
**STRENGTHENING THE ROLE OF MINISTRY OF
LABOUR FOR
DECENT WORK AGENDA**

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Acronyms

CLAC	: Central Labour Advisory Committee
CSIDB	: Cottage and Small Industries Development Board
CTEVT	: Council for Technical Education and Vocational Training
DECONT	: Democratic Confederation of Nepalese Trade Unions
DoCSI	: Department of Cottage and Small Industries
DoL& EP	: Department of Industry
EES	: Employment Exchange Service
EPC	: Employment Promotion Commission
FNCCI	: Federation of Nepalese Chambers of Commerce and Industry
GEFONT	: General Federation of Nepalese Trade Unions
HMG	: His Majesty's Government
ILO	: International Labour Office
IPEC	: International Program for Elimination of Child Labour
I-PRSP	: Interim-Poverty Reduction Strategy Paper
LMI	: Labour Market Information
MoF	: Ministry of Finance
MoGA	: Ministry of General Administration
MoIC&S	: Ministry of Industry, Commerce and Supply
MoL&TM	: Ministry of Labour and Transport Management
MSE	: Micro and Small Enterprises
MWFC	: Minimum Wage Fixation Committee
NPC	: National Planning Commission
NTUC	: Nepal Trade Union Congress
OSH	: Occupational Safety and Health

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1. INTRODUCTION

1.1 Economy and Employment

People engage in gainful economic activities as employer, self-employed or employee. Work is a defining feature of human existence. All people work to sustain life and meet various needs not only of themselves but also of their families. They strive to earn more to achieve better quality of life for themselves, for their families, for the society in which they live and the people in the country and for the world. Development is necessary for generating more work. More work generates more resources, which in turn generates more work, and so turns the development cycle for making better life quality.

In Nepal, the overall unemployment rate is estimated at 1.8% (1.7% female and 2.0% male) according to the first labour force survey carried out in 1999. It is surprisingly low. In the absence of unemployment insurance scheme, one has to work, even if for one hour and this too is considered as 'employed'. However, the report also reveals that 27% of the currently employed population work less than 40 hours a week. These can be termed as underemployed. The underemployment is 178,000. 2.6 million work less than 40 hours a week. Although there is work, the work is not worth. Fetching water, collecting firewood, home-based activities, self-employed etc. are also considered as work¹.

The country has an annual GDP growth rate of 5.03% (as against the targetted 6.0%) at the end of 4 years during the Ninth 5-year plan (1997-2002).² The employment growth rate is 2.9% and the employment elasticity 0.58³. Employment growth depends on the pace and pattern of economic growth and the relation between the two is summarized by what is known as employment elasticity.

There has been a slight improvement in the poverty scenario in Nepal with the percentage of population below poverty line decreasing from 42% in 1997 to 38% at the end of 1999/2000. The poverty line is defined here as an income of Rs. 4,404 per person per annum. The incidence of poverty is still quite large⁴.

¹ Report on Nepal Labour Force Survey 1998/99 conducted by HMG/NPC/CBS. The survey defines a person as currently active if he or she is either employed for at least one hour during the previous seven days, or has a job attachment if temporarily absent from work, or is available for work if work could be found.

² Discussion Paper on the Approach for the Tenth Plan, HMG/National Planning Commission, 2001

³ Employment in Nepal, ILO/SAAT, 1997

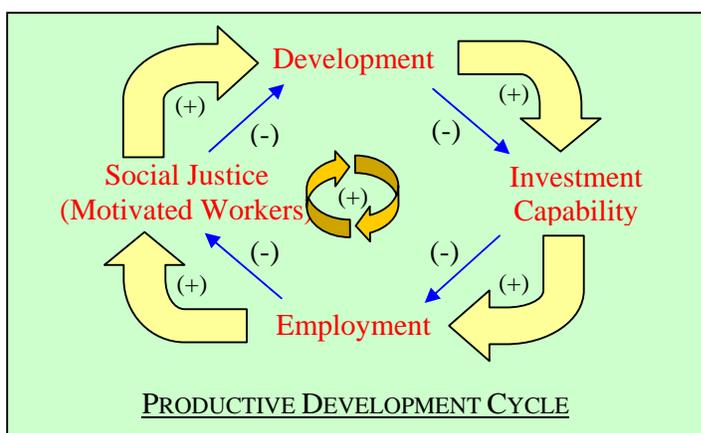
⁴ Interim Poverty Reduction Strategy Paper, HMG/NPC, 2001

1.2 Development and Social Justice

With the restoration of democracy in 1990, Nepal got a new constitution that incorporates several provisions concerning labour matters including prohibition of forced labour; freedom of association, equality of citizens, promotion of social justice and eradication of the social evils and economic well-being of the people. These provisions enshrined in the constitution have been reflected in the national development plans. The basic policy thrusts of the Ninth Plan regarding the labour sector are protection of the rights and interests of the workers, social security, skill and technical orientation, self-employment, and promotion of employment opportunities both inside and outside the country.

Nepal initiated a process of economic liberalization following the restoration of a multiparty democracy in the country. This virtually triggered a development syndrome in the country. This has been instrumental in creating vast employment opportunities in a wide range of areas such as aviation, tourism, exports, carpets, garments, educational and medical institutions, transportation, media, etc. This has given rise to a large number of workers in the micro, small and medium enterprise subsectors within the formal and informal economy, the home-based workers and the self-employed.

The benefits of development should accrue to both the owners and workers of enterprises. Development without social justice cannot sustain. There has to be a balance between the two. In the productive development cycle, development enhances investment capability, and this, in turn, generates more employment. Poverty alleviation and development through increased employment is contingent to social justice to create motivated human resources in the country. The lack of social justice retards development causing an overall negative impact on the cycle. In Nepal, despite the strides made in its development, this otherwise positive cycle of employment-social justice-development-investment (ESDI) is exhibiting negative trends largely due to the lack of focus on the social justice constituent of the cycle.



Work integrated with social justice is decent work. Work should provide equitable income, security and dignity – work that is meaningful and that accelerates the development cycle. In Nepal, the Ministry of Labour and Transport Management (MoL&TM) is entrusted with the responsibilities of employment and protection of workers from injustice. The MoL&TM must develop capability to give impetus to the

development cycle to achieve the national goal of poverty alleviation through employment and social justice.

1.3 Objective of the Paper

The main objective of the paper is to assess the decent work deficit in the macro-level work environment in the country. The other objectives are to assess the prevailing labour administration mechanism and to identify the roles that the MoL&TM can play to reduce the decent work deficit in the country.

1.4 Scope and Limitation

This paper is intended to be only the source of information and the basis of the working paper prepared for the tripartite consultation at the national symposium. It is prepared on the basis of information collected through interviews with a cross section of people among the stakeholders – authorities in the MoL&TM, trade unions, employers etc. and literature reviews.

2. DECENT WORK AGENDA

2.1 Globalization and Competitiveness

The process of globalization has encompassed virtually all countries in the world and Nepal is no exception to it. The process of economic liberalization started in the 1980s has set the environment for Nepal's entry into the World Trade Organization next year. This would naturally bring about the pressure on the country to excel in every respect to be able to sustain in the highly competitive global economy. Competitiveness will be the driving force to reorient input-process-output system inherent to the production of all goods and services. And in the pursuit of enhancing efficiency and productivity, globalization cuts across socio-politico-economic barriers in the flow of financial, physical and human resources. Productivity enhancement will be the panacea to the survival of organizations. The accelerated economic reforms in Nepal have created conditions for private sector investment and the entry of multinationals. This puts pressure on domestic producers and suppliers to consider the intense overseas competition seriously.

The process of globalization is generally associated with the movement of capital. But competitiveness in the global market also leads to downsizing of manpower, greater pressure on performance, formation of new forms of work organization, erosion of traditional values about work and redefinition of employment relations – resulting in overall changes in the faces of labour. Increased global competition spawns increased aspirations to equate life styles with that of the developed nations. The labour force of Nepal manifests with low literacy, low skill and low productivity, and such a situation is not conducive to global competition and the development of the country. Recent years have seen sharp decline in the industrial productivity in the country⁵. So the pressure should be on both the employers as well as the employees to enhance productivity.

⁵ Measurement of Productivity in Nepal, National Productivity and Economic Development Centre, 2001

Harmonious industrial relations, equitable gain sharing, motivated employees, transparency, etc. are the prerequisites to productivity. In this context, the MoL&TM has a major role of a facilitating agent of the government. Similarly, the government should coordinate the efforts of its other agencies such as the National Planning Commission, the ministries of finance, agriculture, industry, tourism, science and technology and others in this regard.

2.2 Declaration on Fundamental Principles and Rights at Work

With the recognition of labour as a major force in the industrial revolution, a tripartite body, the International Labour Organization (ILO), was established in 1919 during the era of industrial revolution. Contrary to general beliefs, ILO was established, not by workers, but through strong advocacy efforts of two industrialists deeply concerned for the welfare of the workers – Mr. Robert Owen (1771 – 1853) from Wales and Mr. Daniel Legrand (1783 – 1859) from France. Later, it was brought under the umbrella of the United Nations. During that time, Nepal under the Rana regime had no industries with very marginal economic activities.

In the advent of the post World War II, and the great east and west divide, the Philadelphia Declaration in 1944 declared that labour is not a commodity, and workers should have the freedom to work in the occupation in which they are satisfied and can contribute the most by best utilizing their skills. The declaration also reiterates “*conditions of freedom and dignity, of economic security and equal opportunity*” and underlines the importance of ensuring “*a just share of the fruits of progress to all*”.

With the end of the Cold War between the socialist bloc and the western capitalist bloc in the 1980s, again there was a change in the world order. In 1998, the ILO adopted the Declaration on Fundamental Principles and Rights at Work. The fundamental principles concern with the freedom of association, the elimination of forced and compulsory labour, the effective abolition of child labour and the elimination of all forms of discrimination in employment. The focus has been more on social justice for the labour force in the world. Nepal is a signatory to a number of fundamental conventions under this declaration. Nepal is also a signatory to the basic rights agenda of the Copenhagen Declaration (adopted in the World Summit for Social Development in 1995), which incorporates the right to work as an essential component of basic rights.

Industrialization in Nepal started with the first democratisation process in the early 1950s. But the Philadelphia Declaration had very little influence on its industrial workers at that time. A large number of industries were established during the three decades of Panchayat regime up to the end of the 1980s. The public sector industries dominated the employment scenario in the organized sector. The agricultural sector operates in the informal sector. The new constitution promulgated after the restoration of democracy in the early 1990, has specified rights of association and social justice as the fundamental rights of the Nepalese people. These were enacted in the form of the Labour Act and the Trade Union Act.

Among the 8 international labour conventions related to the fundamental principles in the declaration, His Majesty’s Government has ratified 5 conventions. They are as following:

C 98 Right to Organize and Collective Bargaining

- C 100 Equal Remuneration
- C 111 Discrimination, Employment and Occupation
- C 138 Minimum Age
- C 182 Abolition of Worst Forms of Child Labour

As part of its commitment toward the principles, it has recently enacted new labour laws like Child Labour (Prohibition and Regulations) Act 1999. However, this has yet to be enforced. Nepal is yet to ratify the following three conventions included in the declaration, viz C 29 – Forced Labour Convention, C 87 – Freedom of Association and Protection of the Right to Organization and C 105 – Abolition of Forced Labour Convention. Besides these covered by the declaration, Nepal has also ratified the following conventions:

- C 14 Weekly Rest, Industry
- C 131 Minimum Wage Fixation
- C 144 Tripartite Consultation

The government is also considering the ratification of C 150 regarding labour administration and C 81 and C 129 regarding labour inspection in organized sector as well as in agriculture sector.

