it demands mobilization of a range of stakeholders simultaneously.

4.6.2 Protection Related Activities

In addition to prevention activities, the NGOs have conducted protection related activities such as interception, rescue, repatriation, rehabilitation and reintegration (Table 4.8 and Annex 4.4).

Table 4.8 Number of trafficking victims/survivors provided protection services, by different NGOs, Nepal (January 2011- December 2011)

Protection categories	Total for FY 2009/10	January 2011-December 2011				Total
		Children (<18 years)		Adult (>=18 years)		
		Girls	Boys	Women	Men	
Interception	1609	2328	180	423	2288	6883*
Rescue						
Sexual exploitation	106	106	9	26	0	141
Labor exploitation	127	102	107	75	1088	1372
Other Form of exploitation	-	70	49	4	9	132
Repatriation						
Indian	63	109	35	22	30	196
Gulf countries and Malaysia	59	0	0	37	1055	1092
Rehabilitation	382	151	85	84	0	320
Reintegration	1243	91	42	116	37	286
Referral services	89	134	35	66	0	235
Legal support						
Missing application received	2917	904	917	13	86	2810
Found among the missing applicants	614	451	625	0	0	1076

Note: In the FY 2009/10, the figures here includes from the 7 NGOs. In the FY 2010/11, the figure includes 12 NGOs ABC Nepal, Saathi, GMSP, Maiti Nepal, Nepalese Home, Shakti Samuha, EBMF, PNCC, People Forum, CeLRRd, PPR Nepal and LACC. In case of 'interception' figure also includes interception by Nepal Police for both FY 2009/10 and 2011. Disaggregated data of 'interception' from Maiti Nepal was not available and the total of interception figure includes Maiti Nepal figure of 1,664 in 2011.

Interception

NGOs have established the surveillance groups in border points between Nepal and India, major bus parks and transport routes in different parts of the country. In 2011, 6883 persons were intercepted in suspension of being trafficked.

ABC Nepal intercepted from Rupandehi and Morang districts. Maiti Nepal intercepted from Kakarbhitta, Bhairahawa, Birgunj, Biratnagar, Nepalgunj, Pashupatinagar, Dhanghadi, Maheshpur and Mahendranagar.

Rescue/Repatriation

NGOs have rescued girls and women from different sexual and labor exploitation including those victims of domestic violence. A total of 1645 persons were rescued/repatriated with 141 were from sexual exploitation, 1372 from labor exploitation and 132 from other forms of exploitation. Similarly, out of the 1645 rescued cases, 1608 were rescued from abroad: India (n= 196) and Gulf countries and Malaysia (n=1092).

GMSP rescued from Pangretar, Mankha (Sexual exploitation), Marming, Galche, Thumpakhar, Thulopakhar (Labour exploitation), Gati, Barhabise, Sagachowk (Other forms of exploitation). Maiti Nepal rescued from Kolkata, Mumbai, New Delhi, Bangladesh, Saudi Arabia, Kuwait, Lebanon, Baharain (Sexual exploitation). Nepalese Home rescued from Kathmandu (other form of exploitation). The EBMF rescued from Bara (Sexual exploitation), Delhi, West Bengal, Bangalore (Labour Exploitation), Bhojapur (Jail), India (Juvenile Justice Home) and Tamil- Nadu (Other forms of exploitation-Faith based trafficking). PNCC rescued from labor exploitation. Among the 71 cases of rescued by EBT, 3 cases were internal trafficking while the rest were rescued from India.

With regard to repatriation, SAATHI - 1 woman of Pyuthan was rescued from India. Nepalese Home- 1 girl was repatriated from Kolkata (from brothel). GMSP repatriated from Sexual exploitation, labor exploitation and other forms of exploitation. Shakti Samuha- Girls were repatriated from Kolkata, Mumbai, Goa & New Delhi (Sexual Exploitation). PNCC repatriated men from Gulf countries and Malaysia and WOREC from Saudi Arabia.

Rehabilitation Services

These NGOs provided two types of rehabilitation services: temporary shelter and providing rehabilitation services such as food, shelter,

health treatment, skill development program, income generating program, psychosocial counselling, legal aid including providing seed money for self-entrepreneurship. During the January 2011 to December 2011, a total of 320 children and women were being provided rehabilitation services- the large majority being of girls.

ABC Nepal had provided transit homes for 37 girls; 45 girls/women received rehab services from GMSP; 64 girls/women received rehab services from Shakti Samuha. EBMF provided transit home for 135 children.

Data reveal that girls, boys and women were provided rehabilitation services.

The case of Geeta is one example how NGOs have been providing rescue and rehabilitation services (Case 4.2) for the victims/survivors of trafficking.

Case 4.2 A survivors of circus trafficking receiving support from WOSCC

Geeta, originally from Kavre district, was trafficked to Kohinoor circus in India when she was 12 years of old. At the beginning, she used to receive Rs. 50/month and when she developed her skills, her salary gradually increased up to Rs 1200/month, but she did not receive that money herself but rather by her broker. She spent around 13 years in Kohinoor circus without family contact. In February 2009, her senior Nepali circus girl came in Nepal and informed about Geeta's situation to her family. She was rescued with the help of WOSCC.

Now a day, Geeta is staying with her brother in Hetauda. Upon her request and recommendation of WOSCC field staff at present she received beauty shop training and she has developed her confidence and shown commitment to run beauty shop after completion of training.

Source: WOSCC Office Record, 2012.

Reintegration

Reintegration is the key component for the victim justice. NGOs have reintegrated victims of trafficking with their families, communities and self-employed. ABC Nepal helped 10 victims/survivors of trafficking for reintegration with the family; GMSP helped 78 victims/survivors; Nepalese Home helped 19 persons for reintegration with the family and 4 for self-empowerment. Shakti Samuha helped 36 persons for reintegration with the family & the community. EBMF helped 35 persons for reintegration with the family & 30 for self-empowerment. PNCC helped 20 returnee migrant for self-empowerment.

Missing and Found Persons

NGOs receive applications of missing persons – girls, women, boys and men. Once the NGOs receive such applications from the family/friend of the missing person, they search the missing persons by using their own network within the country as well as outside the country and taking help from the Nepal Police.

In year 2011, a total of 2810 missing persons' applications were received and 1076 missing persons were found.

Referral Services

NGOs also provide referral services to the trafficking survivors in 2011 for legal counselling, psychosocial counselling, health treatment, providing shelter, skill development and security to the victims of trafficking. Looking at the data of referral services, it appears that almost all NGOs reported to NHRC involved in referral services. Some NGOs received the referral cases only while others receive the referral cases from other organizations and also referred to the victims/survivors of trafficking to other organization. In the year 2011, about 300 victims/survivors of trafficking were provided referable services by some leading NGOs in Nepal (Annex 4.5).

4.6.3 Legal Aid for Trafficking Survivors

NGOs have also provided legal aid/support to the victims/survivors of trafficking. They provide para-legal training, legal counselling, supporting to file the case in Nepal Police (FIR), provide legal representation for charging the case (prosecution) and court proceeding. In the year 2011, it was found that all most all NGOs reported in NHRC provided legal aid accounting for more than 300 trafficking victims/survivors (Annex 4.6). Maiti Nepal in collaboration with two other organizations, filed a Public Interest Litigation in the Supreme Court seeking necessary actions from the government to expedite prosecution of human trafficking cases through the formation of Fast track Court in early 2012. Though the Supreme Court had already issued order to the MoWCSW for the formation of Fast Track Court to prosecute all forms of criminal cases, it was not duly implemented. Cases of trafficking which are of grave criminal offence have been treated like other normal cases. Maiti Nepal figures suggest that the number of criminal cases have been increasing every year. In 2011, total number of cases of trafficking dealt by Maiti Nepal in 2011 was 25 against 21 in 2012 (till the end of June); the total number of cases of domestic violence in 2011 was 834 against 470 in 2012 and the total number of cases of rape in 2011 was 25 against 14 in 2012 (till the end of June).

One of the good examples how NGOs provide legal support to the trafficking survivors from the investigation to prosecution and to the court proceeding is from CeLLRd successful cases as presented in Case 4.3 and 4.4 below.

Case 4.3 CeLRRd Support a Victim to Provide Justice

Sabita (name changed), 15, from Kohalpur, Banke belongs to a poor family. She used to go school and sometimes also joined her mother for labor. One day, her neighbor Ajaya, his wife and his mother-in-law promised a good job in a wax candle factory in Punjab, India that she could earn Rs. 25,000/monthly. In order to get rid from poverty, she ran away with Ajaya, Ajaya's wife and his mother-in-law. They took Sabita at Sunita Seth's house in Punjab. For some days Sunita treated well but after a week she started torturing Sabita to wear short clothes for dance. After few weeks, Sabita ran away from Punjab and somehow managed to come back at home in Nepal. Upon knowing about her arrival Ajaya and others forced her to return to Punjab. After few days, Sunita Seth came to bring Sabita in Nepal and forced her to go back with her or repay the amount she paid to the traffickers. Sabita with the help of local social workers approached to Police office, Kohalpur but the Police did not file the case. Then, Sabita visited CeLRRd and with the help of CeLRRd, a FIR against four traffickers was registered in DSP Banke and all were arrested. Meanwhile, Sabita felt insecure while residing in the house. So, upon the request of CeLRRd she was kept at Saathi Shelter Home Banke. Now, all the traffickers are in jail and victim statement is proven at court with the help of CeLRRd.

Source: CeLRRd (Based on the case studies sent to NHRC), 2012.

Case 4.4 Traffickers Sentenced with the Coordinated Efforts of Organizations

Kumari (name changed), 15, came Kathmandu from Ramechhap in search of a job. While she was looking for a job, she met Bir Bahadur who was from Dhading district. Bir Bahadur tempted her to go Dhading with him saying that he would take care of her, join her in a boarding school and also transfer his all properties to Kumari's name because he does not have own children. Kumari believed him and went along with him. Despite taking to Dhading, Bir Bahadur took her in Belauri of Kanchanpur district – a border area between Nepal and India. In the meanwhile, Kumari felt thirsty and went to buy cold drinks from a shopkeeper. Fromm the shopkeeper, she came to know that the very place was not Dhading district but it was Kanchanpur district. Knowing this, the shopkeeper informed to about it and the Police arrested Bir Bahadur. In consultation with Police and organizations working against trafficking in Kanchanpur district, Kumari was handed to Maiti Nepal for shelter and a FIR was filed to Police with the legal aid of LACC and legal representation during the hearing of bailment and other legal aid was provided by CeLRRd. The district court of Kanchanpur gave the verdict of the case under the Section 15 (1)(e) (2) of TIP Act 2007 that the trafficker was offered 10 years imprisonment and Rs. 50, 000 fine.

This case is one of the good examples of coordination practice and referral system among Nepal Police and organizations working against trafficking in Nepal.

