

# Poverty and reform in the magical kingdom: Nepal's PRSP

*Nepal's PRSP has been launched at a politically delicate time for this enigmatic mountain kingdom. The strategy contains a number of positive points, but it does not fully reflect the unions' concerns and the ILO's advice. In particular, it appears to promote a simplistic and unilateral deregulation of labour.*

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Perched at the pinnacle of the world and trapped between the two most populous countries on the globe, Nepal has long been a political and economic enigma. This magical kingdom, with its spectacular natural beauty stretching from the Himalayas to the plains on the Indian border, remains a potential haven for tourists and has a wealth of untapped natural resources.

For decades, this landlocked country has been a favourite topic for development economists, and the destination of vast sums of official development assistance from the international donor community. Yet it remains one of the poorest countries in the world, with a per capita income of about US\$250 per year. Almost 40 per cent of the population live below the poverty line, and there are vast disparities between rich and poor.

In recent years, Nepal has grabbed the international headlines for all the wrong reasons: intrigues and murders within the Royal family; a Maoist insurgency that is estimated to have already cost 7,000 lives; revolving door governments and a reputation for corruption; the sacking of the last Government and suspension of Parliament by the King; and a recent influx of military assistance from the United States and India, who fear this politically unstable paradise might become a base for international terrorism.

## Positive plan

It was against this background that, in May 2003, the Government of Nepal published their Tenth Plan and Poverty Reduction Strategy Paper (PRSP), which provides a comprehensive economic strategy for the period up to 2007.<sup>2</sup>

The strategy is premised on four highly desirable pillars:

- high and broad-based economic growth, focusing particularly on the rural economy
- accelerating human development through more effective delivery of basic social services and economic infrastructure
- ensuring social and economic inclusion of the poor and marginalized groups
- vigorously pursuing good governance.

The PRSP, or Tenth Plan as it is called in Nepal, contains much that warrants warm endorsement.<sup>3</sup> The key positive aspects include:

- a focus on accelerating income and employment growth in rural Nepal, where the majority of the poor live
- an honest assessment of past development policy failures

- the adoption of an inclusive approach to future economic development with targeted assistance for the most marginalized groups
- the adoption of a government expenditure monitoring mechanism and budgetary procedures that should help keep the economic strategy realistic and consistent with available financial resources
- an emphasis on decentralization and implementation of policies and programmes at the local level that will hopefully enhance good governance and ensure that scarce resources reach the most needy.

A recent World Bank and IMF assessment of this PRSP suggested there are risks to the economic strategy resulting from both the international and domestic security problems, as well as the uncertain political environment.<sup>4</sup> Interestingly, the review by the international financial institutions (IFIs) suggests that some of the stated goals of the Maoist insurgents are consistent with the PRSP. These goals are described as “the provision of better social and economic services and representation for the poor”.<sup>5</sup>

To a degree, the World Bank and IMF may have downplayed the domestic political problems. They suggest that, because all the major political parties have been involved in the PRSP consultations, the risk that economic policies will change if democracy is restored has been reduced.<sup>6</sup> Such arguments miss the basic point that the suspension of Parliament and prevention of normal democratic practices is not a sustainable solution to governance problems.

A multi-party democratic system was introduced only in 1990 and has not yet matured into a well-functioning, stable force. The review by the IFIs correctly points out that past economic strategies have been inhibited by “patronage-based politics, institutional weakness, and the failure of public service delivery”.<sup>7</sup> But a return to autocratic rule is not a long-term

solution. Nepal requires a rapid restoration of democracy, stronger public institutions and greater reliance on the rule of law.

### Questionable labour reforms

Given this fragile political environment, some of the structural reforms proposed in the PRSP could exacerbate existing tensions within the country if not handled with great care. In particular, from a trade union perspective, there are question marks hanging over aspects of the industrial relations reforms proposed in the PRSP. In areas that are critical for trade unions, such as labour legislation and labour market reform, the proposed approach appears unbalanced. The PRSP appears to promote a simplistic and unilateral deregulation of existing labour legislation and labour market institutions.

Concerns previously expressed by trade unions in Nepal, and advice provided by the International Labour Office (ILO) in respect of labour issues, have not been fully reflected in the strategy. Failure to involve the social partners in a transparent and fair process of labour reform would be politically naive and could lead to strikes or other forms of protest. This would increase the risks associated with the whole PRSP and might undermine other highly desirable aspects of the economic strategy.