2.3 Decent Work Deficit

In 1998, ILO put forward the central theme of decent work, which brings together the basic fundamental principles and rights at work, employment, social protection and social dialogue in an integrated and cohesive manner. Decent work provides a universal development goal for social inclusion and poverty reduction. The conceptual foundations for decent work derived from the Philadelphia Declaration have been reiterated by the Director-General Mr. Juan Somavia.⁶

This decent work agenda has been put forward to steer the development toward improving the life quality of all working people. It emphasizes on the cycle of development and social justice with productivity. Obviously, people seek opportunities for decent work in a sustainable environment. One cannot point to a particular feature of decent work. This means different things for different people in differing environments. While in the most extreme case, it is about moving from subsistence to existence. For some, it is the way out of poverty. For others, it is concerned with meeting personal aspirations. And the way of realizing all these is by identifying and narrowing the gap in decent work.

The global decent work deficit is seen in terms of absence of sufficient employment opportunities, inadequate social protection, denial of rights at work and lack of social dialogue. Again, these gaps manifest in different forms and degrees at different times.

Employment gap: There are 160 million people openly unemployed in the world. All developed and developing countries have worker who are economically poor. It is estimated that about 500 million jobs need to be created over the next 10 years just to absorb new job seekers in the labour market. Employment is a way out of poverty. And,

⁶ *Reducing the Decent Work Deficit: A global challenge*, Report of the Director-General, International Labour Conference, 89th Session, Geneva, 2001

there can be no workers' rights without work itself. Right to work means pursuing full employment, and that in turn, requires economic growth. But economic growth alone does not guarantee decent work or decent job. This requires political commitment to implement appropriate policies; training and skill development; and fostering growth of enterprises. Only decent work provides income, security and dignity to workers.

Rights gap: Deficit in rights at work can, to a large extent, be addressed through legislative action and appropriate policies. Forced and bonded labour and severe lack of freedom of association still prevail all over the world. There are almost 250 million working children in the world and the existence of widespread discrimination in various forms. Here too, political will along with appropriate policies, private initiatives, technical support and effective monitoring mechanisms can help alleviate the situation.

Social protection gap: It is roughly estimated that only some 20% of the global workers enjoy adequate social protection in the real sense. Almost 3,000 people a day succumb to OSH-related problems. There is very little formal protection for old age, invalidity, sickness and health care. Social protection in the forms of greater security and protection and equitable improvements in work conditions, OSH and social security is essential for people to work with their best capabilities to achieve enhanced productivity and competitiveness. Thus, there is a growing pressure for the fulfilment of adequate social protection needs of majority of the workers.

Social dialogue gap: Agricultural workers, domestic workers, home-based workers, MSE workers, workers in the public sector, migrant workers etc. often face problems of social dialoguing, i.e., problems in representation and opportunities of consultations with stakeholders regarding their concerns. Social dialogue is made through bipartite and tripartite constituents, and is mostly associated with the formal sector. But social dialogue as a constituent of decent work is highly negligible among the more vulnerable workers and employers in the informal economy. Globalization is likely to bring about changed established employment relations, and weakened traditional role of trade unions. This in turn can have implications on representations and social dialoguing, and will necessitate new forms of promoting the interests of the workers.

The task at hand for all countries is to determine the status of decent work within their own context and environment, identify where and why deficits in decent work exist, and then move toward reducing them within their specific circumstances and possibilities. It would thus be important to set one's own goals to reduce decent work deficit. Reducing the decent work deficit should be seen as "*the quality road to poverty reduction and the greater legitimacy of the global economy*". In the context of Nepal, MoL&TM is the prime agency to establish decent work environment in the country.

The challenge to reducing the gap in decent work necessitates addressing decent work in the context of four issues: whether it is affordable, whether it can be universal, how to achieve policy coherence, and whether it is feasible in the new global economy.

Affordability: Achieving social objectives requires economic resources, and in this age of increasing competition, enterprises become less willing or able to pay for social protection. At the same time, enhanced productivity and competitiveness is possible only through productive workforce with enhanced quality of work life, which in turn

comes from a basic social framework incorporating rights, participation, protection and dialogue. Since decent work pays itself through improved productivity, it is important to examine the question of affordability of social expenditure with investment.

Universality: Most social policy in the world is biased toward the formal sector and the better-protected workers. But the formal sector represents only part of the world of work. A large proportion of work in the South Asia region is in the informal economy and unorganised sector. This is also the region having large scale gender inequality and under-representation in formal employment. If the universality of the statement “*all those who work have rights at work*” is to be accepted, then decent work has to be seen as a universal goal and incorporated as an integral development agenda of governments.

Policy coherence: Decent work agenda encompasses both economic and social objectives. Employment growth complements with social protection and social dialogue, and rights at work are an essential complement to policies to increase economic security. It is imperative to coordinate the work of different ministries and social actors concerned with labour issues with the work of those involved in economic policies. It is therefore important to bring coherence in the objective of striking a balance between economic and social objectives.

Feasibility: There is increasing tendency for global economic integration as a new order bypassing national institutions and cutting across traditional market operations. Disparities among nations in terms of development patterns, incomes, work and security dimensions threaten the legitimacy of global economy. While there is wide scope for the application of policies regarding participation, sharing of benefits and social security etc. within the national economy, the scope for building a social dimension into globalization remain limited. This raises the question of feasibility of decent work as a goal.

2.4 Decent Work Situation in Nepal

Employment

Jobs and Income: One of the biggest challenges of the government is to generate employment and ensure fair wages in both the agricultural and non-agricultural sectors. The general state of employment can best be described as self-employment and an average low income hovering at sustenance level. In the country's largely agrarian economy, for 80% of the population, agriculture still remains as the mainstream occupation while others are in employment in the secondary and tertiary sectors. There is high instance of underemployment in the agro-sector, most work being seasonal. The educated and qualified rural people shy away from farming.

Scarce employment opportunities and low wages in the country have led to the migration of many Nepalese, both young and the old, for employment abroad. India has been the tradition source of employment for a large number of Nepalese. Many are attracted toward the Arabian countries although the work situations there are reported to be quite exploitative. Likewise, even the educated and the qualified manpower are also migrating abroad for better job opportunities.

The government occasionally announces the minimum wages generally applicable to wage payment in all forms of work. However, except in the organized sector, the

minimum wage set by the government is more often not adhered to. Recently, for the first time, the minimum wage was fixed for the agriculture labour. In the absence of an effective monitoring and inspection body, there seems to be no compulsion to apply this wage standard.

There is no practice of regular wage research in the country. Neither the government nor any agency has taken any initiative in this regard, and hence the lack of serious analyses and forecasting of trends in wages and incomes of various categories of workers in the country required for rationalizing wages.

Training for work: A number of ministries in Nepal implement vocational education and skill training programs with the objective of developing human resources in the country. Since the last 50 years, the Ministry of Industry through its bodies such as the Department of Cottage and Small Industries (DoCSI) and Cottage and Small Industry Development Board (CSIDB) has been conducting many programs aimed at imparting skills in sewing, knitting, paper making etc.

The DoCSI and CSIDB have branches established in all the 75 districts of the country. Likewise, the Center for Technical Education and Vocational Training (CTEVT) under the Ministry of Education provides specialized technical and vocational skills in various subjects. The MoL&TM through its 14 skill development training centers and 2 vocational training centers provides training in areas such as masonry, carpentry, auto mechanics, electrical, plumbing etc. Besides, almost all ministries conduct various subject specific training under their umbrella.

Likewise, a number of NGOs operating in various sectors have integrated training and skill development as part of their targeted programs. Although few in number, private training institutions have gained strength in creating manpower in areas such as hotels and hospitality, electronics and information technology.

Despite these number of training by various agencies, the lack of coordination and appropriate market research regarding the demand of skill labour, these training do not match the skill labour supply and employment.

Employment Strategy: Though employment promotion is a pronounced poverty alleviation strategy of the government, the priority areas for this are not quite clear. Interestingly, the government has the habit of stating every sector as being in the priority sector. Since rural employment is mostly concentrated in the agricultural sector, the government has taken the strategy of promoting agro-based employment opportunities in the rural areas to retain the rural youth there. Although the shift in employment from rural areas to urban areas is inevitable, present trends suggest increased migration taking place rather than shift in employment.

Employment Service: A labour market information service does not exist in Nepal. It is difficult to provide an employment exchange service without systematic information system in place. Nevertheless, the MoL&TM has established and initiated such a service with the technical and financial support of multilateral agencies. However, this concept has hardly been providing any service. A rhetorical survey of a few industries and a

publication now and these are the only deliveries in the name of LMI and EES in the Ministry⁷. There is no private sector initiative in this area, too.

The high level Employment Promotion Commission set up under the chairmanship of none other than the Prime Minister himself, is contemplating conducting labour market research and establishing an employment exchange service as some of the activities of the Commission for promoting employment in the country. Although these two activities are yet to materialize, the appropriateness of such a high level policy making institution getting involved in such operations comes to question.

Migration for Employment: Nepalese are historically migrant workers and the *labure* culture is very much prevalent even today. Young Nepalese men in the hills commonly migrate to India and, more recently, to overseas countries. A large number of agricultural rural workers of the hills work and earn in the British and Indian army. Although there is no authoritative statistics, it is estimated that there are about 2 million Nepalese working and living in India and abroad. The recent trend is to seek employment overseas through legal and even illegal means (with the help of certain unscrupulous agents).

Besides the out-country migration of Nepalese workers, Nepal has been helplessly bearing the pressures of cross-border migrant workers from India especially in the agriculture, construction and manufacturing sectors. Although its implications are yet to be fully gauged, the Nepalese have to bear the brunt of its effect on the employment and competitiveness. Given the socio-cultural affinity of the Indian workers with Nepalese Terai dwellers, there is not much that Nepal can do to check this phenomenon.

The government has been turning deaf ears and remaining noncommittal regarding the working conditions of Nepalese workers in foreign employment in India and overseas. The labour administration neither has the capability nor the commitment to handle issues regarding Nepalese workers outside its borders. The social constituents of the country are equally non-reactive regarding this.

Agricultural workers from rural areas are migrating to the urban centers in search of better employment opportunities and better life. The employment strategy of the government seems to have overlooked the implications of this in-migration since it has not clearly worked out any policies to address this situation. Careful strategies and programs need to be evolved to absorb them in the secondary and the tertiary sectors like hotels, financial institutions, transportation and other areas.

Rights at Work

Freedom of Association: Nepal had the taste of organizing only after the restoration of multiparty democracy when freedom of association was enshrined in the constitution as one of the basic rights. This is prevalent in the forms of trade unions, employers' associations, professional associations etc. The Trade Union Act 1993 provides legal sanction for forming associations of workers. With only seven years' of experience with this franchise, the workforce in Nepal has made commendable strides in this sector and reaped the benefits from organizing.

Trade union federations, several national associations and several enterprise-level trade unions have been registered under the Trade Union Act. However, since most of

⁷ Labour Market Information, HMG/DoL&EP/EESP, 2001

these are in some way politically oriented, many a times, their actions have been contrary to the welfare of the workers. The Federation of Nepalese Chambers of Commerce of Industry (FNCCI) is widely considered as the general apex body representing most employers.

Elimination of Bonded Labour: The *Kamaiya*, manifest in the form of the bonded labour was in practice in Nepal especially in the agricultural sector in the Terai since long. Only last year in 2000, the *Kamaiya* system was formally banned. However, a lot of socio-political problems have emanated from this action, which will take a long time to solve. The government, some NGOs and the civic society are working hard to rehabilitate the freed *Kamaiya* and bring them to the main stream of life.

Abolition of Child Labour: Just like the *Kamaiya* system, child labour has been a common phenomenon in the Nepalese society with implications in the informal economy of the country. Until recently, there has been a strong presence of child labour in hand-knotted carpet manufacturing industry. Many such workers are to be found in brick kilns, restaurants, domestic labour, the transport sector and work as porters, etc. Poverty and other socio-economic forces drive children to work – more often in exploitative conditions.