Source: CeLRRd (Based on the case studies sent to NHRC), 2012

Research/Studies

Some NGOs have also carried out research/studies in 2011. The key thematic areas of research include migration, trafficking of persons for illegal extraction of human organ (kidney), assessment of GoN managed pre-departure orientation, migrant socio-economic situation and son preference. None of the studies were nationally representative, however (Annex 4.7).

4.7 Challenges

- The Government of Nepal has yet to effectively implement the new NPA against Trafficking in Persons 2011-2016, which identifies the five broad areas for interventions: prevention, protection, prosecution, capacity building, and cooperation.
- Government of Nepal does not have effective mechanism to monitor the implementation of Operational Guideline for Rehabilitation Center in 2011 and Minimum Standards for the Protection and Care of the Trafficking Survivors 2011.
- MoWCSW does not have separate Division in dealing with Trafficking in Persons, especially women and children. Currently, the Ministry has a Section of Trafficking which is under the Secretariat. As there has been frequent transfer of Government employees in the Section, there is lack of depth knowledge on situation of trafficking, and how to formulate, coordinate anti-trafficking policies and programs.
- There is no effective functioning of NCCHT due to mainly lack of action plan and many District Committees are not functioning mainly because of lack of resources, low priority accorded in the issue.
- There is no unified database system for monitoring anti-trafficking activities and situation of trafficking in persons.
- There is very little coordination between the MoWCSW, the National Committee including NHRC, the MoLE, the MoFA, the

OAG, and the Gender-Based Violence Unit within the Prime Minister's Office and at the local level.

- Training and orientation to increase the functional capacity and professional efficiency of judges, employers and legal professionals working in the judicial organs is spurious, irregular and donor driven – resulting to unsystematic and ineffective investigation, prosecution and adjudication of human trafficking cases. Further, increased effort is needed to maintain the privacy of the Special Type of Cases such as rape, abortion, sexual violence against women, human trafficking, incest, violence against women, children's cases in the juvenile courts or juvenile bench, cases relating to HIV infected people among the criminal justice actors, prosecutors, judges including other concerned individuals and insinuations that they involve in dealing with trafficking cases.
- Low Government budget allocation for prevention and combating of human trafficking. Currently, the GoN has allocated Rs. 15 million for supporting eight rehabilitation centers and Rs. 20,000 to Rs. 50,000 to a District Committee on Combating Trafficking. Given the magnitude of trafficking problems in the country, this is grossly adequate.
- The GoN has low level of direct gender responsive budget (about 19% of the total budget) and medium level of pro-poor budget allocation (about 48.5% of the total budget).
- The GoN has very few direct responsive prevention related programs although different Ministries and Departments implemented poverty reduction and employment programs, women empowerment programs, child rights programs, empowerment programs for indigenous and disadvantaged groups and social security programs. Further, there is no coordination mechanism among and between line Ministries to implement such programs.

- Prevention related programs implemented in Nepal largely focus on public awareness and education while prevention through data collection and research and prevention through development of social and economic interventions get low priority.
- Protection activities of trafficking victims/survivors are still inadequate given the magnitude of trafficking victims/survivors.

Chapter 5

LEGISLATION, LAW ENFORCEMENT STATUS AND JUDICIAL RESPONSES

The chief aim of this chapter is to assess the implementation status of Human Trafficking and Control (Act) 2007, explore the reasons for low reporting of trafficking cases in Nepal Police, and examine the levels and trends of conviction rates of trafficking cases.

5.1 Nepal's Ratification Status of Key International Human Rights Instruments

Nepal has ratified several international and regional human rights instruments relating to ensuring the rights of children, combating trafficking of children, forced labor, and trafficking of women for sexual exploitation (Box 5.1).

Box 5.1 Comparison of the Ratification Status of Key International Instruments

Instruments	India	Nepal	Bangladesh	Sri Lanka
UN Convention on the Rights of Child, 1989	√	√	√	√
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	√	√	√	√
Convention on the Suppression of Immoral Traffic and of the Prostitution of Others	√	√	√	√
ILO Convention 138 on Minimum Age	×	√	×	√
ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor	×	√	√	√
Convention on the Elimination of All Forms of Discrimination against Women	√	√	√	√
SAARC Convention on the Preventing and Combating Trafficking in Women and Children for Prostitution and SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia	√	√	√	√

Nepal has ratified UN CTOP in 2011. But, it has to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN CTOP. Many of major destination countries of Nepali migrants such as Bahrain, Israel, Kuwait, Lebanon, South Korea, Oman, Qatar, Saudi Arabia, UAE have either ratified or signed in the UN Trafficking Protocol while Afghanistan, Malaysia, Bangladesh and Pakistan have not yet ratified the Protocol (Box 5.2).

Box 5.2 Ratification Status of International convention on combating trafficking in persons

Country	United Nations Convention against Transnational Organized Crime (UN CTOC)	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN CTOC
Afghanistan	24 Sep 2003	×
Bahrain	7 Jun 2004 a	7 Jun 2004 a
Israel	27 Dec 2006	23 Jul 2008
Kuwait	12 May 2006	12 May 2006 a
Lebanon	5 Oct 2005	5 Oct 2005
Malaysia	24 Sep 2004	×
South Korea	13 Dec 2000 (S)	13 Dec 2000 Signature
Oman	13 May 2005 a	13 May 2005 a
Qatar	10 Mar 2008 a	29 May 2009 a
Saudi Arabia	18 Jan 2005	20 Jul 2007
United Arab Emirates	7 May 2007	21 Jan 2009 a
India	5 May 2011	22 Jun 2010
Bangladesh	13 Jul 2011 a	×
Sri Lanka	22 Sep 2006	13 Dec 2000 Signature
Pakistan	13 Jan 2010	×
Nepal	23 Dec 2011	×

Note: Signature (S); Ratification, Acceptance (A); Approval (AA); Accession (a) and Succession (d).

Source: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&lang=en (Accessed on December 10, 2012)

5.2 Legal Measures against Trafficking in Persons

The Interim Constitution of Nepal 2007 guarantees basic human rights, including the rights to freedom, equality, and social justice; freedom from human trafficking, exploitation, forced labor, slavery, and servitude; and the right to constitutional remedy. It contains a prohibition on discrimination against women and a set of fundamental rights of the child, including the right to be free from any form of exploitation. It also prohibits the engagement of a child in hazardous work, in the army, police, or conflict.

The GoN enacted *Nepal Human Trafficking and Transportation (Control) Act, 2007* (HTTCA) and *Regulation 2008* in order to control the acts of trafficking in persons and protect and rehabilitate the victims. The HTTCA 2007 is gender-neutral, prohibits both internal and transnational trafficking in persons, and covers both sex and labor exploitation and is

in line with the Palermo Protocol (disused in Chapter 1). In addition, the Act's key provisions include the following:

- Certifying the evidence by the victim once the victim authenticated her statement even if she does not appear before the court again (Sec. 6);
- Providing the authority of the police to enter into a house or working place without any warrant latter if there is sufficient evidence that the acts of human trafficking is occurring (Sec. 7);
- Shifting of burden of proof from the prosecution to the accused (Sec. 9);
- Right of legal representation to the trafficked person (Sec. 10) and right to appoint an interpreter/translator (Sec. 11);
- Duty of the government to rescue victims of cross-border trafficking, rehabilitee them and establishment of a rehabilitation (Sec.12 to 14);
- Imposing of stringent punishment up to 20 years imprisonment and a fine of Rs. 200,000 if for selling or buying of a human being (Sec. 15);
- Right to self defence of trafficked person and compulsorily payment of compensation to the victim by the offender (Sec. 16 and 17);
- Protecting informants identity and victims (Sec. 24 and 25);
- Police protection at a rehabilitation center for a victim while attending court and in-camera hearing (Sec. 26 and 27).

Despite these strengths, several stakeholders such as American Bar Association (2011) viewed that the law contains many loopholes such as the following:

- Fails to address such issues as prevention of human trafficking, witness protection, repatriation of victims and international counter-trafficking cooperation and border measures.
- Does not envision a compensation fund for victims as well as the possibility to file a civil suit in human trafficking cases.
- Shifts the burden of proof on the accused, creating a confession-centric system of justice in violation of the internationally recognized rights to a fair trial and presumption of innocence until proven guilty.
- Imposes lower sanctions for labor trafficking than sex trafficking

Other Laws Relevant to Trafficking of Women and Children

The GoN has adopted several laws that contribute to enhance gender equality and the empowerment of women. The key areas include: women's property rights, legal equal rights for women to inheritance, provision against gender discrimination at work place, provision against sexual harassment at work place, criminalization of rape and marital rape, criminalization of intimate partner violence, provision regarding minimum legal age at marriage, criminalization of sexual exploitation of children, preventing the use of children in pornography, protecting the girl child against harmful practices such as *Chaupadi* and discourage polygamy. In addition, there are other laws that deal with the criminalization of number of offences not specifically dealt with in HTTCA 2007 such as the following:

Children's Act, 1991 – It prohibits and punishes involving a child in immoral profession (Sec. 16) and prohibits employing a child in work which may have any inverse impact on the life/health of the child (Sec. 18).

Child Labor (Prohibition and Regulation) Act, 2000 – It prohibits and penalizes employing children below 14 years of age (Sec 3.1); prohibits and penalizes employment of any child in hazardous form of child labor (Sec. 3.2) and prohibits child labor that is forced or has an impact on the child's health and life (Sec. 4).

Birth, Death and Other Vital (Registration) Events Act, 1976 – It requires migration for six months or more to be registered by the senior member of the family (Sec. 2b). However, no punishment is prescribed for non-compliance.

Muluki Ain (Civil Code) – It prohibits taking a person out of the country for sale (Chapter 11.1); prohibits separation of minor/person with mental disorder without the guardian consent (Chapter 11.2) and criminalizes making someone a sub-servant; the arranging of or causing of forced or child marriage; as well as many acts such as kidnapping and rape. In addition, it covers domestic and inter-country adoptions.

Foreign Employment Act, 2007 – has several provisions to safeguard the migrant workers and several requirements have to be met before leaving the country for overseas employment.

5.3 Monitoring the Implementation Status of Human Trafficking and Transportation (Control) Act vis-à-vis UN Protocol on Trafficking

Drawing on the review studies such as American Bar Association, ABA (2011) and NHRC's study (2012) and discussion of the law enforcement agencies, the implementation status of Human Trafficking and Transportation (Control) Act (HTTCA) 2007 is discussed here.

Article 1 of UN Protocol on Trafficking is to be interpreted with the provisions of the Convention against Organized Crime by addressing jurisdiction, extradition, and witness protection, participation in an organized criminal group, money laundering, corruption and obstruction of justice.

Jurisdiction - HTTCA 2007 creates territorial jurisdiction within Nepal and outside of Nepal committed against Nepali citizens abroad.