Other controversial proposals, like privatization and large cuts in the civil service, are strongly endorsed in the PRSP and in the staff review by the IFIs. These reforms have been on the political agenda for several years but have made little real progress. On the surface, the PRSP appears to offer little prospect of breaking the political deadlock that has stalled these reforms. Indeed, the general approach adopted towards labour legislation may result in a further deterioration in the industrial relations environment. This could prevent the dialogue and compromises required to advance these structural changes in a constructive manner that would meet the concerns of all sides.

This article examines the ILO and trade union involvement in the process that led to the adoption of the PRSP in Nepal and critically reviews the proposed labour market reforms.

## **ILO promotes union involvement**

Nepal has a tradition of preparing five-year economic plans and it was decided that the first PRSP for Nepal would also constitute the tenth economic plan and cover the period 2002 to 2007. Consistent with the general approach to PRSPs in other countries, it was decided to make the process of preparation for the Tenth Plan highly participatory. In fact, the final document claims that “the Plan is an outcome of extended nationwide consultation participated in by a large number of people from all walks of life”.<sup>8</sup> The document describes in detail consultations that have been held since mid-2000 involving local government, NGOs, representatives of political parties, women’s groups, academics, representatives of the private sector, ethnic minorities and participants from remote areas of the country. Moreover, a review of the PRSP undertaken by staff of the World Bank and the IMF endorses this assessment and gives the process high marks for adopting an inclusive participatory approach.<sup>9</sup>

However, this detailed description of the consultation process only contains one brief reference to trade unions. They are mentioned as being one group involved in a consultative meeting with the National Development Council (NDC) on an early draft of the PRSP. The lack of emphasis on trade unions in this description of the consultative process is difficult to understand, given that Nepal is a country in which trade unions – and employer organizations – were regularly consulted over the last few years, thanks to the ILO.

ILO involvement stemmed from an agreement between the managements of the IMF, the World Bank and the ILO. Following a request from the IMF Managing Director and World Bank President in December 1999, it was decided that the ILO

would make a contribution to the PRSP process in five countries, including Nepal. However, despite this agreement at the highest levels between the ILO and the IFIs about cooperation, there were some initial problems in fully implementing the agreement on the ground in Nepal. It would appear that parts of the Government at that time, and perhaps even elements of the donor community in Nepal, were not initially keen to foster ILO involvement in the process. Perhaps this initial reluctance was because of a desire to make the process, and content, of the PRSP nationally owned. If so, this was an understandable concern because, in theory at least, a key objective of the PRSP is to enhance country ownership and national responsibility for the success of economic and social policy reforms.

On the other hand, if the initial reluctance to involve the ILO – with its tripartite structure and reputation for enhancing social dialogue – reflected concerns that this might tip the political balance in internal Nepalese negotiations, then different conclusions are warranted. For the Government and other interested parties, ILO involvement in the PRSP probably suggested enhanced participation by the Nepalese social partners, and particularly a stronger role for the politically powerful national trade union centres in the process.

On this issue, like many things in Nepal, one is never really certain about the underlying motivations. However, serious questions were raised by trade unions about whether a genuine participatory approach was being followed in the early stages of the process. In 2001, an interim PRSP document was produced which, like the final PRSP, devoted several pages to extolling the virtues of consultations with the widest possible cross-section of society. This process included one meeting, organized by the ILO, involving representatives of the National Planning Commission (NPC) and representatives of all three national trade union confederations that exist in Nepal. According to representatives of all national union centres, this meeting was of very limited value because the Planning Commission merely informed them

of what would be included in the PRSP and did not provide the unions with an opportunity to comment or to question the content of the strategy.

Suspensions about government reluctance to fully involve the Nepalese social partners in the PRSP were heightened after discussions between ILO officials and government representatives in late 2001. While several bilateral donors, and the representatives of the World Bank in Nepal, took the view that an ILO contribution to this process would be desirable, some representatives of the Government had a more restricted view of the ILO role. In fact, the Government advised ILO representatives not to get involved with either civil service reform or privatization of state enterprise, which were two central issues on the economic reform agenda. Government representatives argued that ILO involvement in these sensitive issues would enhance the political position of trade unions and bolster their resistance to these reforms.<sup>10</sup> It was also evident from the outset of consultations between the ILO and government officials that labour law reforms – designed to weaken job protection and trade union power – were on the government agenda. However, no mention was made of these politically sensitive issues in the interim PRSP document.