The ILO/IPEC has selected Nepal from among the Asian countries along with El Salvador (South America) and Tanzania (Africa) to combat the scourge of child labour in the world. Nepal has already prepared a master plan proposing a time-bound program to eliminate the worst form of child labour in the country by the year 2007 and other forms by 2010. Nepal has recently ratified the ILO convention no. 182 regarding elimination of worst form of child labour.

Elimination of Discrimination at Work: Nepal has a male dominated society where female members have very little presence and voice. In terms of the total population in the country, women outnumber men. They assume the traditional role of rearing children and doing household work. Their third role - the economic role – has only recently come to the fore as more and more women are getting educated, vocal and empowered. Only 4% of women are in the formal sector of employment⁸, and a large number are in wage earning or self-employed in the informal and unorganised sector. They face a lot of discrimination in terms of wages, facilities and social protection, and have very little voice at work.

Although there are clear legal provisions against discrimination at work, it is widespread especially in the rural areas of the country. Social discrimination still exists where 'lower castes' like *Kami*, *Damai*, *Sarki* and others are barred from working along with other caste people.

Social Protection

Occupational Safety and Health: This is one area where the MoL&TM is quite active, although the inspection and monitoring activities are limited only to the organized manufacturing sector. The labour laws entrust factory inspectors with the responsibility of looking into the safety and occupational health provisions at the factories. However,

⁸ Nepal Living Standard Survey, HMG/NPC/CBS, 1996

most workers are not aware of the safety measures and, in fact, many blatantly ignore them resulting in accidents and hazards to their health. Employers also consider occupational safety and health measures as extra costs and thus many do not have prime concern for having adequate measures in place. Their priority lies more in production and reducing costs.

The government has implemented an OSH project with the objective of promotion and awareness and research. But again, this is limited to the organized sector only.

Condition of Work: The Labour Act deals with the working time, rest periods, canteen, child care, maternity protection, sexual harassment, etc. It specifies 48 hours of work per week with 8 hours per day. There is also a provision of half an hour rest in between. The law also requires establishments to provide facilities such as child care center and maternity protection for female employees, canteen and rest rooms etc. However, these facilities apply to permanent workers of organized sector. The contract workers and daily wage workers work more than 48 hours a week. Those in the micro and small enterprise sector work longer hours often in bad working conditions. The legislations do not cover all these, and the monitoring agents are not effective enough cover these workers who comprise of the majority of the workforce in the country.

Social Security: The Labour Act also spells out social security provisions in the form of provident fund, gratuity and welfare to workers in the organized establishments, again only for the permanent employees. Other forms of security such as pension, unemployment allowances, life insurance etc. have not been enforced. Likewise, the labour law is weak on addressing the security concerns of workers in the unorganised sector including the MSEs.

With only 10 field offices under the Department of Labour and minimum number of field officers assigned in them, the coverage for labour inspection and application of welfare provisions is gravely inadequate. Trade unions have been strongly lobbying for establishing a strong social security system. Very small portion of workers have been benefiting from the existing albeit minimum security provisions.

Social dialogue

Tripartite Dialogue: Effective social dialogue requires an open and transparent environment with common shared philosophy. A permanent tripartite Central Labour Advisory Committee is in place. It has the objective of formulating labour related policies and advise in labour law reforms. The committee is constituted of six government representatives, three from employers' side and three from the workers' side, and the labour minister as its chairman. It also includes two external experts. However, this committee has not been able to provide effective inputs in policy formulation, nor has it been able to do anything significant regarding improving labour productivity. For one thing, the tripartite body does not have a permanent secretariat. The Director General of the Department of Labour and Employment Promotion (DoL&EP) assumes the role of the member-secretary of this central level implementing agency. Strangely, none of the three constituent partners have faith in the functioning of this mechanism.

The Minimum Wage Fixation Committee is another ad hoc tripartite committee provided by the Labour Act, 1992 with equal representation of the three social partners. This committee has been established to fix minimum wages of workers, and this is normally taken as the standard norm in the country. However, most often, the government is found to be taking unilateral decisions regarding wage fixation. At other times, figures are fixed through exercises at outmanoeuvring each other by the bargaining power of the workers' representatives and the skills of the employers' representatives. Thus, social dialogue in the true sense does not prevail, and there is always the lack of consensus among the tripartite constituents, which generally leads to disturbance and problems in implementation of new wage structures. Wage research, a very fundamental prerequisite to wage fixation is lacking.

Besides, there is also the provision of tripartite tribunal meant to function as an adjudicating body for handling of industrial disputes. This mechanism also has not been utilized properly for social dialoguing to resolve the labour disputes.

After the return of the multiparty democracy, the civil society in the form of NGOs, pressure groups, CBOs have also been emerging as an additional force capable of influencing the labour scene as one of the multipartite constituents. Their advocacy has been successful in incorporating labour issues, especially regarding better conditions for workers in the informal sector – the home workers, self employed, workers in micro enterprises, etc. who by and large lack access to social dialogue mechanism of any form. The Industrial Relations Forum (IRF)/FNCCI, is a tripartite institution established for improving the industrial relations through various training and awareness building programs. Similarly, another example – the Nepal Rugmark Foundation (NRF) – has been jointly formed by the International Rugmark Foundation, the Central Carpet Industries Association (CCIA) and certain donor communities for the purpose of rehabilitating child workers in the carpet industries.

It would not be an exaggeration to state that the only instances of social dialogue taking place are in seminars and workshops generally organized in star hotels through multilateral donor funds. None of the social constituents have taken the initiative for social dialogue unless some problem befalls them.

Bipartite Dialogue: Industrial relations at the enterprise level are generally administered through a permanent labour relations committee that has equal participation of the management and labour. However, very few establishments have such a mechanism for continuous bipartite dialogue to establish harmonious relations. A lot of problems arise due to incapability in identifying an authorized union at the establishment level. Another factor attributing to this problem is the low amount of inspection to monitor this bipartite mechanism by assigned labour field offices in respective areas.

Besides this, there are hardly other forms of bipartite dialogue, neither at the industrial nor at the sectoral level. Therefore, the prevailing situation is such that, instead of resorting to healthy dialoguing, decisions are made according to the bargaining or threatening strengths of either the employer side or the workers side. The recent emergence of problem regarding service tax in the hotel industry is an example of this situation.

2.5 Challenges for the Government

The overriding objective of the development efforts in Nepal is poverty alleviation. Despite some achievements over the decade, much remains to be done in order to achieve the targets of poverty alleviation. The National Planning Commission has recognized the development of human resources for creating employment opportunities, reducing poverty and for accelerating broad-based growth. It has adopted employment generation as one of the strategies for overall development and poverty reduction.⁹

Prioritisation: The government has emphasized on poverty alleviation, macro-economic policy, employment generation, social justice (all constituents of the decent work agenda), etc. in its Tenth Plan (draft). These same areas had more or less featured as the developmental thrusts in the Ninth Plan. In its attempt at addressing all these in combination rather than in a prioritised manner, the government has failed in providing focussed impetus to any of them. While all the thrust areas identified by the government are imperative for the main objective of poverty alleviation in the country, it is a great task in hand to do complete justice by approaching them on priority basis and balancing the question of affordability in doing so.

Coordination: A number of ministries have with their own policies focussing on employment creation, training and social justice. Specific ministries of labour, social welfare, industry and others pursue similar objectives, and many times resulting in overlapping, confusions and wastages due to lack of proper coordination and coherence in overall implementation of their policies and programs. The phenomenon of overlapping due to lack of coherence in policy and program implementation prevails even in the non governmental donor driven development efforts. Sustained development cannot be possible without coherent policies at the macro level and coordinated efforts of stakeholders.

Donorization: Nepal has a profusion of developmental activities being funded by large bilateral and multilateral funds and grants. A large number of donor agencies and NGOs and INGOs have been operating through the assistance of these funds. Large scale 'donorization' of development work through easy access to funds has been made possible. These bilateral and multi lateral agencies have their own individual agendas with difficult strategies many times lacking coherence with the overall objectives of the government. A good example of incongruence is the strategies of the German Technical Cooperation (GTZ) and the ILO in tackling the issue of child labour.

The government cannot do much to channel the grants and funds coming in from different sources because of its heavy reliance on such sources, and also because of its incapability in taking proper decisions without key interventions from outside forces. This weakness of the government has been well recognized and exploited by the donor agencies as well who have their own strategies which they conceive are the best for this country.

Institutionalization: The MoL&TM has been carrying out the task of human resource development through its own vocational and skill training centers in different districts. On the other hand, lately, the Employment Promotion Council has also been preparing

⁹ Interim Poverty Reduction Strategy Paper (I-PRSP), HMG/National Planning Commission, March 2001.

to implement similar programs. Besides, other line agencies also have their own programs. In essence, there is a dire need to institutionalise human resource development efforts in the country with well conceived macro policies identifying an appropriate institution for this purpose and entrusting clear responsibilities.

Likewise, the role of the existing tripartite Central Labour Advisory Committee (CLAC) needs to be institutionalised for promoting positive social dialoguing and strengthened to evolve an effective tripartite body capable of formulating positive labour policies for the overall development in the sector.

3. WORK ENVIRONMENT IN NEPAL

3.1 Social Environment

Although a small country, Nepal has diverse social structures with different social groups exerting diverse values regarding work. The Nepalese population comprises of mainly two social structures: the Indo-Aryans comprising of the *Bahun, Chhetri, thakuri, Sanyasi, Damai, Kami, etc.* and those of the Tibeto-Burman origin composed of the *Tamang, Magar, Gurung, Rai, Limbu* etc. There are about 62 different caste and ethnic groups spread all over the hills, mountains and the Terai. Traditionally, the social caste structures were identified along specific occupations and functional lines. They have differing beliefs and approaches regarding their traditional line of work and the new challenges in the environment.

The traditional deep-rooted hierarchical social system still prevails especially among the Indo-Aryans and is dominated by the *Bahun/Chhetri (Khas)* group. The master-servant relational attitude is still strong in the work culture. The tendencies to assume that the boss is always right and that superiors should not be questioned prevail. This is slowly being challenged with the new-found voice of the mass after the restoration of democracy.

Industrial culture is yet to evolve fully since Nepal embarked into industrialization only half a century ago. Traditionally, Nepal's economy thrived on agriculture and trade. It is only after the opening up of the economy and adoption of liberalized policies has multi national companies made entry into the industrial scene. This has introduced competitive work culture among the Nepalese who are used to relatively easier life styles and casual attitude toward work.

The *Marwadi* community has overriding control over the economy of the country by virtue of possession of relatively large number of businesses in trade and industry. The *Marwadi* of Indian origin have settled in Nepal since the last century and many have been coming in because they see abundance of business opportunities in this country. This community has a typical approach to business and management – their beliefs and attitude toward work, monetary benefits and employees are quite different from people of other communities. In such a social environment, the challenge of promoting decent work by encouraging both the employers and employees to work jointly toward enhancing productivity and sharing the fruits of development arises. How to motivate both the parties who have their own biasness ingrained in their psyche regarding work is still a big question.

3.2 Economic Environment

Nepal still has a dominant agro-economy, which contributes to around 38% of the GDP and engages 73% of the workforce. The non-agriculture sector contributes about 60% to the GDP¹⁰. The agricultural sector is manifest with low productivity, traditional technology and operates largely in rural informal environment. It is highly unorganised with the prevalence of family employment and systematic employer-employee form of work relations do not exist. The formal sector contributes about 25% of the GDP and employs about 10% of the workforce in the country. The development of the industrial and manufacturing sector is only recent.

Since the 1990s, the country has adopted the path of economic liberalization, privatisation and deregulation. Public sector enterprises are being privatised and large-scale private sector investment is being encouraged and supported by deregulations and appropriate monetary policies. The country has devised the one-window policy to attract foreign direct investment backed by appropriate legislative support in terms of technology transfer, repatriation of earnings, tax facilities etc. However, such macro economic policies have delivered only 5% growth in the GDP which still falls short of the 6% growth rate targeted by the Ninth Plan which is ending in 2002. The population below poverty line is still as high as 38% as per the recent evaluation of the Ninth Plan¹¹.