Witness Protection - Although the HTTCA 2007 has the provision of witness protection from potential retaliation or intimidation in criminal proceedings, no clear mechanism exists for it. There are very few trafficking cases reported in Police despite the high prevalence of trafficking. Main reasons for it are the lack of feeling of security to the victims and their family members, threats to victims and family members, lack of legal knowledge among the victims about provisions of security. These are also the reasons why the victims do not come in the court for providing statements and why cases become hostile. In Nepal, there is no separate law for ensuring the security and facilities of the witness. Although the Act Related to Government Case 1992, and Regulation 1997 have the provisions to provide the daily allowance for the witness who is a government employee, but this provision has not been implemented.

Organized Criminal Group - HTTCA 2007 does not define an organized criminal group and does not envision separate or increased penalties

for trafficking crimes committed in an organized manner. However, the *Muluki Ain* extends the term of imprisonment by 2 years for the crimes of kidnapping or abduction committed by two or more persons. In Nepal, studies show that many of the trafficking takes place from the neighbors, family members in Nepal. Much research is needed to understand the involvement of the organized criminal groups in human trafficking in Nepal.

Controlling Illicit Assets - Money Laundering Prevention Act 2002 is applicable throughout Nepal and to any individual who remits, transfers, or sends illicit assets from Nepal to another country and from another country to Nepal in order to prevent and suppress money laundering, the GoN has formed an inter-agency Coordination Committee and a Financial Information Unit within the *Nepal Rastra Bank* (Central Bank of Nepal).

Corruption - Nepal ratified the UN Convention against Corruption in 2011 and also has a number of related acts, including the Prevention of Corruption Act 2002, the Right to Information Act 2007 and the Good Governance Act 2008. The Prevention of Corruption Act includes a broad definition of corruption which also includes Government authorizes involving in illicit activities. Although the international Convention and Nepali law view corruption in relation to human trafficking, there are no records of how corruption involved in human trafficking.

Obstruction of Justice - The UN CTOC defines obstruction of justice as i) the use of physical force, threats or intimidation, or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in criminal proceedings and ii) the use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official. Under the HTTCA, obstructing an investigation of an offence of human trafficking is punishable by a fine of up to Rs. 10,000 while obstruction of justice in proceedings related to human trafficking in HTTCA 2007 has not been explicitly mentioned. HTTCA 2007 and other laws in Nepal do not provide the definition of obstruction of justice. Further, as the government attorneys have heavy workload, they do not give the priority to prosecute those who obstruct

the justice in Nepal. This is because it is difficult to prove the obstruction of justice on the one hand and on the other hand, the amount of the punishment is also small.

Criminalization of Offences – According to the HTTCA, criminalization includes the following acts: trafficking for prostitution in various forms, cross-border trafficking, making someone a servant/slave/bonded labor and certain kinds of employment of children. The HTTCA 2007 sanctions punishment differently for the act of i) human trafficking, ii) human transportation for the purpose of buying, selling, and engaging in prostitution; iii) human transportation for the purpose of labor exploitation; iv) trafficking of human organs; v) making a person as bonded labor; vi) taking a child under 14 years out of the country and vii) offences related to foreign employment. Despite these legal provisions, there is no specialized unit in Nepal Police or in the Prosecutorial service for the investigation and prosecution of human trafficking. Currently, DWCS is responsible for dealing the crime against women and children in Nepal and WCSC in at the district levels but, it is reported that the WCSC officers do not have the authority to file FIRs. According to the DIG of DWCS, the government is planning to establish a specialized human trafficking investigative unit within the Central Investigation Bureau.

Assistance to and Protection of Victims of Trafficking – The HTTCA 2007 has the following provisions for the protection of victims of trafficking: shifting of burden of proof, admission of statement even if victim does not return to court, right to legal representation to the victims, right to interpreter, duty of state to rehabilitate and rescue, right of self-defence of trafficked persons, protection of informants, protecting identity of persons and police protection/stay in government home while attending in court and in-camera trails. According to the HTTCA, maintaining the privacy of the informants lies to the investigation authorities. This provision makes court proceeding difficult as the informants name is changed and it will be difficult to call on the informants in the court for statement. Although the HTTCA 2007 makes rescue, repatriation and rehabilitation to the victims of trafficking, the HTTCA 2007 remains unnoticed how to implement such provisions. There is little effort to repatriate the victims especially from

the Gulf countries and cooperation from India is easier because of the open-border policy.

Status of Victims of Trafficking in Receiving Country - Since Nepal is a source country for trafficking, this provision is not included in the law.

Prevention in Trafficking in Persons - As prevention programs, the Government of Nepal and NGOs have been implementing awareness raising and mobilizing communities against trafficking, training to the governmental as well as judicial bodies and law enforcement agencies and also there are interception points in border between Nepal-India and between Nepal and China (one point). It appears that majority of prevention programs focus on awareness raising in the community without integration of such programs with income generating and poverty reduction programs.

Information Exchange and Training and Mutual Cooperation - Joint rescues have happened with India but there is no regular mechanism for exchange of information between countries. Nepal has not entered into any extradition treaties relating to the human trafficking crimes. Although there is the 1953 Extradition Treaty between Nepal and India but this treaty has not been implemented for extradition of trafficking perpetrators. Further the HTTCA 2007 does not see the mandatory provision of the Government to establish the mutual cooperation to combat trafficking.

Border Measures, Control of Documents and Validity of Documents – It requires migration to be registered by the migrant family and seeking travel documents. This has provision in case of foreign employment for those who go via Nepal. As there is open-border between Nepal and India, there is large number of undocumented migrants flying from India to third countries and it is difficult to control the documents and their validity. Further, the HTTCA 2007 does not envision to build cooperation between the neighboring countries and not seen as the priority issue. According to the Immigration Act 1992, Department of Immigration may investigate the documents of visits but it is not clear in the Immigration Act that if a vehicle carrying victims of trafficking is found to be guilty, what punishment shall be offered. Although Government of Nepal in collaboration with different international and national organizations has

involved in repatriation of victims of trafficking, repatriation of undocumented migrants is difficult especially from Gulf countries.

Provision Relating to Additional Punishment - The HTTCA 2007 makes the provision for offering additional 25% punishment to the Government employees who commit the crime, additional 10% for the victims' own guardians and blood relatives, and additional 25% punishment to those who commit the crime every second time. However, it is reported that in majority of cases the prosecutors do not claim for additional punishment and the justice actors assume the life imprisonment as 20 years imprisonment according to the law and they are less inclined to offer the additional punishment. Further, it is reported that justice actors are not clear for the reason of additional punishment for the same type of crime.

Provision Relating to Punishment for Those Who Provide False Statement –ATTCA 2007 makes the provision for punishment for those who provide the false statement or those who do not support the court proceedings from three months to one year imprisonment. However, it is reported that it is difficult to implement this provision because whether this provision applies for the victims or criminals. In this connection, it is important to make aware to the victims or witness or informants about this provision in the process of prosecution of the cases.

Provision Relating to Exemption of Punishment – Sec 16 of the HTTCA 2007 exempts the punishment to the persons who was being bought, sold and being engaged in prostitution, cannot get rid of such acts or somebody creates obstacles to get rid of such acts. If he or she cannot get rid of such situation and if he or she kills the perpetrators or perpetrators is injured, he or she will not be liable for any punishment. There is little knowledge about such provisions among the victims and potentially victims of trafficking and there are very rare cases in which such events are reported in media.

Provision Relating to the Compensation – ‘A court shall issue order to provide compensation to the victim which shall not less than the half of the fine levied as punishment to the offender’. It is not clear that whether the compensation is the half of the fine provisioned in the law

or whether court has to fix additional fine for providing compensation to the victim. Also, this provision requires examining the economic condition of the perpetrators from the beginning of prosecution process but in majority of cases this provision is not implemented mainly because the Act does not make it compulsory to investigate the economic condition of the perpetrators.

Seizure of Property – The HTTCA 2007 says, ‘any movable or immovable property acquired as a result of an offence under this Act shall be seized’ (Sub sec 17). This is an important new provision in Nepal. Theoretically, profit of crime and property used for crime are seized. However, as the trafficking is an organized crime, it is difficult to seize all the ‘profit of crime’ or ‘property used for crime’.

Issues of Exploitation in Relation to Foreign Employment – Both the HTTCA 2007 and FEA 2007 have not defined trafficking in persons in relation to migration and foreign employment. This makes it difficult to classify the case whether it relates to case of foreign employment or trafficking. With the discussion of lawyers and other stakeholders, it is known that there is much confusion among criminal justice actors, prosecutors and judges about the differences between the crime of human trafficking and offences envisioned under the FEA 2007. Many justice actors understand human trafficking with prostitution and sexual exploitation in India. As a result, acts of cross-border trafficking for the purpose of labor exploitation are often wrongfully charged under the FEA 2007 which prescribes much lower penalties i.e. three to seven years in prison than the HTTCA 2007.

5.4 Law Enforcement Status

The law enforcement agency for human trafficking case is the Nepal Police. According to a SSP/Nepal Police who presented a paper about ‘Investigating of Human Trafficking Psychological and Social Issues’ in Kathmandu School of Law, there are very few cases of human trafficking reported in Police. He claimed that only one-third of the cases are registered (First Information Report, FIR) while the rest are not registered. Of those who does FIR, in 45 per cent cases it was done by the victims while the rest was done by the relatives and others. There are several reasons for underreporting including the following:

intimidation from the society, ignorance of law and procedure, powerless victims, afraid of offenders, the shame and trauma, parent consent of not registration, persecution and harassment. The paper also showed the gap between crime and reporting (FIR) of trafficking cases. It is revealed that only 35 per cent of FIR in Nepal Police related to crime of trafficking is registered within one month of the crime, 60 per cent within 6 months, 70 per cent within 2 years, 80 per cent within 4 years and 90 per cent within 6 years (Table 5.1).

Table 5.1 Time gap in between trafficking crime and FIR, Nepal

Months	% of FIR	Cumulative % of FIR
1 month	35	35
6 months	25	60
2 years	10	70
4 years	10	80
6 years	10	90
Above 6 years	10	100
Total cases	145	

Source: Nawa Raj Silwal, SSP/Nepal Police – paper presented in a workshop organized by in Kathmandu School of Law in April, 2012.

The paper also showed that there were 145 trafficking charges registered in Nepal Police in FY 2010/11. Of the charges, only one-fourth offenders admitted the charges while the rest denied it. Among the cases registered by the victims or victims’ relatives, only 15 per cent submitted evidences and 85 per cent did not. According to the SSP/Nepal Police, there are several challenges for the effective investigation of trafficking cases like not availability/ collecting/producing the evidences, not identifying all the suspects by the all victims, witnesses not reliable, language barriers, manipulation of evidences, hostile of victims and witnesses due to intimidation or threats and persecution.