Rather than seeking ILO assistance in promoting social dialogue on these difficult industrial relations issues, government representatives initially suggested that ILO involvement should be restricted to technical economic inputs. They asked the ILO to analyse the employment elasticity in various industries and make recommendations about how to enhance the employment intensity of economic growth. These economic issues are critical concerns in Nepal and a legitimate aspect of ILO activity. However, the decent work mandate of the ILO goes well beyond providing advice merely on the quantity of employment and includes worker rights, social protection and social dialogue. Reform of labour legislation and labour relations is at the heart of traditional ILO concerns.

From the outset, therefore, ILO involvement in this PRSP had to strike a delicate balance between the Government's desire to limit such involvement to a narrow range of economic issues and the demands of the social partners that the ILO facilitate their engagement in the full range of economic, social and industrial relations matters that were clearly on the agenda for reform. Getting this balance right was essential to ensuring genuine country ownership and full national responsibility, rather than merely national government ownership of the PRSP.

The ILO managed this diplomatic balancing act reasonably well. While opportunities were limited for the ILO to have any major impact on debates over civil service reform and privatization, the Government did not raise objections when the ILO started work on an input to the PRSP process that touched on all the core concerns of the ILO.<sup>11</sup> In fact, the NPC eventually agreed that the ILO should produce an input which covered the full range of ILO concerns and contained precise recommendations on worker rights, social protection and industrial relations issues in addition to examining ways of increasing the quantity of jobs.<sup>12</sup> Moreover, the final PRSP for Nepal goes further than most similar exercises in other countries in placing employment at the centre of the economic strategy. It has incorporated many of the recommendations made by the ILO that were designed to enhance the quantity of employment opportunities.

The ILO paper was discussed in three tripartite regional meetings held in Nepalgunj, Biratnagar and Pokhara and one major national meeting in April 2002. The purpose of these meetings was: first, to test the analysis and recommendations included in the paper; and second, to further dialogue between the domestic participants on what needed to be done in practical, concrete terms to address poverty in the country. In addition to the ILO's constituents, members of the national and international NGO community were also present. On the basis of inputs from the participants, the ILO prepared a policy

matrix which was subsequently submitted to the Government as an input to the PRSP. Discussion at both the regional meetings and the national meeting revealed a high level of support for the ILO analysis and recommendations. Taken together, participation in the regional meetings included most of Nepal's 75 districts, along with representatives from the three trade union federations and the employer organization at a decentralized level, as well as several District Development Committee chairpersons.

### Union proposals

There are three registered national trade union centres in Nepal. These are the Nepal Trade Union Congress (NTUC), the General Federation of Nepalese Trade Unions (GEFONT) and the Democratic Confederation of Nepalese Trade Unions (DECONT). NTUC and GEFONT are the largest and most powerful. In addition, there are several other unregistered union centres. Official data on union membership in Nepal are unreliable but one independent study noted that "The rate of unionization, albeit on the decline throughout the world, is tremendously increasing in Nepal".<sup>13</sup> However, in the last three years, union membership has dipped. The unions attribute this to the Maoist conflicts, the closing of many establishments, the anti-union attitude of the employers and the declaration of a state of emergency.<sup>14</sup> Union membership is concentrated in the formal sector of the economy but significant efforts are being made by at least some unions to organize workers in the informal economy.

Historically, the NTUC and GEFONT have been associated with rival political parties in Nepal and in the past have based their policies on starkly different political ideologies.<sup>15</sup> During the 1990s, the fragmentation of the union movement probably contributed to an unstable industrial relations environment and allowed employers, on occasions, to divide and rule the labour movement. However,

over the past few years significant changes have been occurring. NTUC and GEFONT have worked closely together on various issues and there have been some moves towards a merger between these two national centres, despite their links to competing political parties. While they do not agree on all issues, they have on occasions issued joint statements about policy priorities. These two union centres certainly worked closely together in the context of the PRSP consultations over the last few years, although they did not completely concur on every issue.

As noted above, the unions had been critical of their initial contacts and consultations with the Government on the Interim PRSP. In response to this criticism, the ILO attempted to fully integrate the three national trade union centres and the national employer association into the dialogue over the economic and social reform process. In order to better appreciate the opinions and policy proposals of the unions, ILO officials met with trade union leaders on several occasions in late 2001. Similar meetings were also held with the national employers' organization. It was evident from these meetings that the policy issues of concern to the trade unions covered a wide variety of matters that went well beyond the direct concerns of organized workers in the formal economy.

Some of the issues identified by GEFONT, the most "left-leaning" of the three national centres, such as reforms to the wages system, implementation of existing labour legislation and the establishment of a social security system, mainly concerned workers in formal employment. However, when they were asked to prioritize the reforms they would like to see in the country, their primary concerns were effective land reform, the eradication of absentee ownership and the promotion of cooperative farms in order to benefit landless rural workers. Another high priority issue for GEFONT was the elimination of bonded and child labour, as were measures to restrict the inflow of guest workers from India.