After the liberal economic policy and deregulation of foreign currency exchange adopted by the government, one positive and visible growth is seen in the financial sector. At present, there are around 100 commercial banks and financial institutions including insurance companies established through private sector investment. Some of the top banks comprise of the multi national banks with broad-based participation of public shareholders.

The Tenth Plan and the I-PRSP have identified hydropower, tourism and infrastructure development as key priority economic sectors. These are the potential big investment areas, and large employment.

3.3 Political Environment

The multiparty democracy has been in place since 1990 and the country has a new constitution that guarantees basic rights to the citizens of the country. After 104 years of Rana dynastic rule, the authority of the monarchy was established 50 years back with the first democracy movement. After a brief taste of freedom, the country came under one-party Panchayat regime for 30 years up to 1990 during which period the people were deprived of some basic rights. The country has been more or less adopting the socialistic pattern of political economic development. The majority of the present political parties such as the Nepali Congress, Communist Party of Nepal - United Marxist Leninist, Communist Party of Nepal – Marxist Leninist, Rastriya Prajatantra Party, Sadvawana Party, Samyukta Jana Morcha subscribe to this socialistic model of politics.

The Nepali Congress has mainly brought about the structural reforms in the economy as well as other reforms since the party has been in power for 10 years out of

¹⁰ Economic Survey, HMG/MoF, 2001

¹¹ I-PRSP, HMG/NPC, 2001

the 12 years of multi party democracy in the country. During the period, freedom of association and freedom of speech are the two foremost areas of large-scale democratic exercise. People of all profession, employment, trade, social groups etc. have formed various associations to promote their developmental interests. While the employers' associations do not have any political affiliations, most workers' associations and other groups are affiliated with one or the other major political parties. And this is the reason for large politicisation of what are basically workers' issues and which should be handled through proper social dialoguing among concerned stakeholders. However, there are some indications of positive turn of events – trade unions are trying to coordinate their actions by shedding their political alignments and emerging as truly independent trade unions.

The recent Maoist movement in the country and their attack of the brewery, alcohol and garment industries are threatening the industrial relations situation in the country. They have emerged as a strong force capable of disrupting the economic environment through their radical brand of actions. Trade unions affiliated to the Maoists have recently put up demands that make dialoguing virtually impossible.

3.4 Legal Environment

The government has finally come out with the long due National Labour Policy and is in the process of implementing the policies through appropriate programs. Two basic laws pertaining to labour administration are in place: the Labour Act 1992 and the Trade Union Act 1993. These address issues regarding decent work agenda. The Labour Act is basically applicable to the organized sector and specifically to enterprises with 10 or more employees, whereas, the Trade Union Act covers the informal sector also.

Besides, there are other laws that govern the areas of employment, social protection and rights of association. Some of these are: Child Labour (Prohibition and Regulation) Act, Foreign Employment Act, Industrial Apprentice Training Act, Bonus Act, Provident Fund Act, Essential Services Act, etc.

Regardless of all these legal provisions and coverage, the enforcement of the laws is quite weak. The MoL&TM is yet to evolve strong strategies to deal in areas such as OSH, MSEs, child labour, bonus, welfare fund etc.

The government is continuously trying to make legal reforms to address major contemporary labour issues. However, the consultative mechanism for legal review is not successful. The government has also instituted the labour court in 1996 under the Labour Act. There is one such court, and that too, in Kathmandu only. Up to 2000/2001, about 250 cases have been registered out of which about 80 have already been resolved. The major cases (70 % of the total cases) are related to retrenchment, warning letters and suspension of workers.

4. LABOUR ADMINISTRATION IN NEPAL

4.1 Evolution of Labour Administration

The Ministry of Labour and Transport Management (MoL&TM) is one of the executing bodies of His Majesty's Government with the responsibility of looking after the working population of Nepal. To understand the role of the Ministry, it may be necessary to have a historical perspective of its development.

Rana Period (Before 1951): There were no significant industries as such before 1951 in the country as it was more or less shut out from the world. However, the Industrial Council formed in 1935 functioned as the central unit of labour administration with the *Bada hakim*, *Goswora* and *Gauda* assuming the roles of the executing agencies. Even the inspector-general of police in Kathmandu and the brigadier-general of Lalitpur and Bhaktapur were involved in labour administration.

Post-Rana Period (1951-1960): After the advent of democracy in 1951, the workforce was encouraged to advocate and demand for better wages and living conditions. This resulted in wide disturbances in the industrial sector. An enquiry commission was set up by the government to study the labour condition and recommend for resolving the disturbances. The commission highlighted the necessity of labour laws and asked the government to enact them. The first labour law, the Nepal Factory and Factory Workers Act, 1959, was enacted on 20th June 1959. However, for various reasons, this was not brought into enforcement at that time. Nevertheless, this is considered as a landmark in the history of labour administration in Nepal.

The Ministry of Industry and Commerce was established in 1951 and the Department of Industry under the Ministry was given the responsibility of looking after the labour administration. The local administration used to look after the local labour problems.

Panchayat Period (1960-1990): The Nepal Factory and Factory Workers Act, 1959 was enforced in 1962 with some amendments resulting in the centralization of the rights of freedom of association. This resulted in the banning of trade unions. Labour activities were permitted only under the umbrella of Nepal Labour Organization.

The process of labour administration at the local level as a separate unit started with the Department of Industry in 1966 at Biratnagar where most of the manufacturing industries were concentrated and where the working class were concentrated.

Central level administration unit was established only in 1971 under the Ministry of Industry and Commerce with the name of Department of Labour. In 1981, the Ministry of Labour and Social Welfare was established and Department of Labour was kept under this with local labour offices at the field to look after the labour administration, industrial relations, labour inspection job and vocational training.

Post Panchayat Period (1990 onwards): Two prominent labour laws, the Labour Act, 1992 and the Trade Union Act, 1993 were enacted and enforced annulling the previous Nepal Factory and Factory Workers Act, 1959. The social welfare function of the Ministry of Labour was shifted to the Ministry of Education in 1992 and the Ministry

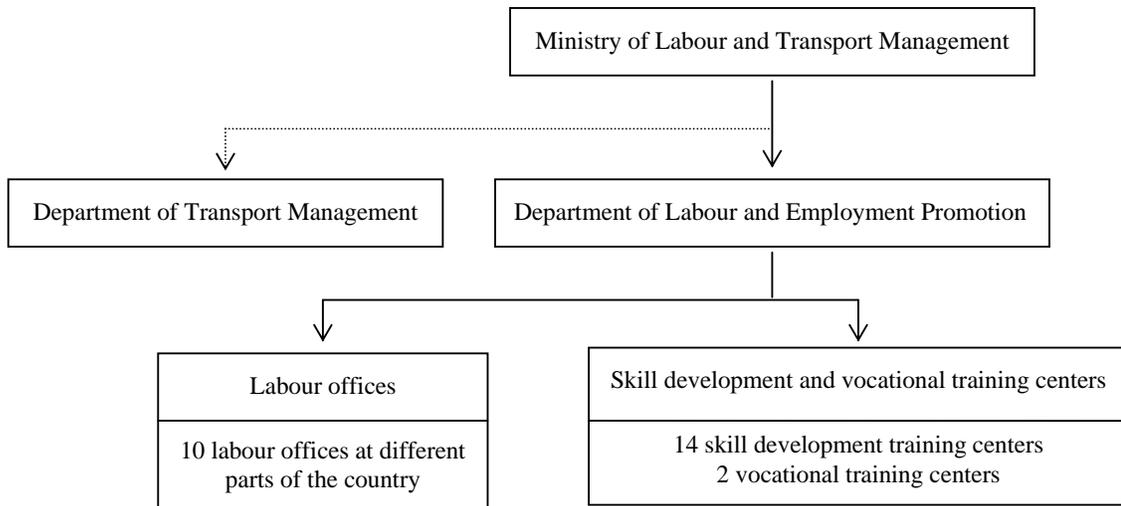
of Labour was focussed only on labour issues. Skill development centers and labour offices were opened under the Department of Labour to give wide coverage of labour administration, labour inspection, industrial relations and employment services in the country.

Recently, in 2000, the function of transport management was added to the Ministry of Labour and named as the Ministry of Labour and Transport Management (MoL&TM).

Thus, the labour administration has undergone transformation with changing roles every eight to ten years since its establishment as Factory Inspector’s Office in 1966. Initially, the labour administration function was allocated under the Ministry of Industry. Then in 1971, the Department of Labour was established under the same ministry. In 1981, the function was placed under a separate ministry handling also the social welfare function – the Ministry of Labour and Social Welfare. In 1992, the social welfare function was detached from the ministry, which held only the labour administration function. But in 2000, the ministry was again added the responsibility of transport management along with the function of labour administration.

4.2 Institutional Set-up

The Job Distribution Rule, 2000 of His Majesty’s Government has provided a 16-point mandate to MoL&TM out of which 13 are labour related jobs. The present organization structure of MoL&TM with DoL and its field offices is given below.



MoL&TM is a policy level institution for labour administration that is executing its activities inside the ministry with two divisions. The division and section break-down is as follows:

- **Labour Management, Monitoring, Manpower and Technical Division**
 - Labour Management Section
 - Manpower Development and Employment Section
- **Policy, Planning, Research and International Division**
 - Policy, Planning, Research and Documentation Section

- Child Labour and International Relations Section
- Legal Affairs Section (Independent section)

Joint secretary level officers look after the division and under secretary level officers or section officers look after the sections. Policy, plan formulation, legal reforms and international relations are the major functions being carried out by the ministry. Besides, wage fixation, the ministry is also carrying out industrial relations at the policy level.

The Department of Labour and Employment Promotion (DoL&EP) is a central level execution body of labour administration as well as the coordinating body of all labour offices and training centers at the field level. There are several sections in the department as follows:

- Industrial Relations and Legal Section
- Employment Promotion Section
- ILO and Trade Union Section
- Planning and Monitoring Section
- Administration Section
- Accounts Section
- Inspection and Manpower Section

Among the different sections, the Industrial Relations and Legal Section looks after the individual and collective grievances and industrial disputes and concentrates mainly on enforcing the Labour Act 1992 and the Bonus Act 1973. The Employment Promotion Section is mainly responsible for granting permission to different manpower agencies to send Nepalese manpower in foreign countries. The ILO and Trade Union Section registers national trade unions and federations of trade unions at the central level. The Planning and Monitoring Section, the Administration Section and the Accounts Section are concerned with the internal management of the department. The Inspection and Manpower Section coordinates the field office jobs of labour inspection, occupational safety and health, and skill development and vocational training.

There are 10 labour offices under the DoL&EP for administering and monitoring the provisions given by the labour legislations. These labour offices cover all the administrative regions of the country. They are as follows:

Jhapa Labour Office	Mechi zone
Biratnagar Labour Office	Kosi zone
Janakpur Labour Office	Sagarmatha and Janakpur zones
Birgunj Labour Office	Bara and Parsa districts of Narayani zone
Hetauda Labour Office	Makawanpur and Chitwan districts of Narayani zone
Kathmandu Labour Office	Bagmati zone
Butwal Labour Office	Lumbini and Rapti zones
Pokhara Labour Office	Gandaki and Dhaulagiri zones
Nepalgunj Labour Office	Bheri and Karnali zones
Dhangadhi Labour Office	Seti and Mahakali zones

These labour offices (headed by labour officers and or factory inspectors) are responsible to deal with industrial dispute settlement, labour inspection, occupational

safety and health, registration of enterprise level trade unions, and other related labour matters occurring under the respective geographical jurisdiction.