Other studies such as ABA (2011) indicated that trafficking victims are frequently reluctant to report the crime to the police and the level of reporting remains low mainly because of lack of legal awareness; undue influence by the perpetrators who often threaten, intimidate, harass, or bribe victims to remain silent; trauma and psychological suffering; fear of humiliation, stigma, and discrimination; police bias, incompetence, and insensitivity to women’s and children’s issues; lengthy and

cumbersome court proceedings; and high cost of access to justice coupled with distrust toward justice institutions, lack of financial support from the GoN, and very low likelihood of receiving compensation upon conclusion of the legal proceedings.

Further, the same study claimed that Nepal Police is neither well-equipped nor skilled to handle the trafficking cases properly – resulting weak human trafficking cases. It consists primarily of the FIR, certified victim statement, and witness testimony. Forensic science (e.g., fingerprinting or DNA profiling) and other sophisticated sources of evidence are not usually utilized. The study suggested that three conditions must be met to improve investigation and prosecution of human trafficking:

- 1) Expand international cooperation in criminal matters by expanding collaboration with Interpol and entering into bilateral mutual legal assistance treaties, particularly with India;
- 2) Mobilize criminal justice institutions and digitalized; and
- 3) Undertake intensive training to the law enforcement officers and NGOs on victim interviewing and evidence gathering techniques in human trafficking cases.

While the effective FIR requires following information: getting the correct account of crime (i.e. forced prostitution, trafficking, sale or attempt); securing all the evidence possible; getting the medical-check up done; collecting clothes, swabs, fibers and DNA; collection of travel documents, tickets and information about bus, rickshaw, restaurants, lodges, waiters, conductors; making note of any sign of fight in the body; any written documents; date of travel; documentation in the VDC; documentation in the Bus station, airport, post office; collection of the instruments used for coercion of the victim and checking the truthfulness of statement of victim to the court.

5.5 Judicial Responses to Trafficking

The GoN is the plaintiff in all cases of trafficking in persons. The power to prosecute human trafficking is vested in the government attorney who commences the proceedings by filing a charge sheet against the defendant in the district court. The charge sheet may include a clause accusing the suspect of committing a crime involving moral turpitude. There are several

challenges for the effective prosecution and adjudication of human trafficking cases. Main challenges include lack of sufficient evidence, delays in court proceedings, and the occurrence of obstruction of justice, and shortage of adequate and trained prosecutorial service and the judiciary and lack of sufficient understanding of the sensitiveness of victims of human trafficking among the justice actors. It is reported that each judge hears, on average, 3-4 cases per day and each government attorney handles, on average, over 1,000 criminal cases per year. While the defense lawyers handle fewer cases and have better access to modern equipment and internet (ABA, 2011).

The Supreme Court

Table 5.2 shows the levels and trends of trafficking crime cases registered and disposed by the Supreme Court of Nepal from FY 2006/07 to FY 2010/11. A 5-year average number of the trafficking cases registered in the Supreme Court were found to be 84 and the 5-year average number of trafficking cases decided by the Court was 30. Of the 30 decided cases, 15 were acquitted and 10 were convicted. Thus, the conviction rate of trafficking cases remained only 33 per cent during the five-year period. On the other hand, the pending rates are very high in each Fiscal year.

Table 5.2 Number of trafficking crimes registered, convicted, acquitted and pending in the Supreme Court, 2006/07 -2010/11, Nepal

Years	Total Case	No. of cases convicted	No. of cases acquitted	Total cases decided	Conviction rate (%)	No. of pending trials	Pending rate (%)
2006/07	112	8	19	27	29.6	85	75.9
2007/08	93	14	20	34	41.2	59	63.4
2008/09	84	15	20	35	42.9	49	58.3
2009/10	63	9	15	24	37.5	39	61.9
2010/11	66	6	2	30	20.0	36	54.5
5-years average	84	10	15	30	33.3	54	66.7

Note: Data published in Nepali Fiscal years have been converted to English Year as 2063/064 BS = 2006/07, 2064/065 BS =2007/08; 2065/066 BS =2008/09; 2066/067 BS= 2009/10; 2067/068 BS = 2010/11. The conviction rate is defined as the ratio of number of convicted cases in a particular year to the total cases decided by a court in that year. The pending rate is defined as the ratio of number of pending cases in a particular year to the total cases registered in that year in a court.

Note: of the 30 cases decided in FY 2010/11, 22 were kept as *Multabi*.

Source: Annual Reports of OAG, FY 2006/07; 2007/08; 2008/09; 2009/10 and FY 2010/11.

Appellate Courts

There are 16 appellate courts in the country. The 5-year average number of cases registered in the Appellate courts comes out to be 131 and the 5-year average conviction rate is 47 per cent and the rate is the lowest in FY 2009/10. On the other hand, the 5-year average pending rate is 35 per cent being much higher in the FYs 2007/08 and 2008/09. In case of FY 2010/11, the pending rate is 36 per cent (Table 5.3).

Table 5.3 Number of trafficking cases registered, convicted, acquitted and pending in the appellate courts, 2006/07 -2010/11,, Nepal

Years	Total Cases	No. of cases convicted	No. of cases acquitted	Total cases decided	Conviction rate (%)	No. of pending trials	Pending rate (%)
2006/07	129	38	45	83	45.8	46	35.7
2007/08	97	19	17	36	52.8	61	62.9
2008/09	132	33	27	60	55.0	72	54.5
2009/10	155	38	50	89	42.7	67*	43.2
2010/11	141	43	47	90	47.7	51	36.1
5-years average	131	34	37	72	47.2	46	35.1

Note: the same as in Table 6.4.; * one case *multabi* also includes in this category.

Source: the same as in Table 5.2.

The number of trafficking cases registered in the appellate courts varies by the appellate courts. The highest number of cases registered is in Patan followed by Hetauda, Nepalgunj, Biratnagar and Illam appellate courts (Table 5.4).

Table 5.4 Number of trafficking cases registered in the appellate courts, 2006/07 - 2010/11, Nepal

Appellate courts	2006/07	2007/08	2008/09	2009/10	2010/11	5-year average number
Illam	7	11	11	7	5	8
Dhankuta	0	1	3	4	3	2
Biratnagar	7	9	13	20	18	13
Rajbiraj	3	3	6	7	15	7
Janakpur	5	2	2	2	6	3
Hetauda	27	19	28	27	21	24
Patan	48	24	33	39	33	35
Pokhara	2	1	1	2	10	3
Baglung	0	1	0	0	0	0
Butawal	2	5	1	10	8	5
Tulsipur	0	0	5	5	5	3
Nepalgunj	17	17	17	19	8	16
Surkhet	0	0	1	3	1	1
Jumla	0	0	0	0	0	0
Dipayal	0	0	2	4	3	2
Mahendranagar	4	4	3	6	5	4
Total	122	97	126*	155	141	128

Note: Annual Reports of Supreme Court * Note 6 cases do not match from the total of 132 cases.

Source: The same as in Table 5.2

District Courts

The 5-year average number of trafficking cases registered and disposed comes out to be 282 and 112 respectively (Table 5.5). The 5-year average conviction rate is 63 per cent with much higher in the FY 2005/06 and FY 2006/07. The rate dropped to 59 per cent in the succeeding fiscal years. The 5-year average pending rate is 62 per cent with fluctuating rates in each year.

Table 5.5 Number of trafficking cases registered, convicted, acquitted and pending in the district courts, 2006/07 -2010/11, Nepal

Years	Total Cases	No. of cases convicted	No. of cases acquitted	Total cases decided	Conviction rate (%)	No. of pending trials	Pending rate (%)
2006/07	245	78	33	111	70.3	134	54.7
2007/08	257	44	30	74	59.5	183	71.2
2008/09	290	82	56	138	59.4	152	52.4
2009/10	299	71	47	119	59.7	214*	71.6
2010/11	317	79	39	118	66.9	199	62.7
5-years average	282	71	41	112	63.3	176	62.4

Note: * 1 case *multabi* also includes in this category.

Source: The same in as in Table 5.2.

There are good examples of conviction of traffickers from the district courts. The following case reflects how the judiciary is responding to human trafficking (Cases 5.1 and 5.2).

Case 5.1 Two traffickers convicted by the Morang district court

Two trafficking offenders who were arrested by Area Police Office Rani, Biratanagar on charge of trafficking a girl were convicted by district court Morang on April 24, 2012. A FIR was filed by Maiti Nepal at Area police office on June 9, 2011. The court sentenced each of the traffickers with Rs. 100,000 fine and 15 years jail terms. Besides, the court decided that the survivor should be granted 50,000 rupees as compensation.

This incident was as follow: Bhim Bishwokarma, 21 of Duwagadi Jhapa district and Yubaraj Bishwokarma, 27 of Sundarpur Morang district were suspected by Maiti Nepal's border surveillance staff stationed at Biratnagar as trafficking of a girl. They were trying to take a girl across the border. The girl was intercepted on June 8, 2011 and upon enquiring her, it was known that she was being trafficked to India. The traffickers had instructed her to put on *Tika* and beads (the emblem of marriage in Nepali culture) so that they could cross the border without any obstacles

Source: Annual Report of Maiti Nepal, 2011

Case 5.2 A trafficking survivor given justice by the Banke district court

Mintara B.K (name changed) 18, of Kohalpur, Banke used to stay with her parents. In mid-2010, she met Pawan Magar who she knew in the village. Mintara and Pawan became close with each other in short time and Pawan proposed her for marriage. Mintara also agreed it and she decided to run with Pawan. Pawan very tactfully crossed the Nepal-India border and took her to New Delhi. In New Delhi, he left Mintara saying her that he was going to Punjab for a job. As Pawan left the place, she was sent to a brothel and was treated very harshly.

Mintara says, 'I was compelled to attain 20 to 25 men for sexual intercourse each day'. Due to this, she became ill and she was hospitalized for treatment. From the hospital, she managed to run away and she came to Nepal with the help of one Nepali man. After returning to Nepal, she filed the case against Pawan with the help of CeLRRd and Pawan was arrested. In assistance of CeLRRd the statement of Mintara was registered at approved at Court. In 2012, the district court of Banke gave the verdict in the case and trafficker was convicted for 20 years imprisonment.

Source: CeLRRd (Based on the case studies sent to NHRC), 2012

Of the 75 districts in the country, there was at least one case of human trafficking registered in 49 district courts. The major five districts in which human trafficking cases registered in the FY 2010/11 were Kathmandu (n=81), Rupandehi (n=21), Jhapa (n=20), Nuwakot (n=18) and Banke (n=17). This justifies the large number of human trafficking crimes in these districts. While Kathmandu has become origin, transit and destination place for human trafficking; Nuwakot is primarily source district for human trafficking and Rupandehi, Jhapa and Banke districts are both the origin and transit districts. There are nine districts in which 5 to 10 cases of trafficking registered in the district courts; four districts with 4 cases; 6 districts with 3 cases; 3 districts with 3 cases; 9 districts with 2 cases and 17 districts with one case of human trafficking (Table 5.6).

