



**Policy Recommendation Paper on  
Nexus between Forced Labour &  
Human Trafficking in Domestic Work**

**May, 2013**

Prepared on behalf of Nepalese Civil Society Organizations and Trade Unions (TUs) working in the field of migration and development, anti-trafficking, against forced and bonded labor and as an outcome of a workshop on 'Identifying Nexus Between Forced Labor and Human Trafficking in Domestic Work for Policy Recommendations' organized by Pravasi Nepali Coordination Committee (PNCC) with the valuable support from International Labor Organization (ILO) and Irish Aid on 29-30 April, 2013.

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Signing Parties:

Alliance Against Trafficking in Women and Children (ATTWIN), All Nepal Women's Association (ANWA), Care Nepal, Centre for Labour and Social Studies (CLASS) Nepal, Confederation of Nepalese Professionals (CONEP), Didi Project, Informal Sector Service Center (INSEC), Joint Trade Unions' Coordination Committee (JTUCC), Justice For All (J4A), Kathmandu School of Law (KSL), Maiti Nepal, National Trade Union Congress (NTUC), General Federation of Nepalese Trade Unions (GEFONT), National Youth Federation Nepal (NYFN), POURAKHI, Pravasi Nepali Coordination Committee (PNCC), Rakhya Nepal, Safer Migration (SaMi) Project, Shakti Samuha, Women Rehabilitation Center (WOREC) Nepal, Youth Network-Palpa and Youth Action Nepal.

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## **Context**

Forced labour is the situation in which the persons involved – women and men, girls and boys – are made to work against their free will, coerced by their recruiter or employer, for example through violence or threats of violence, or by more subtle means such as accumulated debt, retention of identity papers or threats of denunciation to immigration authorities. Such situations can also amount to human trafficking or slavery-like practices, which are similar though not identical terms in a legal sense. Human trafficking refers to the movement of people for the purpose of forced labour and services usually involves an agent or recruiter, a transporter and final employer who will derive a profit from exploitation of trafficked person. International law stipulates that exacting forced labour is a crime, and should be punishable through penalties which reflect the gravity of the offence.

Domestic workers are defined in Nepal as those who work in others' homes for wages (in kind or cash). This includes part-time and full-time work doing household chores or other duties as requested by the employers. Work is determined with or without a formal or verbal contract and domestic workers can live at the employers' house or have separate accommodation. Nepal has been witnessing movements of domestic workers within and outside the country. The out-migration trend for domestic has largely soared in past few years while those conventionally been in practice of domestic work in the country are in huge numbers. These increasing numbers have come with a variety of complications in status of domestic workers, in Nepal and abroad. The cases of human rights violations among the domestic workers have soared while Nepal still witness a feeble condition in protecting rights of domestic workers.

Situation of Nepalese domestic workers in and outside the country has been in regular policy discussions over years. With ratification of few important conventions like Forced Labor Convention (C29), Equal Remuneration Convention (C 100), Abolition of Forced Labor Convention (C105), Discrimination (Employment and Occupation) Convention (C 111) and Worst Forms of Child Labor Convention (C182), Nepal seems to be in strong policy situation. Ironically, Nepalese national laws haven't yet covered domestic workers as 'workers' and implementations of the ratified conventions hover in poor status. Most importantly, ILO Convention on Domestic Workers (C189) is still out of government focus. It is noted that, Nepalese policies against forced labor and human trafficking still remain behind to synchronize themselves on the amalgamated issues of forced labor, human trafficking and international labor migration in domestic work.

## **Introduction**

More than 90% of domestic workers leaving the country are female and as respond to the surging demand of Nepalese women migrant domestic workers in the destination more than 244,000 females are out of country leaving through regular channels<sup>1</sup>; this exodus has

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<sup>1</sup> UN Women, 2012

increasingly supported the remittance flow in the country where remittance from female workers contribute to around 10.7 percent of the total remittances entering the country<sup>2</sup>.

Policies addressing issues of domestic workers seem highly patchy in Nepal. Apart of non-coverage of domestic workers in National labor law, there have been further issues in other laws/regulations that came out for addressing issues of migrant domestic workers. This inconsistency has highly put domestic workers in vulnerability of various human rights violations at work and more of women domestic workers are found facing the upshots.