There are 14 skill development training centers and 2 vocational training centers in different parts of the country operating under the DoL&EP. The main objective of these centers is to provide skill training to the needy population so that they can be absorbed in the labour market for employment or can be self-employed. The major skills covered in these training centers are cutting and sewing, hair dressing, general mechanics, house wiring, plumbing, welding, press composing, electronics, computer etc.

Besides these permanent nature of institutional arrangements, the following special projects and programs operate under the jurisdiction of MoL&TM:

Employment Exchange Service Project: This project functions under the DoL&EP. Its main objective is to collect information regarding manpower requirements and training, and disseminate them to relevant agencies. It also has the responsibility to develop curriculum for skill and vocational training and provide employment exchange services. This project is solely being operated by one section officer.

Occupational Safety and Health Project: This project has been in operation since 1995. The main objective of this project is to conduct studies and research of OSH and build awareness regarding these to all concerned parties through training of trainers, phase wise training and interaction, discussion meetings, posters and exhibitions.

Child Labour Elimination Program: This program is being operated at the Ministry with the assistance of ILO/IPEC and other donor agencies. Its main objective is to plan and coordinate the implementation of time-bound action programs to eliminate child labour in the country.

Women Skill Development Training Centers: These training centers under the Ministry cater to the specific needs of women workers by providing 9-month long training packages in different skills areas.

4.3 Roles and Responsibilities

The mandate given to the MoL&TM by His Majesty's Government regarding labour matters is as follows:¹²

- Labour related policy and its implementation
- Relationship with national and international labour related organizations
- Foreign employment
- Operation, coordination and promotion of vocational education
- Skill training for minor workers, women workers, disabled, and bonded labour
- Work permit to expatriates
- Employment service and labour supply
- Labour market study, research, information collection and analysis
- Trade unions

¹² HMG, Job Distribution Rules, 2000

- Social security of workers
- Labour administration and management
- Bonus
- Industrial relations

These mandates can be grouped into the following responsibilities if one were to review them vis-à-vis decent work agenda:

- General responsibility Policy issues, and relations with labour related institutions
- Employment Labour market research, employment exchange, foreign employment, vocational education and skill training, work permits to expatriates
- Rights at work Trade unions
- Social protection Social security, labour administration, bonus
- Social dialogue Labour management relations

4.4 The National Labour Policy

The MoL&TM pronounced the long due National Labour Policy in 1999 after extensive in-house deliberations. The first ever National Labour Conference was held in 1996 in Kathmandu with an objective of developing the national labour policy. The draft policy was not subject to enough broad-based discussions and debates before the pronouncement of the final policies, and thus has received wide criticism from both the employers as well as the employees' organizations¹³.

The policy document is found to be quite incoherent from the semantics point of view. The logical sequence, i.e., the objective, policy, working policy and sectoral working policy are not focused and fails to portray a clear vision of the government regarding the labour sector. It spells out all the responsibilities outlined in the Job Distribution Rules of HMG. However, many things covered are either redundant or lack priority and program direction. With a little brushing up through serious interactions, the policy could be made more meaningful.

The Ministry has also developed implementation plans under the National Labour Policy, and has identified the following goals¹⁴

- enhancing dignity of labour
- improving productivity through different measures
- assisting poverty alleviation program of the government

The policy has also identified the following nine strategic thrust areas and has prioritised a number of programs to give impetus to them.

- Development of work culture
- Labour rights and welfare
- Industrial relations

¹³ Labour Policy, GEFONT, 1999

¹⁴ NLP: Programme for Implementation, DDL, 2001

- Social security
- Employment promotion
- Elimination of exploitation
- Elimination of child labour
- Elimination of discrimination
- Informal sector workers

With proper social dialoguing process at the policy formulation stage itself, there is ample scope for improving the national policy and making it more meaningful. The policy has definitely been framed up incorporating the essence of decent work.

4.5 Capacity Assessment

The present role of the Ministry regarding employment is mainly limited to operating few vocational and skill training programs at its training centers, and providing permits for foreign employment. The labour market research and employment service is carried out within a very limited scope.¹⁵

Vocational training and employment: So far, the Ministry has trained 61,000 people (between 5000 to 6000 per year) through its 16 training centers situated in various districts of the country. About 45% of the graduates or trainees have been employed or self-employed after undergoing the training programs¹⁶. However, many a times, the right and deserving people fail to avail the opportunity of training because of favouritism and red tape. The programs are beset with problems regarding shortage of right trainers and right motivation. The training centers are also accused of lacking in professionalism.

Foreign employment: The Department of Labour and Employment Promotion is entrusted with the administration of this new area of employment. There are more than 150 manpower agencies specializing in sending Nepalese manpower abroad for employment especially in the Arabian countries and countries in eastern Asia¹⁷. The official records show only 55,000 Nepalese in overseas employment since 1990, whereas, it is estimated that as many as 500,000 are working abroad. (This conservative estimate excludes those working in India for which there is no statistics available.) Most Nepalese in foreign employment work as electricians, machine operators and helpers, security guards, tailors, vehicle drivers, dozer operators, cooks and waiters, etc. Such skills that are in demand overseas do not tally with the skill training provided by the training centers of the Ministry.

Labour market research and employment service: This very vital function is being carried out at a very dormant level. As far as research is concerned, the unit has conducted training needs assessment in 25 districts and developed curriculum for 35 skill training¹⁸. It conducts survey of industries in collaboration with field labour offices, that too, in only three districts per year and not even covering 20% of the total industries in

¹⁵ Labour Market Information, DoL&EP, 2001

¹⁶ Labour Administration: A Glimpse on the Annual Report, DOL&EP, 2000

¹⁷ Foreign Employment, R.Maskey, 2001

¹⁸ Labour Market Information DoL&EP, 2001

the districts. The unit is plagued by lack of adequate manpower and skill, and lack of appropriate logistics to support its work.

Migrant Workers in Nepal: A paradoxical situation prevails regarding the role of migrant workers in Nepal. The geo-political and open border situation with India has encouraged many Nepalese to seek employment in that country, and many Indians to come to Nepal for similar reasons. And, there is no proper mechanism even to monitor this situation. MoL&TM is adopting the strategy of displacing Indian workers (at least from the organized sector) to accommodate Nepalese workers in the jobs occupied by the former. However, such actions have not been successful at all. In fact, this has generated a lot of confusion and negative reactions at the political level. The institution is not at all strengthened to monitor these Indian migrant workers. The limited scope of the Employment Exchange Service Project fails to account for all the migrant workers in the organized sector and thus rendering its function insignificant. Furthermore, no specific project action is being taken to assess the situation seriously. On the other hand, the Ministry is found to be keener on granting permission to the Nepalese workers going overseas for employment (prompting some to suggest renaming the ministry as the 'Ministry of Foreign Employment & Transport Management' – in humour, of course).

Registration of Trade Unions: Whereas, the national trade unions and federations of trade unions are registered at the DoL&EP, the responsibility of registering trade unions at the enterprise level has been given to the field labour offices. Verification of authenticity of membership in the trade unions at the enterprise level is a big problem. As many as five trade unions have been found to be registered from the same enterprise in some labour offices whereas the Trade Union Act allows a formation of a maximum of three trade unions only in any enterprise. Such conflagrations hamper the exercise of freedom of association and collective bargaining in these enterprises. On the other hand, the few national level trade unions in the informal sector formed under the provisions of the Trade Union Act have not been effective to serve their purpose.

Discrimination at Work: The existing legislations are quite sufficient to deal with discrimination at work. However, due to socio-cultural barriers, some discrimination prevails along gender and caste/ethnicity issues. Discriminations also exist in employment as well as in wages. Labour inspection in this regard is weak and the field labour offices have limited capability to look after the main issues of labour grievances and disputes.

Welfare facilities: The provision of welfare fund meant for social protection has not been functioning right now. The Ministry has failed to assume the responsibility of facilitating and monitoring the creation and utilization of this fund. Similarly, statutory housing fund that has to be established by the employers has not been brought into effect. The labour offices do not properly monitor the implementation of provisions regarding working hours and minimum wages even in the formal and organized sector. Matters concerning workers in the informal sector such as construction, transportation, micro enterprises, home workers etc. are basically never deliberated although the law has some coverage regarding them.

Social Protection: Most establishments in the organized sector have implemented provisions of social protection at various degrees – provisions covering work related injury and accidents, maternity for women workers, gratuity on retirement, paid sick

leave and provident funds. This is one area which is quite well developed. However, proactive monitoring in this regard is still very much lacking.

Central Labour Advisory Committee: The Labour Act spells out specifically two tripartite and one bipartite mechanisms for regular social dialoguing process. The Central Labour Advisory Committee has been formed by the government almost 10 years back as a permanent policy level social dialoguing machinery. However, there has not been much to show by this committee to qualify its objective achievement. This tripartite committee is chaired by the minister of MoL&TM. The members consist of the secretaries of ministries of labour, tourism, transport and works, agriculture and industry, three employers' representatives nominated by the FNCCI, three workers' representatives of federations of the trade unions, two labour related experts nominated by the government and the Director-General of the DoL&EP as the member-secretary. The ministry has not been able to prove itself capable of regularizing such an important social dialoguing mechanism.

Minimum Wage: Another important tripartite mechanism is the Minimum Wage Fixation Committee. This is an ad hoc committee which may be formed whenever the government is under pressure to fix the minimum wages of the workers. The minimum wages are fixed by bargaining and negotiation strategy rather than through social dialogue backed up by economic and social exercises. As the nature of this committee is ad hoc, and works on a time frame, the Ministry having no research and information base has never been able to come up with amicable and consensus outcomes.

Labour Relations Committee: The bipartite labour relations committee, one of the most effective social dialoguing mechanisms especially designed for establishments in the organized sector, is also a failure case in Nepal. Under the environment of confusion regarding authorized trade unions, and the socio-cultural biasness of employees and workers leading to mutual mistrust, the labour relations committees are basically non-functional. The Ministry has failed to take proactive steps to facilitate the establishment of this bipartite social dialoguing mechanism.

4.6 Organization Development Needs

The concept of decent work requires the integration of the economic and social rights of the people. Employment, rights at work, social protection and social dialoguing opportunities are the core necessities of this concept. MoL&TM has the prime role to fulfil these objectives. For this, the Ministry has to be directly involved in policy formulation and execution, or in coordinating the activities carried out by various other agencies directed toward achieving these objectives. Likewise, the Ministry should be able to regularize and facilitate other agencies or institutions to actively focus on their objectives.

MoL&TM is weak in formulating policies in line with the decent work agenda. The ministry has not been able to seriously take up policies regarding employment and vocational training, one of the focussed agenda of the government and of decent work. The ministry has merely spelled out the policy intents in some lines in the National Labour Policy document. There are other agencies such as the National Planning Commission, Prime Minister's Office, ministries of education, tourism, industry, agriculture, and others that implement training and employment programs on their own.

The policy pronouncement of MoL&TM, and its objectives and strategies do not figure in any priority.

Similarly, MoL&TM has failed to frame policies for social protection to encompass workers in different economic sectors. Employers in the public or government services, in the organized private sector and those working in the informal sectors are enjoying different levels of social protection measures. A clear vision regarding classification and securing appropriate social security measures to workers in all sectors seems to be missing.

MoL&TM has not been successful in coordinating the efforts of other agencies in promoting employment and social justice. Strange as it may seem, the ministry receives the worst deal and gets lowest priority in matters related to coherent support for promotion of employment and social justice in the country. Agencies such as the Employment Promotion Commission (EPC), ‘economic ministries’ (which generate economy to the nation) like the ministries of industry, tourism, finance command higher values among decision makers and bureaucrats. Coordination becomes difficult in the absence of equal playing field.

MoL&TM also faces problem in regulating labour legislations and facilitating employment and social dialoguing. It has only 10 offices with limited manpower to cover all geographical regions of the country. To compensate for this limitation, some other agencies could have been allocated with the responsibility of regulating labour laws and assisting in this measure. But it is not being done. Since the trade unions and employers have deep rooted mistrust of each other, they have not been providing positive support in regulating and facilitating job.