Table 5.6 Number of human trafficking cases registered in the district courts, FY 2010/11, Nepal

District	Number of districts	Number of cases	Number of cases	Number of defenders
Kathmandu	1	81	81	195
Rupandehi	1	21	21	44
Jhapa	1	20	20	75
Nuwakot	1	18	18	40
Banke	1	17	17	46
Udayapur and Sindhupalchok	2	10	20	71
Kaski	1	9	9	24
Nawalparasi and Kapilbastu	2	8	16	54
Rautahat	1	7	7	14
Kailali	1	6	6	14
Parsa and Makwanpur	2	5	10	31
Morang, Sarlahi, Sindhuli, Bhaktapur, Tanahun and Bardiya	6	4	24	51
Illam, Surkhet and Dadeldhura	3	3	9	21
Terhathum, Sunsari, Saptari, Bara, Chitawan, Lalitapur, Dhading, Syanja and Dang	9	2	18	42
Sankhuwasabha, Okhaldhunga, Siraha, Dhanusa, Ramechhap, Dolakha, Kavre, Rasuwa, Gorkha, Myagdi, Baglung, Parbat, Palpa, Arghakanchi, Salyan, Pyuthan, Dailekha,	17	1	17	41
Taplejung, Panchthar, Bhojapur, Dhankuta, Solukhumbu, Khotang, Mahottari, Lamjung, Manang, Mustang, Gulmi, Rolpa, Rukum, Jajarkot, Dolpa, Jumla, Mugu, Kailkot, Humla, Bajhang, Bajura, Achham, Doti, Darchula, Baitadi, Kanchanpur	26	0	0	
Total	75	317	293	763

Source: Annual Report of Office of Attorney General, 2010/11.

5.6 Challenges

There are several challenges of law enforcement, prosecution and adjunction in Nepal.

- The HTTCA 2007 and other laws of Nepal do not have effective witness protection measures, definition of organized criminal group involved in trafficking, obstruction of justice during and after the court proceedings.
- The HTTCA 2007 remains unnoticed about how to implement the provision of rescue, repatriation and rehabilitation of the victims and establish the mutual cooperation to combat trafficking between and among countries.
- There is no special investigation unit for human trafficking in Nepal Police and Prosecutorial services.
- There are no WCSCs down to the district level in many parts of the country and WCSCs have not been upgraded as FIR handling unit.
- The Government attorneys possess heavy workload. As a result, they have less priority to charge the case with additional punishment, claiming compensation to the victims and charging a case to those who obstructs the justice.
- Criminal justice actors including judges lack conceptual clarity about the differences between the crime of human trafficking and offences envisioned under the FEA.
- The court's decision about the compensation to the victims and seizure of property to the victims largely remain unnoticed.
- There are very few numbers of trafficking cases filed in the courts compared to the extent of the crime believed to be. Conviction rates of trafficking cases are low especially in the upper layered courts in Nepal.

CONCLUSIONS AND RECOMMENDATIONS

This National Report on *Trafficking in Persons Especially on Women and Children in Nepal* is a continuation of previous National Reports published by NHRC. This Report mainly focuses on situation of trafficking in persons in Nepal; nexus of foreign labor migration and trafficking; monitoring of initiatives of anti-trafficking activities and legal framework, law enforcement status and judicial responses to trafficking. The Report is prepared by covering the timeframe of January 2011 and December 2011. This Report uses secondary from relevant GOs, and I/NGOs and UNs. It also collected primary data from GOs, NGOs and conducted interaction with the girls/women working in the entertainment sectors. Drawing on the findings of the Report (summarized in Executive Summary), the following conclusions can be made:

6.1 Conclusions

Nepal is basically a source country for men, women and children trafficking. The number of trafficking cases filed in Nepal Police, however, is far lower as believed to be. Trafficking of girls to Khasa, Tibet for sexual exploitation, to Korea and Hong Kong for marriage purpose is on rise. Elements of trafficking can be found in entertainment sectors in Kathmandu valley. Trafficking of human organs – kidneys is also reported widely. Child trafficking for the purpose of sexual exploitation and labor exploitation including circus performance is reported within Nepal and to India. On top of this, evidence suggests that there is nexus of intercountry adoption and trafficking of children. On the basis of limited number of NGOs in

including Nepal Police information on interception, rescue, repatriation and missing application received, it is estimated that about 11,400 persons are trafficked or attempted to traffic in 2011. This figure was about 5,500 in 2010.

One of the key broader factors contributing to increase in trafficking in persons in Nepal is the deception, fraud involved in foreign employment processes from pre-departure to transit and exploitative working conditions at the destination countries. In many destination countries, migrant domestic workers are neither covered by their countries' labor laws nor by the security laws. Evidence suggests that the GoN has not fully complied with the ILO Convention No. 29 on Forced Labor while managing the recruitment of foreign employment. In addition to labor exploitation, adverse consequences of foreign employment have widely evident as reflected by the alarming number of injuries, deaths, illegal imprisonments, deportation, women returning with forced pregnancies, babies and mental illness. At home, the social cost of foreign employment is on rise – those young women who are left behind by their husbands – are increasingly suffered from domestic violence, sexual exploitation and incest. The break-down of families, lack of child care, elderly and disabled are other social costs of foreign employment.

Although Nepal has recently adopted legal provisions for issuing the citizenship for an offspring from mother's name, this provision has not been effectively implemented. In the Consultation Meeting of this Report some NGOs personnel raise the issue of difficulty of issuing the citizenship certificate to the trafficked victims/survivors' offspring.

The GoN adopted law and policy that provision protection mechanism, obligation of recruiting agencies to provide comprehensive employment contracts to the workers and provision of penalties. However, evidence suggests implementation of FEA 2007 is rather weak and also there are loopholes in the EFA 2007 that it does not differentiate between the formal and informal sectors while more than 80 per cent of WMWs are in informal foreign labor migrants in Nepal. Further, government institutional mechanism as well as and private sector service providers in foreign employment is largely concentrated in Kathmandu valley while the foreign labor migration takes place

across the country – thereby delay in services and increase in cost for foreign employment and greater risk of abuse and exploitation in transit places. Concerns expressed by the Prime Minister Office and Council of Minister, Commission for the Investigation of Abuse and Authority and National Vigilance Center, NHRC, National Women Commission and National Dalit Commission on time to time reflect an increased concerns from the constitutional bodies and high echelon of GoN for the protection and promotion of the rights of the Nepali migrants workers on the one hand. On the other hand, it also suggests a wide spread irregularities and corruption involved in foreign employment on the part of foreign employment service providers including governmental agencies. Further, Nepal has failed to protect the rights of migrant workers, especially women workers in many destination countries including Gulf region where *kafala* system prevails.

The US TIP Report 2011 placed Nepal Tire 2 reflecting that GoN has not fully complied with the minimum standards for the elimination of act of trafficking, especially in areas of investigation and prosecution, protection of trafficked victims, adoption of a comprehensive preventive measures, establishing cooperation with other governments.

The GoN introduced NPA against Trafficking in Persons and national child protection policy including operational guidelines for rehabilitation center, protection and care of victims/survivors of human trafficking and child care homes. But there is severely lacking of monitoring mechanism whether provisions in these initiatives are fulfilled by the service providers. National and District Committees for Combating Trafficking have not been institutionalized and non-functional. The DWCS, a special Police unit under the Nepal Police Crime Investigation Department, and its subordinate offices at the district levels – the WCS – lack physical, financial and adequate trained human resources and they do not have the authority to file FIR on trafficking cases. Limited budget allocated for directly responsive initiatives for combating trafficking under the MoWCSW (Rehabilitation Fund and budget for District Committees) and no separate Division to look after the trafficking cases in the MoWCSW suggests low priority accorded in combating trafficking of women and

children on the part of GoN. Although the GoN has initiated allocation of annual development budget in development activities directly or indirectly contributing to reduction of poverty and empowerment of women, the share of budget as direct gender responsive is rather low. Examining the involvement of GOs, NGOs and EDPs in prevention activities of trafficking in persons, it seems that a comprehensive prevention interventions have not been implemented in Nepal.

Nepal has ratified several international and regional human rights instruments but it has yet to ratify the UN Protocol on Trafficking. The domestic law, the HTTCA 2007 despite its several strengths, fails to address issues as prevention of human trafficking, witness protection, repatriation of victims and international counter-trafficking cooperation and border measures and it does not define an organized criminal group. There are very few cases of human trafficking reported in Nepal Police, mainly because of victims' reluctance to report the crime due to threats and fear of threats, lack of legal awareness, distrust toward law enforcement agencies and justice institutions. Also, a few trafficking cases are filed in the courts of Nepal and low conviction rates and high pending rates imply low level of criminal judicial response towards human trafficking cases in Nepal.

6.2 Recommendations

Drawing on the findings and conclusions of the Report, the following recommendations are drawn related to prevention, protection, prosecution, capacity development, coordination and cooperation and maintaining data information system.

Prevention

- Address the root causes of trafficking such as poverty, ignorance, unemployment, violence against women and children, dysfunctional families, impunity, discrimination and exclusion.
- Address the issues of poverty to reduce the magnitude of child trafficking as a result of parents' silent consents such as sending

children to Child Care Homes, in *jari* industries, circus performance and other forms of labor in Nepal and India

- Design and focus on comprehensive prevention activities of trafficking – encompassing of public awareness and education; data collection and research and social and economic interventions.
- Expand child rights promotion programs to reduce the vulnerability of children specially targeting to special groups of children, poor, disadvantaged groups, girls, child laborers and domestic child workers.
- Develop and incorporate issues of child rights and women rights in school level education especially focusing on trafficking for sexual and labor exploitation.
- Design and effectively implement specific programs or initiatives to combat child prostitution, child pornography, and other forms of child sexual exploitation.
- Regulate agents, sub-agents and recruiting agencies effectively to combat widespread fraud, deception involved in process of foreign employment.
- Regulate foreign employment service providers such as Pre-Departure Orientation institutions, medical centers and insurance companies.
- Eliminate corruption and irregularities in DoFE, FEPB, service providing agencies including in the Tribhuvan International Airport.
- Decentralize foreign employment services including complaints handling mechanism at least at the district level and make them transparent and have adequate resources.
- Make mandatory provision for skill training and pre-departure training for women domestic workers and caregivers.

Protection

- Expand and strengthen border security and surveillance system across Nepal-India border including in the unofficial transit points and between Nepal and Tibet. Increasing mobilization of NGOs for surveillance is a must.