**We demand immediate actions as per the following recommendations:**

## **Recommendations**

### **1. Bilateral Agreements**

In relation to international labor migration, Nepal has signed bilateral agreements/MoU with few receiving countries: Bahrain, Qatar, South Korea, United Arab Emirates and Japan. Realizing the need of such agreements and analyzing the context of their effective implementation, we recommend to:

- Amend the effective agreements thus to recognize domestic workers, conditions of their employments, attestation and other necessary procedures thereby reducing and abolishing chances of being trafficked, exploited and human rights violations in the name of domestic work;
- Establish effective bilateral agreements with the potential destination countries to establish decent working conditions for domestic workers;
- Advocate through bilateral agreements or MoUs or other possible means for determining optimal security and recognition of rights and interests of domestic workers including basic labor standards;
- Effectively implement, regulate, monitor and evaluate for periodic revision of agreements/MoUs/Directives established till date through a government led mechanism;
- Advocate issues of domestic migrant workers through international and regional processes like Colombo Process based on the efforts to be made beforehand on collective bargaining.

### **2. Labour migration oriented programs, institutions and services**

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<sup>2</sup> Adhikari, J., Bhadra, C. et. al. (2006), Nepali Women and Foreign Labour Migration. Kathmandu: UNIFEM/NIDS

Majority of domestic migrant workers who travel to Gulf – coming from rural parts of country – emigrate without being correctly involved in the process. Because of this limited involvement and dearth knowledge on migration process, the vulnerability of being exploited are oftentimes soared. Complexities increase with centralized system on services to be provided by the Government of Nepal's agencies working on managing international labor migration, thus we recommend to:

- Decentralize governmental services in relation to foreign employment including specialized services for women migrant workers and domestic workers;
- Launch strategic approaches and interventions on mass awareness of women migrant workers in relation to domestic workers including pre-departure orientation programs, legal awareness programs and domestic work skill training programs at ground level;
- Establish of Migrant Resource Centres should be prioritized under the applicable provisions having facilities of pre and post psycho-social counselling on migration processes. Such centres must have a female counsellor dealing with women migrant workers or their families;
- Develop and launch an obligatory system of training family members of potential migrant workers with special consideration on gender issues.

### **3. Recruitment practices**

In past few years, the exodus of women migrants has been at peak, through both regular and irregular channels. This has soared recruitment agencies' businesses and with the increment, fraudulent practices have been arising, more among the domestic workers. Thus, we demand to:

- Develop and follow obligatory demand attestation process for domestic workers through Nepalese diplomatic missions in the receiving countries, amending the process of notary attestation;
- Effectively implement, monitor and periodically evaluate guidelines on domestic workers and develop for other uncovered destinations;
- Immediately lift the age-ban for female migrant workers emigrating to GCC countries thereby discouraging irregular migration trend among the domestic workers;
- Ban individual process of recruitment of domestic workers;

- Illegal immigration manipulations – 'settings' – mostly viewed as illegal racket structure of human traffickers should be identified, punished with due and continuous observation of private recruitment agencies.

#### **4. Institutional Development**

Government mechanisms working to manage international labor migration still face discrepancy in vision and working modality. There has not been clear policy that well identifies gender friendly approaches on dealing with services related to domestic migrant workers. Also, institutional capacities of government agencies are yet to be improvised dealing with migrant workers, and domestic workers in particular, both in connection to the workers working in and outside the country. Thus, we recommend to

- Improve labor desk at Tribhuvan International Airport and synchronize data accumulation system to Department of Foreign Employment especially on verification of labor approval sticker as machine readable stickers in relation to domestic migrant workers;
- Accumulate and analyze data of domestic workers leaving the country and returning the country;
- Develop strategic approaches on psycho-social and financial re-integration of migrant domestic workers;
- Capacitate labor attachés and diplomatic personnel on dealing the cases of domestic migrant workers in destination countries;
- Envoy female labor diplomats on destination countries to deal after the cases and complaints received from women domestic migrant workers.

#### **5. Adoption of laws and policies**

Being one of the major labor-force sending countries in the world, and realizing the need of workers' security, Nepal needs to develop a strong correlative status among the sending countries for collective bargaining agendas, we recommend to:

- Ratify ILO C 189 (Domestic workers' convention) and International Convention on Rights of Migrant Workers and their Families, 1990,
- Effectively implement ratified conventions and national laws/frameworks/policies against forced labor, human trafficking and international labor migration including prospects of domestic work;

- Develop a synchronised judicial system dealing cases of international labor migration, human trafficking, forced or bonded labor and domestic violence, with gender friendly mechanism;