MoL&TM has indeed been bestowed with a very important and Herculean task of creating decent work in the country. On the other hand, it is accorded the lowest norms by other agencies who should actually be generously assisting through coherent actions in achieving the national goal. The capability of the ministry has to be strengthened if the national agenda is to create decent work for the people of this country. The roles of the ministry as policy formulator, coordinator, facilitator and regulator have to be duly recognized and addressed by all the concerned agencies and social constituents.

MoL&TM must undergo appropriate organizational development process to strengthen its capability to face the challenges in the context of globalization, to sustain in the highly competitive environment, and reduce problems of poverty and unemployment. For this, the roles of other agencies and social constituents regarding the decent work agenda have to be understood and recognized. It is important to identify and ensure the level and area of cooperation required from others. Necessary linkages among these institutions and capacity building of human resources have to be identified.

5. OTHER SUPPORTING GOVERNMENT AGENCIES

5.1 National Planning Commission

The National Planning Commission (NPC), initially established as the Economic Planning Commission in Nepal, is a staff institution of His Majesty’s Government at the highest level with the mandate of formulating policy and plans, developing programs and

evaluating and monitoring program implementation of HMG executing agencies. Presently, the NPC is in the process of preparing the Tenth Plan for the period 2002 to 2007. In doing so, it has adopted the same focussed agenda of the Ninth Plan (1997-2001), i.e., poverty alleviation. To prepare the Tenth Plan, extensive exercise has been going on, and an Interim Poverty Reduction Strategy Paper (I-PRSP) and a Tenth Plan Approach Paper has already been prepared in this regard. National discussion is being carried out for consultation with all active partners.

The I-PRSP has identified a number of policies and programs for poverty alleviation in the country. Macroeconomic stability and incentives, private sector development, governance and decentralization, agricultural and natural resource management, education, health, drinking water and sanitation, tourism, information technology, water resources, trade, industry, resource conservation and utilization, and road infrastructure programs are the major thrust areas. Besides, specific objectives, strategies and activities/programs have also been identified for labour and employment. Many programs have been envisaged mainly with the objective of creating and expanding income generating activities, providing social safety nets and minimum needs to the poor and underprivileged, improving working environment, and protecting women and children from exploitation and abuse¹⁹. From the viewpoint of decent work agenda, all these objectives mainly focus on employment and social dialoguing. It seems that adequate input from MoL&TM has not been taken while forthcoming during the formulation of I-PRSP. An all-important coordinated effort has been missing right at the onset of formulation of the national policy to institute decent work environment in the country.

The Tenth Plan approach paper has targetted to reduce the population below the poverty line to 32% by the end of the plan period in 2007. It sets to achieve the national goal of poverty alleviation by developing economic opportunities and employment and appropriate utilization of available resources and facilities. The overall thrust of the operational strategy is on economic policy reform, regional development and balance, local development and decentralization, good governance, and above all, poverty alleviation and employment²⁰. The paper has listed the following strategies to achieve the sectoral goals.

- providing incentives to employers who provide skills to workers
- updating and reviewing insurance, social security and provident fund system
- skill development of underprivileged rural women
- providing training as per the need of the market
- facilitating foreign employment
- regulating occupational safety and health
- stopping illegal labour use

Thus, following on the footsteps of development plans of earlier periods, this approach paper too has relegated labour and workers' welfare under the social security and welfare sector.

¹⁹ Annex-1 "Policy and Programmes for Poverty Alleviation" Labour and Employment Section of the I-PRSP, HMG/NPC, 2001

²⁰ The "Labour and Workers Welfare" section under Social Security and Social Welfare of the 10th Plan Approach Paper, HMG/NPC, 2001

The goal of this sector is explained as “national income growth through availing opportunities inside the country and abroad”, providing social security and rights and welfare to the workers, and developing skills of the workers. This goal does not lend congruence to that of the I-PRSP, but is very much in line with the mandate of MoL&TM. Apparently, the Tenth Plan has adopted the goal and strategy recommended by MoL&TM in words without any wide interactions regarding this. This policy statement is very much in line with the decent work agenda – employment, rights at work and social protection, though social dialoguing issues have not been raised.

The analysis of these two pre-plan documents reveal that I-PRSP was prepared on a top-down approach while Tenth Plan approach paper was prepared on a bottom-up approach. It seems that appropriate coordination between NPC and MoL&TM has been lacking.

5.2 Employment Promotion Commission

Considering the importance of employment in poverty reduction goal, a high level Employment Promotion Commission (EPC) has been constituted under the chairmanship of the Prime Minister. The main goal of this institution is to generate employment opportunities through vocational training, labour market research and employment exchange services. At present, it is concentrating on creating domestic job opportunities, but is also thinking of identifying foreign employment market and expanding its activities. Though the secretary of MoL&TM is one of the board members of EPC, it seems there is no direct coordination between these two institutions. Looking at its policy intents, it seems EPC is a redundant institution engaged only in labour market information work and employment exchange services.

Since one institution alone cannot serve to achieve the huge task of employment creation and supply of skilled labour, it is necessary to have different agencies to work on it. At the same time, it is necessary to allocate distinct roles and ensure coordination of different institutions working for the same end. Although both MoL&TM and EPC have the similar mandate of regarding employment exchange service, the confusing status and relationship between the two created mistrust between these agencies and impeding the efforts of promoting employment effectively.

5.3 Council of Technical Education and Vocational Training

The Council of Technical Education and Vocational Training (CTEVT) was established as a coordinating body of all technical education and vocational training under its own Act. This institution has been placed under the Ministry of Education. The main activities being carried out by CTEVT are granting permission to the technical training institutes and providing skill certificates to technicians. It has 14 training centers of its own in different parts of the country, which give vocational and employment-oriented training. Besides, there are about 160 technical institutes that provide skill training with permission from CTEVT. The coordination again is missing between this agency and the vocational training institutes run by MoL&TM. The complementary roles of MoL&TM and CTEVT are not clearly defined and understood by both the agencies regarding supply of skill manpower for the market.

5.4 Ministry of Finance

The Ministry of Finance (MoF) is considered to be one of the most important ministries especially when all the regular and developmental programs have to be operated with deficit internal revenue and external aids. No program can be conducted without proper allocation of budget from MoF. Hence, there should be good coordination between all ministries with MoF. Representation from MoF is made in the tripartite Minimum Wage Fixation Committee instituted by MoL&TM for fixing minimum wages. From the macro-economic policy point of view, minimum wage fixation is very sensitive not only to workers, employers, but also to the government. However, as the minimum wage is always fixed through bargaining and negotiation strategy of employers and workers, there seems to be little need of analysing consumer price index, productivity of the sector, and the impact of economic employment shift. Thus, the representative of MoF does not have much influence and interest in this task or the committee. The existence of the Minimum Wage Fixation Committee thus has to be rationalized with sincere participation of MoF.

5.5 Ministry of Industry, Commerce and Supply

The Ministry of Industry, Commerce and Supply (MoIC&S) has a mandate of promoting industries and, in the process, employment opportunities in the country as well. Whereas, the responsibility of MoL&TM is to supply skilled manpower, the responsibility of MoIC&S is to create good demand for skilled manpower. A balance between these two ministries can bring a decent work environment with appropriate employment opportunities and social justice to the workers. However, the relationship has not been like this. MoIC&S generally supports employers, whereas, MoL&TM is intent on tackling the problems of labour only. With such differing orientations, these two ministries sometimes see themselves as the guardians of employers and employees respectively. And, they debate accordingly instead of creating synergetic effect through cooperation. To avoid conflicts and generate decent work environment, both these ministries should play collaborating roles. There is terminological confusion regarding the phrases 'right at work' and 'right to work' between these two ministries. MoL&TM subscribes to 'right at work' while MoIC&S subscribes to 'right to work' concept.

5.6 Ministry of Culture, Tourism and Civil Aviation

The Ministry of Culture, Tourism and Civil Aviation (MoCT&CA) has the mandate of developing tourism industries and thereby promoting employment. The ministry also has cold relationship with MoL&TM regarding rights at work, social protection and social dialoguing. The recent burning case of 10% service charge demand of hotel workers and the subsequent committee formed by the government to resolve the situation without direct interventions of MoL&TM reveals the insignificant role ascribed to the latter by other agencies. The MoCT&CA put pressure on the government, thereby negotiation started with the high power deputy Prime Minister and the vice chairman of National Planning Commission. At last, the Essential Service Act invoked by the Home Ministry was a great setback to MoL&TM who would have preferred to resolve the problem through negotiation and social dialogue. To create decent work environment in the country, all the confusion on the role of different ministries has to be cleared.

5.7 Local Governments

The local governments, municipalities and village development committees bear no responsibility regarding labour matters. The Ministry of Local Administration also has no mandate except to promote labour-based technology in rural project implementation. It is a difficult and costly proposal to bring all villages and municipalities of the country under the coverage of labour law provisions especially in informal sectors like agriculture, home workers, micro enterprises, construction and transportation etc. If the local governments- municipalities and village development committees and their ward committees can assume the responsibility of monitoring the provisions given by labour legislations and report to MoL&TM, it may help to create a decent work environment in the local areas. MoL&TM right now is only covering the organized sector in this respect.

5.8 Others

More than three fourth of Nepalese population is working in the agriculture sector, and more than this, the population that has the primary occupation in other sectors also have direct and indirect linkage with the agricultural work. The Ministry of Agriculture, besides promoting agricultural production in the country, has to look after these agricultural workers. The recent announcement of elimination of *Kamaiya* and bonded labour and minimum wages for the agricultural workers set by MoL&TM have not been integrated in the plan and programs of the Ministry of Agriculture. The ministries that complement employment objectives of the MoL&TM should have cordial relationship for creating decent work environment.

The Ministry of Women, Child and Social Welfare has some redundant mandate for safeguarding women workers, child workers and provide social justice to the socio-economically deprived and under privileged.

A cohesive environment with definite roles and responsibilities and clear demarcation between different agencies of the government is generally lacking, and this has impeded the creation of the decent work environment in the country. There are different agencies that play different roles and assume different responsibilities in this regard. However, instead of redundancy, confusion and gaps, there should be coherent efforts of all to achieve the national goal of decent work environment for all working people.

6. ROLE OF OTHER STAKEHOLDERS

6.1 Employers' Organization

The Federation of Nepalese Chambers of Commerce and Industry (FNCCI) has 84 members representing various districts, 47 commodity associations and 8 bi-national associations²¹. However, there are many other associations of employers in the business sector such as individual associations of farmers, private schools, micro-enterprises, hotels, transportation, agriculture and others that are not the members of FNCCI, and are not necessarily being represented by this body. Recently, another national level

²¹ The web site address www.fncci.org

association of Nepalese industries has been established. Thus, in this pluralist social and political system, the idea of considering one apex body such as the FNCCI as representative of all employers is not quite fair. On the practical side, it may be more convenient to deal with one institution only, but such a practice either works on a monopolistic pattern without promoting real democratic exercise or it cannot truly represent the concerns of all concerned employers. The FNCCI has an Employers' Council that generally represents the employers in all social dialoguing process.

The views of FNCCI Employers' Council regarding decent work are the largely conceived and traditional one. They argue that rather than ensuring more rights to workers and allowing workers to make demands at work, the country needs to create more jobs. In the global competitive market, Nepal cannot afford to have labour cost increases, suggesting that decent work agenda would mean more 'cost'. In this type of thinking, the concept of production development cycle is missing. Until one talks with productivity, quality, human resource development and decent work for employees, there is no chance of entering into the growing cycle.

The employers do not have enough faith on the MoL&TM – not on the capability of its vocational training, employment exchange, policy formulation, minimum wages and social dialoguing. The general thinking is that MoL&TM only concentrates on social protection and rights at work of the workers, and this has been responsible for creating the atmosphere of conflict in the industrial establishments.