- Establish effective monitoring mechanism in all the suspected places of human trafficking and smuggling such as Marriage Bureaus, recruitment agencies, travel agencies, pharmacies and medical institutions, informal networks, education consultancies, hotels and lodges and 'Child Care Homes'.
- Effectively monitor the Child Care Homes to eliminate sexual exploitation, labor exploitation including trafficking to and from to ensure the best interests of children realized in such Homes/Centers.
- Develop effective mechanism to monitor the implementation of Operational Guideline for Rehabilitation Center, the Minimum Standards for the Protection and Care of the Trafficking Survivors and Child Care Homes
- Protect the rights of WMWs while ensuring the rights to mobility as par with the men. Protection of women from violence, abuse and exploitation in the destination countries especially in GCC countries requires intervention program within the country and in the destination countries.
- Establish and strengthen Safe Houses for victims in destination countries especially in Gulf countries.
- Introduce reintegration programs for returnee WMWs to minimize force migration as alternatives.
- Ratify and implement ILO Convention 189 on Domestic Work; the 1990 UN Convention on the Protection on the Rights of all Migrant Workers and Members of Their Families; UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.
- Make effective and reliable mechanism to send the remittance by the workers and make arrangement for utilization of remittances in productive sectors.

Prosecution

- Review and amend the HTTCA 2007 and other laws of Nepal to ensure the effective victim witness protection measures, increased penalties for organized criminal group involved in trafficking, obstruction of justice during and after the court proceedings,

implementation of the provision of rescue, repatriation and rehabilitation of the victims and establishing the mutual cooperation to combat trafficking between and among countries.

- Effectively implement the Supreme Court's Guidelines on Prevention of Sexual Harassment in entertainment sector and make functional Monitoring Committee with adequate resources and increased commitments.
- Formulate the law as per the Supreme Court's Guidelines on Prevention of Sexual Harassment in entertainment sector.
- Establish special investigation unit for human trafficking in Nepal Police and Attorney Offices.
- Strengthen Nepal Police and DWCS to effectively deal with the cases of violence against women and children including trafficking cases.
- Establish and expand WCSCs down to the district level and upgrade WCSWs as FIR handling unit.

Capacity Building

- Increase Government budget allocation for prevention and combating of human trafficking and activities of direct gender responsive budget.
- Establish separate Division in dealing with Trafficking in Persons, especially women and children under the MoWCSW with adequate physical, financial and trained human resources.
- Make effective functioning of NCCHT and District Committees by allocation of increased budget, training and orientation and increased commitments.
- Increase functional capacity and professional efficiency of judges, employers and legal professionals working in the judicial organs by providing increase budget, training and orientation on human trafficking issues.
- Appoint and strengthen the capacity of foreign diplomatic mission, Labor Attaché to deal with the issues of foreign labor migrants.
- Promote bilateral agreements between Nepal and countries of transit and destination of Nepali labor migrants with adequate

provisions to protection measures to deal with violence against women working in informal sector.

- Provide adequate training and resources for the Government attorneys so that they provide high priority to charge the case with additional punishment, claiming compensation to the victims and charging a case to those who obstructs the justice.

Coordination

- Establish and strengthen coordination between the MoWCSW, the National Committee including NHRC, the MoLE , the MoFA, the OAG, and the Gender-Based Violence Unit within the Prime Minister’s Office including NGOs at the national level
- Effectively mobilize the District Committee for coordination of anti-trafficking programs in the districts.

Data Collection and Information

- Establish unified institutional mechanism to collect reliable statistical information on the scope of trafficking in persons in Nepal or on the level of public awareness about the phenomenon. NCCHT should develop mechanism to collect data on interception, rescue, rehabilitation, reintegration to the trafficked victims/survivors regularly.
- Much research is needed to understand the child’s conditions in Child Care Homes especially focusing on exploitation and trafficking to and from; trafficking for marriage; jari industries; illegal kidney extraction; trafficking of young girls to Khasa and Kuti; trafficking for labor exploitation in Gulf countries and other destination countries including smuggling of migrants which turned to be trafficking.

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- Silwal, Nawa Raj paper presented in a workshop organized by in Kathmandu School of Law in April, 2012.
- UN Women Research 2011 (no topic mentioned)
- Subedi, Bhim Prasad (2012) International Migration and Development, Paper presented in December 7, 2012

Raw Data Utilized

- Office Record of Foreign Employment Tribunal
- Office Record of Department of Foreign Employment
- Office Record of Foreign Employment Promotion Board
- Office Record of Directorate of Women and Children, Nepal Police
- Office Record of Women and Children Service Center, Valley Police
- Office Record of Baal Balika Khoj Talasha Kendra
- Office Record of Central Child Welfare Board
- Office Record of Various NGOs

Newspapers

- Kantipur Daily June 12, 2012
- Annapurna Post Daily on June 12, 2012
- Nagarik Daily, June 11, 2012

Annex

Annex 1.1 List of visited institutions and individuals

SN	Name	Designation	Office
1	Dr. Kiran Rupakheti	Under Secretary	MoWCSW
2	Ram Krishna Ahikari	Section Officer	MoWCSW
3	Bimala Thapa	DIG	DWCS
4	Tara Thapa	DSP	DWCS
5	Kiran Rana	DSP	DWCS
6	Namuna Bhusal	Project Manger	CCWB
7	Kaber Pradhan	Sub-Inspector	Valley Police Office
8	Tika Prasad Bhandari	Director	FEPB
9	Jayandra Bahadur Shaha	Section Officer	FET
10	Judge Meera Khadka	Chairperson	FET
11	Srinkhala Thapa	Project Manager, C-TIP	World Education
12	Punam Thapaliya	Project Officer, C-TIP	World Education
13	Prajwal Sharma	Program Assistant	IOM
14	Yog Raj Baral	Director	Investigation Section, DoFE
15	Shobha Thapa	Police Inspector	NCCR
16	Bhim Sen Shaha	Program Officer	NCCR
17	Dilip Koirala	Legal and Training Coordinator	Shakti Samuha
18	Srijana KC	Program Officer	Shakti Samuha
19	Nilam Sharma	Country Representative	Free the Slave
20	Binu Maya Gurung	Coordinator	AATWIN
21	Som Kanta Bhandari	Section Officer	Research Section, Office of the Attonery General
22	Dhurba Tripathi	Under Secretary	Research Section, the Supreme Court

Annex 1.2 List of participants of one day consultation about the situation of female workers in the entertainment

SN	Name	SN	Name
1	Maya Gurung	13	Kusum Subba
2	Samjhana Lama	14	Madhu Gurung
3	Mithu Tamang	15	Radha Ale Magar
4	Miya Rajbansi	16	Sunita Tamang
5	Rosani Rai	17	Lalita Lama
6	Manju Lama	18	Tisina Tulachan
7	Laxmi Sherpa	19	Kumari Magar
8	Sita Magar	20	Ramila Thokar
9	Sapana Bhuwan	21	Indira Sapkota
10	Laxmi	22	Sunita Rai
11	Nisa		
12	Sarita Sunuwar		

Annex 1.3 Name of the participants in the Final Draft Consultation Meeting

SN	Participants Name	Organization	Office Phone	E-Mail
1	Laxmi Karki	AATWIN		laxmi@rrn.org.np
2	Prof. Radha Sharma	ABC Nepal	6630012	
3	Ram Kumar Thapa	Appellate Attorney Office ,Patan	522071	pp.ramkumar11m@gmail.com
4	Rachana Shrestha	The Asian Foundation	4418345	rshrestha@asiafound.org
5	Sharda Paudyal	CAP Nepal	4486599	info@cap-nepal.org
6	Ram Bahadur Chand	CCWB		ram@ccwb.gov.np
7	Sandhya Sitaula	CelRRd	4483706	sandhya@celrrd.org
8	Bharat Adhikari	CWIN Nepal	4316700	adhikari.bharat@gmail.com
9	Durga Singh	DSP, DWCS Nepal Police		durgasinghchand@yahoo.com
10	Prasuna Saakha	IOM	4426250 Ext.195	psaakha@iom.mt
11	Ramila Pantha	LACC		me-ram@hotmail.com
12	Upama Pokharel	LACC		Memysself Upama@yahoo.com
13	Sabin Gurung	Maiti Nepal	4494816	info@maitinepal.org
14	Jagadish Chandra Shiwakoti	MoLE		shiwakotijc@yahoo.com
15	Ram Krishna Adikari	MoWCSW, NCCHT	4200216	Yamunadsfer@gmail.com
16	Srijana Pradhan	NNSM	014423973	czana-world@yahoo.com
17	Bhim Bahadur Shahi	NCCR		bhimshahi2009@gmail.com
18	Krishna Pd. Neupane	People Forum	4423973	krishna.peopleforum@gmail.com
19	Sharada Karki	People Forum	014423973	neetra-karki@gmail.com
20	Shodhashi Rayamajhi	Planete Enfants	5011221/ 5011231	shodashi@pe-nepal.org
21	Bir Bdr. Lama	Planete Enfants		Birbdr.lama@gmail.com
22	Bijaya Rai Shrestha	Pourakhi		bijayaraistha@hotmail.com
22	Puspa Thapa	Pourakhi		puspapourakhi@gmail.com
24	Rajendra Ghimire	PPR Nepal	016220874	pprnepal@pprnepal.org.np
25	Satish Kumar Sharma	PPR Nepal		satish.eakraj@gmail.com
26	Basant kumar karki	Safe migration initiatives/Helvetas		Basant.karki@helvetas.org.np
27	Dr. Govind Prasad Thapa	MoWCSW, NCCHT		

SN	Participants Name	Organization	Office Phone	E-Mail
28	Anu Tamang	Shakti Samuha		
29	Pitambar Koirala	TPO Nepal	0144317171	pi.koirala@gmail.com
30	Purna Shrestha	UN Women		Purna.shrestha@unwomen.org
31	Sanjita Timsina	WOREC		Sanjita.timsina@gmail.com
32	Sudha Kafle	WOREC		kaflesudha@hotmail.com

Annex 1.4 Name of the NHRC Officials participated in the Final Draft Consultation Meeting

SN	Name	Designation
1	Justice Kedar Nath Upadhyay	Hon'ble Chairperson, NHRC
2	Justice Ram Nagina Singh	Hon'ble Member, NHRC
3	Bishal Khanal	Secretary, NHRC
4	Subarna Karmacharya	Director, NHRC
5	Bed Prasad Bhattra	Director, NHRC
6	Jaya Shor Chapagain	Officer, NHRC
7	Shyam Babu Kafle	Officer, NHRC
8	Bir Bahadur Budha Magar	Officer, NHRC
9	Surya Deuja	Officer, NHRC
10	Gita Dahal	Officer, NHRC
11	Jiban Neupane	Officer, NHRC
12	Manju Khatiwada	Officer, NHRC
13	Nitu Gartaula	Officer, NHRC
14	Ghanashyam Bhandari	Officer, NHRC
15	Suresh Malla	Officer, NHRC
16	Kalpana Jha	Officer, NHRC
17	Sarita Gyanwali	Officer, NHRC
18	Pradhyumna Kattel	Officer, NHRC
19	Kailash Kumar Siwakoti	Officer, NHRC
20	Bhim Oli	Officer, NHRC
21	Maya Sharma	Officer, NHRC
22	Lok Kumar Shrestha	Officer, NHRC
23	Lok Nath Bastola	Officer, NHRC
24	Subash Siwakoti	Project Manager, NHRC
25	Arati Bista	Project Officer, SC-NHRC
26	Nabin Gurung	Consultant, SC-NHRC
27	Subash Siwakoti	Project Manager, NHRC
28	Sagar Shrestha	Assistant, NHRC
29	Mili Shrestha	Intern, NHRC
30	Arati Chand	Intern, NHRC
31	Nabin Yadav	Intern, NHRC
32	Kamal Thapa Kshetri	Officer, NHRC
33	Dr. Govind Subedi	National Consultant

Annex 3.1 Distribution of Nepali WMWs who contacted to Nepali Embassy at Riyadh due to abuse and violence by the employers, by district of origin in Nepal, 2011

District	Number of districts	Number of person per district	Total persons
Nuwakot, Bhaktapur, Salyan, Myagdi, Parsa, Khotang, Okhaldhunga, Kanchanpur, Saptari, Myagdi, Gorkha, Panchthar, Lamjung, Bara, Arghakanchi, Ramechhap and Jumla	19	1	19
Kathmandu, Dolakha, Gulmi, Syanja, Dhankuta, Tanahun, Rukum, Dailekha and Sarlahi	9	2	18
Pyuthan, Baglung and Sindhuli	3	3	9
Terhathum, Kavre, Parbat	3	4	12
Kailali, Dhading and Sindhupalchok	3	5	15
Illam and Palpa	2	6	12
Surkhet and Kaski	2	7	14
Udayapur, Makwanpur and Bardiya	3	8	24
Kapilbastu	1	9	9
Banke and Dang	2	12	24
Chitawan	1	25	25
Rupandehi	1	26	26
Sunsari	1	28	28
Morang	1	35	35
Nawalparasi	1	37	37
Jhapa	1	53	53
District not reported			21
Total			381

Source: <http://www.neksa.org/index.php/status-of-housemaids> (Accessed on December 5, 2012).

Annex 3.2 Nepali Diaspora by Country

SN	Countries	SN	Countries	SN	Countries	SN	Countries
1	Australia	15	Hong Kong	30	Mozambique	43	Saudi Arabia
2	Austria	16	Hungary	31	Myanmar	44	Singapore
3	Bahrain	17	Indonesia	32	Netherlands	45	Slovenia
4	Belarus	18	Ireland	33	New Zealand	46	South Africa
5	Belgium	19	Israel	34	Nigeria	47	Spain
6	Cambodia	20	Italy	35	Norway	48	Sweden
7	Canada	21	Japan	36	Oman	49	Switzerland
8	China	22	Korea	37	Philippines	50	Taiwan
9	Cyprus	23	Kuwait	38	Poland	51	Thailand
10	Denmark	24	Lebanon	39	Portugal	52	UK
11	France	25	Lesotho	40	Qatar	53	USA
12	Finland	26	Libya	41	Romania	54	Ukraine
13	Germany	27	Luxembourg	42	Russia	55	UAE
14	Greece	28	Macau			56	Yemen
		29	Malaysia				

Source: NRNA. www.nrn.org.np/index.php.2009 (Accessed on 24 October 2011)

**Annex 3.3 Ratification status of UN Migrant Workers Convention 1990
of major Nepali migrants destination countries**

SN	Country	Signature, succession to signature (d)	Ratification, accession (a), succession (d)
1	Albania		5 Jun 2007 a
2	Algeria		21 Apr 2005 a
3	Argentina	10 Aug 2004	23 Feb 2007
4	Azerbaijan.		11 Jan 1999 a
5	Bangladesh	7 Oct 1998	
6	Belize		14 Nov 2001 a
7	Benin	15 Sep 2005	
8	Bolivia		16 Oct 2000 a
9	Bosnia and Herzegovina		16 Oct 2000 a
10	Burkina Faso	16 Nov 2001	26 Nov 2003
11	Cambodia	27 Sep 2004	
12	Cameroon	15 Dec 2009	
13	Cape Verde		16 Sep 1997 a
14	Chile	24 Sep 1993	21 Mar 2005
15	Colombia	24 May 1995 a	
16	Comoros	22 Sep 2000	22 Sep 2000
17	Congo	29 Sep 2008	29 Sep 2008
18	Ecuador		5 Feb 2002 a
19	Egypt		19 Feb 1993 a
20	El Salvador	13 Sep 2002	14 Mar 2003
21	Gabon	15 Dec 2004	
22	Ghana	7 Sep 2000	7 Sep 2000
23	Guatemala	7 Sep 2000	14 Mar 2003
24	Guinea		7 Sep 2000 a
25	Guinea-Bissau	12 Sep 2000	
26	Guyana	15 Sep 2005	
27	Honduras		9 Aug 2005 a
28	Indonesia	22 Sep 2004	
29	Jamaica	25 Sep 2008	25 Sep 2008
30	Kyrgyzstan		29 Sep 2003 a
31	Lesotho	24 Sep 2004	16 Sep 2005
32	Liberia	22 Sep 2004	
33	Libyan Arab Jamahiriya		18 Jun 2004 a
34	Mali		5 Jun 2003 a
35	Mauritania		22 Jan 2007 a
36	Mexico	22 May 199	8 Mar 1999
37	Montenegro	23 Oct 2006 d	

SN	Country	Signature, succession to signature (d)	Ratification, accession (a), succession (d)
38	Morocco	15 Aug 1991	Jun 1993
39	Nicaragua		26 Oct 2005 a
40	Niger		18 Mar 2009 a
41	Nigeria		27 Jul 2009 a
42	Paraguay	13 Sep 2000	23 Sep 2008
43	Peru	22 Sep 2004	14 Sep 2005
44	Philippines	15 Nov 1993	5 Jul 1995
45	Rwanda		15 Dec 2008 a
46	Sao Tome and Principe	6 Sep 2000	
47	Senegal		9 Jun 1999 a
48	Serbia	11 Nov 2004	
49	Seychelles		15 Dec 1994 a
50	Sierra Leone	15 Sep 2000	
51	Sri Lanka		11 Mar 1996 a
52	Syrian Arab Republic		2 Jun 2005 a
53	Tajikistan	7 Sep 2000	8 Jan 2002
54	Timor-Leste	30 Jan 2004 a	
55	Togo	15 Nov 2001	
56	Turkey	13 Jan 1999	27 Sep 2004
57	Uganda		14 Nov 1995 a
58	Uruguay		15 Feb 2001 a

Source: <http://www2.ohchr.org/english/law/cmw.htm> (Accessed on December 7, 2012).

Annex 4.1 Districts in which CROs supported by EDPs, Nepal, 2011

SN	Save the Children	SN	World Vision International	SN	TDH	SN	Plan Nepal	SN	UNICEF
1	Kavre	1	Kathmandu	1	Humla	1	Banke	1	Taplejung
2	Sindhupalchok	2	Bhaktapur	2	Rolpa	2	Bardiya	2	Panchthar
3	Ilam	3	Lalitpur			3	Kailali	3	Khotang
4	Dhankuta	4	Lamjung			4	Kanchanpur	4	Okhaldhunga
5	Gulmi	5	Rupendehi			5	Parbat	5	Ramechhap
6	Tanahun	6	Jumla			6	Makwanpur	6	Sankhuwasabha
7	Syanja	7	Kaski			7	Morang	7	Terhathum
8	Palpa	8	Udaipur			8	Rautahat	8	Bhojapur
9	Nawalparasi	9	Dadeldhura			9	Sindhuli	9	Solukhumbu
10	Kapilbastu	10	Arghakanchi			10	Dang	10	Sarlahi
11	Bara	11	Sunsari			11	Myagdi	11	Dhanusa
12	Jhapa	12	Doti					12	Rasuwa
13	Chitawan							13	Nuwakot
14	Surkhet							14	Gorkha
15	Rukum							15	Manang
16	Salyan							16	Mustang
17	Kailkot							17	Dolpa
18	Mugu							18	Bajhang
19	Bajura							19	Baitadi
20	Achham							20	Darchula
21	Dailekha							21	Jajarkot
22	Pyuthan							22	Parsa
23	Dolakha								
24	Siraha								
25	Mahottari								
26	Saptari								
27	Dhading								

Source: CCWB, Office Record, 2012.

Annex 4.2 Child Helplines, Nepal

District	Implementing organization	Number of children provided services in 2011			Date from operation
		Girls	Boys	Total	
Kathmandu	CWIN Nepal	312	529	841	1998
Morang	CWIN Nepal	160	198	358	2000
Makwanpur	CWIN Nepal	73	119	192	2003
Banke	CWIN Nepal	22	62	84	2004
Kaski	CWIN Nepal	57	68	125	2005
Bardiya	Aawaj Nepal	NA	NA	NA	2007
Chitawan	Diyalo Nepal	NA	NA	NA	2007
Dang	Radar Nepal	NA	NA	NA	2007
Rupandehi	Terai Bikasha Manch	NA	NA	NA	2007
Surkhet	Aawaj Nepal	NA	NA	NA	2007
Dailekha	Aawaj Nepal	NA	NA	NA	2008
Kapilbastu	Sahaj Nepal	NA	NA	NA	2008
Udayapur	Nespek	1	4	5	2008
Total		635	980	1605	

Note: NA refers not availability of data.

Source: CCWB, 2012, pp. 68.