Employers are of the impression that some tripartite body to work on creating awareness regarding industrial relations, workers education and labour legislations would be helpful in promoting harmonious and peaceful industrial environment. Some even suggest the provision of 'hire and fire' in the labour laws as well as a 'special provision' for some special industries. However, such a mindset does not complement the concept of decent work environment.

In the present context, the relationship between the MoL&TM and the employers' association is built on mistrust. The role of the Ministry should be to attract employers on their own terms through employment exchange services, by building the capability to supply skilled manpower, and providing opportunities for regular social dialoguing. The Ministry should shed the image of a mere policeman inspecting labour practices according to labour laws.

6.2 Workers' Organization

There are three federations of trade unions and about 80 national level trade unions from organized and unorganised employment sectors in Nepal. In addition to this, although the record of trade unions at the enterprise level is not available at the central registration section at the DoL&EP, it is estimated that there are about 1800 trade unions at the establishment level in the country. Free trade unionism is a new phenomenon in Nepal with a history of only about 10 years. These three federations do not represent all the working population of the country though.

There is no problem in representation of trade unions in social dialoguing process. Representatives from the three federations are asked to join the process. However, trade unions claim that the Central Labour Advisory Committee is almost defunct and the National Labour Policy is creating confusion rather than providing guidelines in the

preparation of plans and programs. In their opinion, whatever forms the Minimum Wage Fixation Committee operates in; the bottom line is that the strength of bargaining power between Employers' Council of FNCCI and trade union federations prevails. Social dialoguing occurs only when some donor agency or ILO comes up with some programs of their own. MoL&TM does not take initiative by itself.

The trade unions do not trust the capability and sincerity of the labour officials regarding the creation of decent work environment in the country. The trade unions are of the opinion that the MoL&TM alone cannot create jobs. They are however in the position to create employment exchange environment, but there is no sincerity in work in this. It is not proactive in solving problems of labour rights and welfare, and function only under pressure of trade unions. The MoL&TM is more interested in working as the 'Ministry of Foreign Employment and Transport Management'. The protection of labour welfare and rights are in the least priority of the Ministry.

Trade unions seek new social security measures, legal reforms and more social dialoguing. But with growing mistrust, the role of the MoL&TM is jeopardized and not taken seriously.

6.3 Civil Society

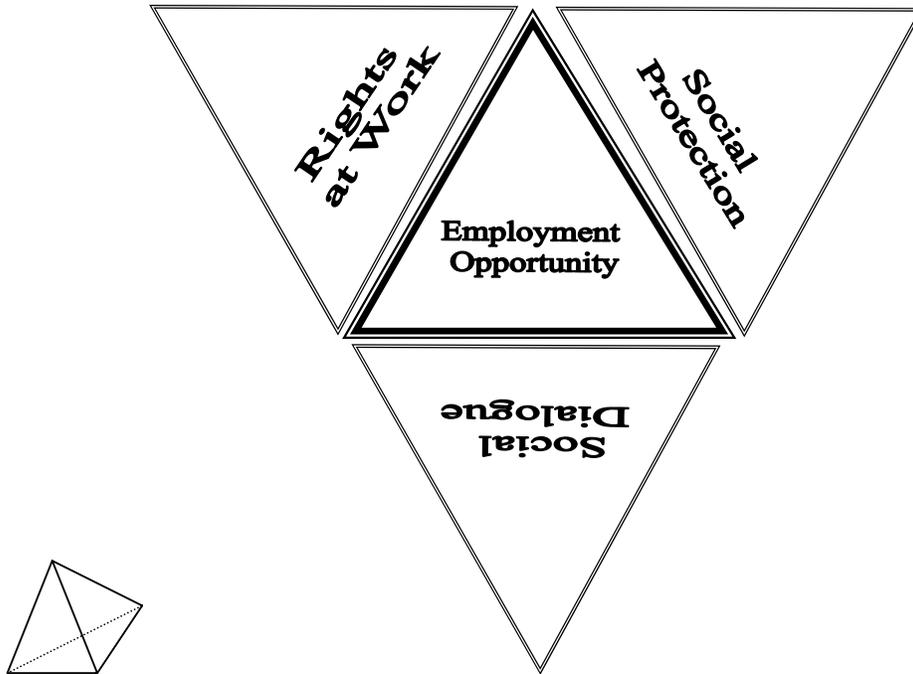
After the restoration of democracy and adoption of liberalized economic and social system in the country, the civil society has been emerging in different forms to work in various areas. There are some NGOs and associations working for the cause of workers, especially for workers in the informal sector, women workers, child workers, *Kamaiya* and bonded labour etc. Informal Sector Service Centre, Child Workers in Nepal, Nepal Rugmark Foundation, Fare Trade Group are some notable institutions in this field. The role of this civil society is also very important to create decent work environment in the country.

The civil society contribute toward establishing decent work by providing training, building awareness in the society and advocacy for legal reforms so that the workers in these areas are not exploited and get a decent work environment. The MoL&TM, however, do not consider the civil society as important partner. It fails to recognize and understand that the strength of the civil society is equally important as that of trade unions and the employers' association.

7. ANALYSIS AND DISCUSSIONS

7.1 Strategic Elements of Decent Work

The Egyptian pyramid is an excellent sample of spectacular historical work, which the modern scientific management and workers see this as a Herculean job. Likewise, creating decent work environment by smoothly rotating the productive cycle of development [ESDI] – employment, social justice, development and investment – also appears to be a real Herculean task to all of us. The Decent Work can be understood better if one were to have the perspective of its four elements as the four sides of the pyramid with a base and three sided figure.



In this four-dimensional three isosceles pyramidal figure, one can see only those sides that are nearer or in front of the viewer. However, to create decent work environment for overall development of the people, it is necessary to view all four sides by all concerned parties. Here, at the base of the pyramid lies employment opportunity to the people, and the other three sides consist of rights of workers at work, social protection of workers and social dialogues among various stakeholders. It is important to have all the four in perspective for having positive decent work in place. These four elements have been identified as the strategic objectives of ILO in the changed global context.

The following major strategic elements are identified for creating decent work atmosphere in Nepal.

1. Employment opportunity

- a. Job creation for meeting the demand side of the labour
- b. Skill training for auguring the supply side of the labour
- c. Labour market research for collecting, maintaining, analysing and disseminating information on the supply and demand of labour in the country
- d. Employment service for matching demand and supply
- e. Fair wage provision
- f. Labour migration: inter and intra-country

2. Rights at work

- a. Workers' associations
- b. Employers' associations
- c. Elimination of gender discrimination at work
- d. Elimination of child workers

- e. Elimination of forced labour

3. Social protection

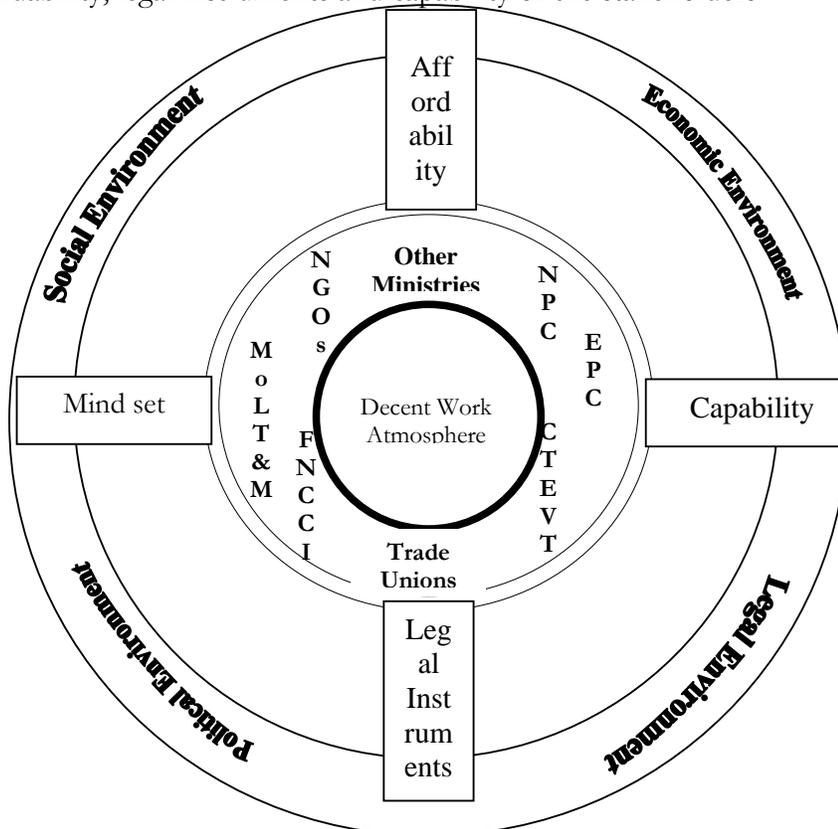
- a. Occupational safety and health
- b. Protective work environment regarding working time, maternity, childcare, canteen, medical, accommodation, etc.
- c. Social security including security provision at risk time, retirement, sick, no job, accident, etc.

4. Social dialogue

- a. Bi-partite dialogue between management and workers
- b. Tripartite dialogue among the state, management and workers
- c. Multipartite dialogue among the state, local government, management, workers, non-government activists, consumer society, cooperatives, etc.

7.2 Environment for Decent Work

There are various institutions created by the government and the civil society to create decent work environment for the development purposes. The people working in these institutions, however, are specifically influenced by the external environment comprising of the social environment, economic environment, legal environment and political environment of the country. These environments directly influence the process in the creation of decent work atmosphere through specific mindset, economic affordability, legal instruments and capability of the stakeholders.



7.3 SWOT Analysis of MoL&TM for Decent Work Agenda

To develop a strategy for strengthening the labour ministry conducive to create a decent work atmosphere for development a SWOT (Strengths, Weaknesses, Opportunities and Threats) analysis is carried out from the information discussed in the previous chapters.

Strategic Objective	MoL&TM Institutional		Created by the Environment	
	Strengths	Weaknesses	Opportunities	Threats
Employment Opportunity	<ul style="list-style-type: none"> · Limited skill training facilities · Very limited LMI & employment exchange · Legal provision of MWFC · Registration of manpower supply companies 	<ul style="list-style-type: none"> · Mismatch of skill training with market needs · Insufficient number and capability of manpower for market research · Minimum wage does not cover majority of workers · Weak monitoring of incoming and outgoing workers 	<ul style="list-style-type: none"> · Industry linkages may match supply of skilled labour with the demand · Capability enhancement of labour market research may help employment exchange service 	<ul style="list-style-type: none"> · Lack of coordination with EPC and CTEVT may have negative result in labour supply · Coordination problem with MoF, NRB and absence of permanent wage monitoring may result in unfair wages to different sectors · Absence of strong LMI and EES, and monitoring of labour movement may make projection of labour supply and demand not possible
Rights at Work	<ul style="list-style-type: none"> · Provision of free trade unions in formal as well as informal sector · Good relations with FNCCI · Provision of gender indiscrimination in labour laws · Child Labour Act already initiated · Time-bound program for elimination of child labour proposed · Abolition of forced labour declared · Provision of labour court 	<ul style="list-style-type: none"> · Weak monitoring of authoritative trade unions · No direct relationship with other employers' association especially in the informal sector · Weak monitoring of child labour elimination and discrimination · Child Labour Act not yet implemented · Only one labour court at central level 	<ul style="list-style-type: none"> · Labour laws strong enough for freedom of association in organized as well as unorganised sectors · Labour legislation strong enough to eliminate discrimination of child labour 	<ul style="list-style-type: none"> · Lack of effective enforcement may cause mistrust · In the informal sector, it may be void resulting in negative social environment
Social Protection	<ul style="list-style-type: none"> · Special project on OSH in place · Provision of protective working condition in the labour laws · Provident fund, welfare fund, security provision in the Act 	<ul style="list-style-type: none"> · Low capability of factory inspection weakens OSH · No protection measures in the informal sector · Weak monitoring for social security system even in organized sector 	<ul style="list-style-type: none"> · With increased capability of manpower, OSH and other protection measures may improve 	<ul style="list-style-type: none"> · Lack of effective and efficient monitoring may hamper the social protection measure

Social Dialogue	<ul style="list-style-type: none"> • Labour relations committee provision for bipartite dialogue • Central Labour Advisory Committee provision for tripartite dialogue 	<ul style="list-style-type: none"> • Very few labour relations committee in operation, and there is weak monitoring • Not any significant output from Central Labour Advisory Committee • Representation not wide for social dialoguing 	<ul style="list-style-type: none"> • Effective implementation of existing bipartite and tripartite mechanism may bring harmonious labour relations as well as positive labour policy and legislations for decent agenda 	<ul style="list-style-type: none"> • Weak bipartite mechanism may cause mistrust between employers & employees • Absence of tripartite social dialogue may cause mistrust of govt. • Absence of other stake holders like NGOs, local govt. etc. may build dissatisfaction to them
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7.4 Major Challenges for MoL&TM

The following new challenges are observed from the SWOT analysis. These may form a basis for detailed discussions to arrive at appropriate strategies for strengthening the labour ministry along the decent work agenda.