Annex 4.3 Profile of NGOs working against trafficking and promotion of safe migration issues (those which provided information to NHRC)

1. Name of the organization : - Gramin Mahila Srijansil Pariwar
Lamosaghun, Sindhupalchok
Contact phone no : - 011495047, 011495056, 011495057, 01622543
Email address :- srijansil@gmail.com
Name of the organization Head : - Nanimaya Thapa

2. Name of the organization : - Peoples Forum
Contact: - phone no : - 4423973 Fax No:-4423973
Email address : - Forum2060@yahoo.com
Post Box No : - 25001
Website : - www.humanrightsnepal.org.np
Name of the organization Head : - Som Prasad Luitel

3. Name of the organization : - Saathi
+ Contact: - phone no :- 500063, 5000074 Fax No: - 5000160
Email address : - saathi.ktm@gmail.com
Website : - www.saathi.org.np
Name of the organization Head : - Bandana Rana

4. Name of the organization : - Forum for Protection of People's Right
Contact: - phone no : - 977-016220874 Fax no:-
Email address : - pprnepal@pprnepal.org.np
Website : - www.pprnepal.org.np
Post Box No : - 24926
Name of organization Head : - Rajendra Ghimire

5. Name of the organization : - Pravasi Nepali Coordination Committee
Contact Phone No : - 01 4770775 Fax No:-
Email address : - info@pncc.org.np
Website : - www.pncc.org.np
Post Box No : - 20218
Name of the organization Head : - Mahendra Pandey

6. Name of the organization : - The Esther Benjamin Memorial Foundation
Contact Phone No : - 015560521
Email address : - Shailaja@ebmf.org.np
Website : - www.ebt.org.uk
Post Box No : - 26050
Name of the organization Head : - Shailaja C.M

7. Name of the organization : - Shakti Samuha
Contact Phone no : - 01 4485238 Fax No:-
Email address : - shaktisamuha.nepal@gmail.com
Website :- www.shaktisamuha.org.np
Post Box No : - 19488
Name of the organization Head : - Ms.Sunita Danuwar

- dw8. Name of the organization :- Nepalese Home
Contact Phone no :- 4374048 Fax No: - 4374048
Email address :- nepalesehome@gmail.com
Website :- www.nepalesehome.org
Post Box No :- 8975 EPC 4174
Name of the organization Head :- Mamata Kumari Tamang
9. Name of the organization :- Alliance Against Trafficking in Women and Children in Nepal (AATWIN)
Contact Phone No :- 977-1-4240 Fax No:- 977-1-4240709
Email address :- aatwin@ntc.net.np
Website :- www.aatwin.org.np
Post Box No :- 24960
Name of the organization Head :- Ms. Laxmi Karki, President
10. Name of the organization :- Center For Legal Research and Resource Development (CeLRRd)
Contact Phone no :- 0977-01-4483706 Fax No:-
Email address :- sec@celrrd.org, info@celrrd.org
Website :- www.celrrd.org
Post Box No :- 6618
Name of the organization Head :- Sudip Gautam
11. Name of the organization :- Maiti Nepal
Contact No :- 4494816 Fax No: - 4489978
Email address :- info@maitinepal.org
Website :- www.maitinepal.org
Post Box No :- 9599
Name of the organization Head: - Ms. Anuradha Koirala
12. Name of the organization :- A.B.C Nepal
Contact No :- 016635050/6630346 Fax No: - 01-6630072
Email address :- abc@trasit.wlink.com.np
Post Box No :- 5135
Website :- www.abcnepal.org.np
Name of the organization Head: - Ms. Durga Ghimire
13. Name of the organization :- Center for Awareness Promotion (CAP) Nepal
Contact :- 01-4486599 Fax No: - 01 4721441
Email address :- info@cap-nepal.org
Website :- www.cap-nepal.org
Post Box No:-
Name of the organization Head: - Hira Dahal
14. Name of the organization :- CWIN Nepal
Phone No :- 01-4316700/ 01 4282255 Fax No: - 014278016
Email address :- cwin@mos.com
Post Box No :- 4374
Website :- cwin.org.np
Name of the organization Head: - Madhav Pradhan

15. Name of the organization : - Women of Skill Creative Center
 Zone: - Narayani District : - Makawanpur
 Phone No : - 057 525115 Fax No:-
 Email address : - woscc@ntc.net
 Post Box No:-
 Website:-
 Name of the organization Head : - Bishnu Ojha and Shanta Baral
16. Name of the organization : - Women Progress Center (WPC)
 Zone: - Mahakali District : - Kanchanpur
 Phone No : - 099 525136 Fax No: - 099525136
 Email address:-
 Website : - www.wpcmnr.org
 Post Box No:-
 Name of the organization Head: - Ms. Anita K.C
17. Name of the organization : - Women's Rehabilitation Center (WOREC)
 Kathmandu, Lalitpur
 Contact Phone No : - 977-01-5006373, 5006374, 2123124 Fax No:- 977-01-5006271
 Email address : - ics@worecnepal.org, icsworecktm@gmail.com
 Website : - www.worecnepal.org
 Post Box NO : - 13233
 Name of the organization Head: - Babu Ram Gautam
18. Name of the organization : - POURAKHI
 POURAKHI, Makhamali Marg, Dharapati, Kathmandu
 Contact No : - 01-4370697,01-4374136, 01-2081644 Fax No:-01-4370697
 Email address : - pourakhi@mail.com.np
 Website : - www.pourakhi.org.np
 Post Box No : - 7647 Katmandu
 Name of the organization Head : - Mrs. Manju Gurung
19. Name of the organization : - SAATHI
 Kathmandu
 Contact No : - 5000063, 5000074 Fax No: - 5000160
 Email address : - saathi.ktm@gmail.com
 Website : - www.saathi.org.np
 Post Box No : - 7770
 Name of the organization Head: - Bandhana Rana

Annex 4.4 Number of persons protected from trafficking by different NGOs, January 2011-December, 2011, Nepal (in number)

Indicators	ABC Nepal	Saathi	GMSP	Maiti Nepal	Nepalese Home	Shakti Samuha	EBMF	PNCC	WOREC	CWIN	CAP Nepal	WPC	WOSCC
Interception	1026	3868	0	2478	0	0	0	0	0	292	1	16	16
Rescued/repatriation	0	1	39	88	4	7	71	1092	18	187	31	137	47
Rehab centers	37		45	242	0	64	136	0	0	23	31	8	0
Provided temporary shelter	0		0	0	0	0	0	0	0	396	0	3	0
Reintegration	10		78	0	23	36	65	20	9	0	0	88	20
Missing application received	0	3	5	647	0	6	2	93	2	227	0	2	2
Missing found	0	2	2	146	0	0	5		0	185	0	0	2

Note: GMSP refers to Gramin Mahila Sirjanshil Pariwar, Sindhupalchowk. In Maiti Nepal case, of the total 242, 196 were girls/women and 48 were children. Among the 71 cases of rescued by EBMF, 3 cases were internal trafficking while the rest were rescued from India. For Nepalese Home, 3 cases were of internal and one was from Kolkata, India. For WOREC, all rescued victims were men and all were rescued from Saudi Arabia.

Annex 4.5 Number of trafficking cases provided referral services by different NGOs, January 2011-December, 2011, Nepal

Name of organization referred to	Number cases/victims	Name of organization received referral cases	Purpose of referral
LACC	13	PPR, CeLLRD, TPO	Legal proceeding and psychosocial counselling
GMSP	44	Shakti Samuha	Counselling and skill development training
Mahila Atmanirbhar Kendra	24	GMSP	Legal counselling and health treatment
Area Police Office, Barabishe, Sindhupalchok	52	GMSP	Legal counselling and health treatment
Saathi	3	Nepal Police (1 case), CeLLRD (2 cases)	One trafficking, one domestic violence and one migration
Different networks of Saathi, Banke district	8	Saathi	One trafficking and rest suspected trafficking
UN Women, WOREC, Jana Sewa Samaj and Youth Action	21	PNCC	Migration issues including sexual violence
PNCC	0	FEPB, DoFE, Embassies	Compensation
Karuna Bhawan and Mother Teresa Home	2	EBT	Medial treatment and psycho-social counselling
CWIN, Dept of Immigration, Mahilako Lagi Mahila Manch, Women Cell, Change Nepal, RHEST	12	Shakti Samuha	Residential care (3 cases were mentally retarded)
Maiti Nepal, Shakti Samuha and LACC	7	CeLLRD	Trafficking for legal aid
CeLLRD	7	Lacc and TPO	2 cases for legal representation and 5 cases for psycho-social counselling
WOREC	23	NA	

Name of organization referred to	Number cases/victims	Name of organization received referral cases	Purpose of referral
CAP Nepal	2	Saathi, Volunteer Nepal and Asha Nepal	For education
SASANE and Saathi	3	CAP Nepal	For shelter support
WPC	2	Sital Samuha and Sanjiwani Nepal	1 case for trafficking and 1 case for VAW for counselling
Sanjiwani Nepal	1	WPC	Psychosocial and legal counselling
WOSCC	11	WDO and Maiti Nepal	Medial treatment and shelter

Annex 4.6 Number of victims/survivors provided legal support by different NGOs, January 2011-December, 2011, Nepal

Name of organization	Number of cases initiated to lodge FIR, support to investigation and adjudication	Number of victims/survivors	Case related to:
Maiti Nepal	46	-	Trafficking
People Forum	106	106	Foreign employment
GMSP	26	26	22 Trafficking and 4 VAW
PPR	22	22	13 Trafficking and 9 VAW
EBT	15	78	73 Trafficking for circus performance, 4 Foreign Employment and 1 VAW (all minors)
Shakti Samhuha	12	16	Trafficking
Nepalese Home	1	1	Trafficking
CeLLRD	176	NA	55 Trafficking, 1 migration and 120 VAW
CWIN	5	17	Trafficking
WOREC	16	16 (331)	Foreign employment (14 men and 2 women) and 331 survivors/victims of VAW
ABC Nepal	NA	198	8 trafficking, 11 migration and 179 VAW
Paurakhi	13	13	Foreign employment
WPC	57	57	25 Trafficking and 32 VAW
WOSCC	302	302	11 Trafficking, 7 foreign employment, 284 VAW
LACC			

Note: although one of the key intervention areas of LACC is legal support to the trafficked victims/survivors, its information on number of legal support cases was not available.

Annex 4.7 Research Studies conducted from January 2011-December 2011

Organizations	Studies
People Forum	Baseline Survey in 15 Districts on Migrant Workers, Policy Makers and Service Providers (in the process)
PPR	Prepared audio visual documentary on witchcraft related violence
PNCC	Question-Answer on Safe Foreign Employment
CeLLRD	Human Organ Harvesting - Kidney Trafficking in Nepal
WOREC	<p><i>Assessing Government Managed Pre-Departure Orientation Program 2011</i> – The study covers all working districts of WOREC and national and district level stakeholders. The major finding of study is that pre-departure orientation program is not effectively implemented and monitored</p> <p><i>Migration: Social and Economic Situation 2011</i> – It covers all WOREC’s working districts and its major finding is that foreign employment has brought the social costs in Nepali society that women who have been left by their husbands at home are increasingly facing violence in the family.</p> <p><i>Access to Justice for Rape Survivors in Nepal 2010</i> – The study was carried out in 10 districts and the study identified the status of sexual violence.</p> <p><i>Anweshi 2011</i> – It is a regular WOREC’s publication annually based on Newspaper clipping which details the violence against women in the country.</p>
CAP Nepal	<p><u>Mothers of only or many daughters</u> - The study was conducted in 8 districts: Kathmandu, Kavre, Rautahat, Chitwan, Jhapa, Bardiya, Arghakanchi and Parbat. The main finding of the study is that 56% of mothers reported that psychological or physical violence for having only or many daughters (www.cap-nepal.org/publications).</p>

Note: The Research/Studies reported here only includes the research/studies reported to be carried out by different organizations which provided information to NHRC in NHRC format.