1. Role of the MoL&TM in the changed global context

Globalization is likely to result in changed concepts in employment such as flexible employment system, more subcontracting, stronger contract work and less traditional long-term employment, etc. Since Nepal cannot lag behind, in such a changed context, the MoL&TM has to change its role to a facilitator rather than remain as a controller.

2. Policy formulation and implementation

Rather than reduce itself to rhetoric extension of some existing obsolete policies, the MoL&TM has to engage in regular social dialoguing with concerned stakeholders to formulate and implement proactive policies to keep pace with the times – again, in the context of changed global order.

3. Labour supply and demand

As the country does not have any executing institution to look specifically after the supply and demand sides of labour, the MoL&TM should assume the responsibility of formulating appropriate policies for maintaining qualitative and quantitative labour statistics to develop fair estimates of the supply and demand situation.

4. Fair wages

Fair distribution of wages in different sectors of employment cannot be possible without a permanent institution engaged in monitoring the price index, productivity and earnings of workers in the country. This is an area of dissatisfaction among most workers and employers and the government are always accused of being insensitive to the realities of economic hardships caused by inflation and the disproportionate

wages with levels and status of people. Likewise, employers also generally show dissatisfaction due to their low capability to pay increased wages.

5. Coverage of the employment system

Only about 10% of the economically active population in the country are in the formal organized sector. The scope of the labour administration may appear quite insignificant looking at this small proportion of the population, but the government should ensure that the informal sector is also adequately covered. Only this would make labour administration effective to cover large part of employment.

6. Human resource capability

The lack of specialized professional skill ascribed for labour administration has made it possible for a lot of indiscriminate interdepartmental transfers. Although it may appear convenient in terms of administration, it is not a good management practice. The absence of appropriate human resource development plans and in-house training programs, has resulted in lack of skilled manpower for administration in the changed context.

7. Affordability

The budget of the government is generally inadequate to extend the coverage of labour administration in the formal sector, leave alone the informal sector. The lack of adequate resources hampers many activities including monitoring of the labour legislations.

8. Values and beliefs of the stakeholders

The employers have always been only interested in maximizing profits and maintaining their competitive edge by minimization of the labour cost. The workers are engaged in the new-found democratic exercises, and are exploiting their political mandates to the full extent to serve their interests, many times to the extent of politicising what are purely bipartite issues. On the other hand, the bureaucrats at the government are quite indifferent to these issues.

9. Legal reforms and implementation

Wide discussion and social dialoguing along with strong commitment of government officials are imperative to effective implementation of appropriate labour legislations. Likewise, legal reforms cannot be effected without adequate preparation and exercise with concerned stakeholders. The support of the civil society is equally necessary for effecting legal reforms.

10. Industrial democracy

The reinstatement of democracy in the country has raised high aspirations of all economic players who are trying their best to undergo increased democratic exercise. Suppression of these aspirations and the lack of environment of social dialoguing, will have negative impact on industrial democracy and only make it difficult to work.

11. Increased social partners involvement

The traditional concept of social partners and bipartite and tripartite mechanisms in industrial relations is changing. New partners such as cooperatives, NGOs, advocacy groups are gradually becoming important in the labour scene.

12. Cohesive action with other state agencies

A number of government agencies have active roles in the promotion of employment and development of human resources in the country. The MoL&TM should assume the challenge of viewing this in a macro perspective and be able to consolidate the efforts of various state agencies with a coherent strategy of promoting employment and manpower development.

13. Social protection

Another challenge for the MoL&TM is to ensure adequate social protection to workers in various sectors. The lack of even basic level of social protection is being widely felt, and the government and employers should realize that productivity of the state is very much contingent to application of appropriate social protection measures.

8. REORIENTING MoL&TM TOWARDS DECENT WORK STRATEGY

There are four basic elements that need to be considered while designing any strategy for strengthening or developing an institution. They should satisfy the Significant-Effective-Efficient-Sustainable principles.

Significant: The activities carried out by the institution should be significant, i.e., directed towards generating some tangible outcomes. It is important to see whether the activities carried out by the MoL&TM such as skill training to the disabled and deprived societies along with the management of the transportation in the country really generate outcomes which can create a decent work atmosphere in the society.

Effective: It is necessary to consider whether the activities of the institution are effective in solving the problems of improvement and whether the objectives are achieved. It is important to see whether the outcomes of the MoL&TM can successfully promote employment opportunities, provide rights at work and social protection and create an environment for social dialoguing among stakeholders.

Efficient: The activities carried out or likely to be carried out by the institution have to be cost effective vis-à-vis the outcomes and fulfilment of objectives. It is necessary to see whether the available scarce resources of the MoL&TM, be it in the form of manpower, building and infrastructure or equipments are being optimally utilized to generate the outcomes.

Sustainable: Sustainable indicates whether the institution can operate and fulfil the objectives in the future by generating and mobilizing its own resources without having to depend on the technical and financial support of external agencies. It is important to ensure the MoL&TM is capable of fulfilling the objective of creating decent work atmosphere in the country in the future through its own resources.

The following recommendations are made for strengthening the role of the Ministry of Labour for decent work agenda.

8.1 Strengthening Labour Administration

The labour administration capability of the Ministry of Labour has to be strengthened to implement the policies in relation to the decent work agenda. The labour administration elements such as labour courts and dispute settlement process, the labour market, wage institution, labour inspections, OSH etc must be appropriately addressed. In this regard, the following recommendations are made:

1. Strengthening labour courts and disputes settlement process

The prevailing labour laws need to be reviewed and rationalized to smoothen the disputes settlement process. The functioning of the labour court should be improved to look at the economic as well as social impacts of labour disputes. The only labour court in Kathmandu cannot possibly handle labour disputes arising in different parts of the country. Additional courts need to be established in other industrial pockets like Birgunj, Biratnagar, Pokhara etc.

2. Strengthening analysis and monitoring functions of labour market

It is necessary to institutionalise a strong labour market information and employment service system having close relation with an institution such as the Employment Promotion Commission. The labour market should have the capability to analyze and monitor both the qualitative and quantitative aspects of the domestic as well as foreign labour market demand and the internal supply situation vis-à-vis the Nepalese labour force.

3. Strengthening the minimum wage institution by creating a permanent Wage Board

A Wage Board needs to be instituted within the Ministry of Labour for formulating minimum wage structures and regular monitoring of wages in the country. The Board should work in close cooperation with the different social partners as well as Ministry of Finance, Nepal Rastra Bank, National Productivity Council and other stakeholders. It will carry out research on price index, wages, productivity, and other relevant indicators to fix minimum wages, and recommend the minimum wages for different sectors and industries on a regular basis.

4. Strengthening labour inspection for workers safety and health

Unlike the present practice of targeting only the workers in matters relating to occupational safety, health and environment, it is necessary to involve all stakeholders for creating an effective OSH environment. A strong cadre with labour inspection capability should be developed and the resource base at the ministry should be widened to make labour inspection effective. Awareness of both the formal and informal sector is very important regarding this issue. Agencies including environmental specialists and medical professionals may be instituted to carry out

activities such as awareness building, improving safety measures and working conditions, promoting environment friendly work, etc.

5. Strengthening linkages with academic institutions and creating a labour academy

A central level multipartite labour academy should be created whose basic functions would be to conduct study, research and training on labour relations, labour inspection, productivity, OSH, international labour standards, labour legislations, etc. The institution should be strengthened to operate on a sustainable basis. The academy should develop linkages with various academic institutions including management faculties of Kathmandu University and Tribhuvan University to draw the benefits of academic resources already available in the country.

6. Strengthening social dialoguing mechanism at the central level

A Central Labour Advisory Board needs to be instituted by creating a permanent secretariat within the Ministry of Labour. Provisions should be made to incorporate stakeholders like employers' associations (besides FNCCI), the consumer society, NGOs, local governments, cooperatives, etc. Labour issues of both the organized and unorganised sectors should be incorporated in the dialoguing process. Regular meeting and discussion should be held with all stakeholders for creating an affordable and widely acceptable decent work atmosphere. The Board must have detailed discussions on the National Labour Policy and the forthcoming development plan to identify effective action plans. Similarly, comprehensive discussions on the labour law reforms should be held for improving the legislations according to the need of decent work agenda.

7. Developing labour specialist cadre

An effective labour administration system capable of wide coverage of skill training, employment and social welfare of the labour needs to have a strong cadre of labour specialists having specialized knowledge on different dimensions of work, and capable of coping with the dynamism of global economy. For this, it is important to build up the capability of manpower especially in the areas of labour inspection, labour administration, labour statistics and labour legislations.

8.2 Restructuring of Labour Ministry

Immediate attention must be given to initiate an organizational development plan for reorienting the focus and thrusts of the ministry of labour towards decent work agenda. This may include developing a lean but effective structure for the Ministry of Labour and Employment, staffing plan, plan for human resource development and resource mobilization. The following recommendations are made for restructuring the labour ministry for effectively addressing the decent work agenda.

1. Detachment of transport management function from the ministry

It is necessary to detach the function of transport management from the MoL&TM to focus on the decent work agenda for labour. The mandate for the

ministry may be the formulation of policy and plan for labour, training and employment, minimum wages, labour administration, industrial relations, occupational safety and health, social security, labour statistics, labour law enforcements and others which are relevant to create decent work atmosphere for labour. The ministry then may be named as Ministry of Labour and Employment.

2. Creation of Department of Training and Labour Supply under the ministry

The training and employment components of the ministry should be coordinated with EPC, CTEVT and other government as well as private institutions that operate skill trainings. This unit should focus on projecting demands of labour in the domestic and foreign market, training needs assessment and coordination for supply of skilled labour in the foreign and domestic market, monitoring of the inter and intra-country labour movement, employment exchange service, etc. One department, aptly named Department of Training and Labour Supply, can perform this job under the Ministry of Labour and Employment.

3. Mobilization of local government machinery

Since the existing structure of the labour administration cannot cover workers of all regions and sectors of the country for realizing the goal of decent work, it is necessary to mobilize the local government machinery in this matter. The ward level committees of municipalities and VDCs may be mobilized specially for monitoring and implementation of the labour laws in the informal sectors. The Ministry of Labour and Employment, however, has to coordinate these activities for achieving its goal.

4. Widening of the social security system

The present social security system must be extended to cover all workers in the formal and informal sectors and also include unemployment insurance. A fund for this purpose may be established with joint contribution of the employers, workers and the government. The largely defunct existing welfare fund may be mobilized for establishing such a security system. The Ministry of Labour and Employment should devise an appropriate mechanism to monitor this fund.

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