The leadership of this union indicated that they strongly supported plans, mooted

in the PRSP discussions, to decentralize control of official development assistance flowing into Nepal, and proposals to promote local-level implementation of projects in order to reduce corruption and improve transparency. On the other hand, they were highly sceptical about Government plans to privatize state enterprises. In at least one case, they claimed to have told the Government they would accept privatization, or closure of a state enterprise, providing employees received the retrenchment benefits they were due under existing labour legislation, but the government would not agree to honour this obligation. In other cases where privatization had occurred, GEFONT claimed this led to increased corruption among the new managers.

The leadership of the NTUC took a slightly different view on some subjects. They argued that land reform would not increase productivity or output levels and that any proposals to reduce the ceiling on land holdings would result in inefficiencies in agricultural production. Some observers might be surprised that this union was critical of increases in public sector wages introduced by the Government in 2001. However, they felt these resources should have been used to preserve the level of jobs in the public sector rather than cutting jobs under the civil service reforms being proposed by the Government in discussions on PRSP. The top priorities for this national union included improvements in the vocational education system and the establishment of a more comprehensive social security system. NTUC representatives also emphasized the problems that Nepalese workers faced in trying to secure employment. Public sector jobs were being reduced and, in the private sector, some skills were required that many local workers did not possess. They pointed out that guest workers from India were not covered by all aspects of the labour law and thus their unit labour costs were lower than those of Nepalese workers. Employers therefore preferred to hire guest workers on a precarious basis, rather than local workers.

DECONT is a relatively new national union.<sup>16</sup> They also strongly supported one

of the cornerstones of the PRSP, which involves decentralizing the control of public resources and project implementation to the regional and village level in order to reduce corruption. Their policy priorities for the PRSP included: placing restrictions on guest workers coming into Nepal; improving the vocational training system; and organizing informal sector workers. Like the other unions, they emphasized major problems with the implementation of labour laws. They pointed out that, although minimum wage levels had recently been increased, in the vast majority of cases the minimum wage was not paid. This union expressed concern about the plight of workers in the agriculture sector. Until relatively recently, the labour legislation had excluded agricultural labour from the definition of workers and prohibited the formation of unions in this sector. These aspects of the legislation were revised in 1999, and in January 2000 a statutory minimum wage for the agricultural sector was introduced. Despite these significant reforms on paper, DECONT representatives told the ILO that virtually no labour laws were being implemented in the large agricultural sector.

There is no doubt that both unions and employers are significant players in economic and political life in Nepal. In some countries, trade unions and employer associations are occasionally accused of protecting the vested interests of a privileged group of workers or entrepreneurs and paying insufficient attention to the implications of their demands for broader sections of the community. Some economists tend to describe such activities as “rent-seeking” or “insider-outsider” behaviour.

Accusations of this nature have been made in Nepal. However, it is evident from the above that the policy concerns and proposals from the trade unions in Nepal covered a fairly broad range of subjects. Also, they had some interesting insights, and even some divergence among themselves, on non-labour market issues. While they naturally placed a high priority on issues of direct concern to their membership, they also focused on measures to promote growth and reduce poverty in

the agricultural sector, where the poorest and most marginalized workers are concentrated. The unions also expressed concerns about working conditions in the informal economy, which remains largely unorganized. The evidence would seem to support the conclusions that, on the whole, the trade union movement was attempting to adopt a fairly balanced national perspective rather than following a narrow “rent-seeking” strategy.

It is also often claimed in Nepal that trade union leaders and the major private sector employers are heavily involved – either formally or informally – in the main political parties. In fact, one local observer described the trade unions as “the handmaidens of the political parties”. This may have explained the reluctance of the Government to involve the ILO and the social partners in some aspects of the Nepal PRSP. It is certainly correct that the three national centres have close links with the key political parties. But as one observer of industrial relations in Nepal has pointed out, the close relationships that exist between the main political parties and the trade unions are a product of Nepalese political history.<sup>17</sup> Prior to 1990, and the introduction of multi-party democracy, there was an effective ban on trade unionism and collective bargaining. The emergence of functioning unions was thus closely related to the establishment of the political parties and, having been suppressed during the thirty years of Panchayati rule, the unions and workers feel they require political protection.<sup>18</sup>

But in any case, on the basis of experience in other countries, it is neither unusual nor undesirable for trade union leaders and employers to be involved in party politics. Moreover, in a country like Nepal where, on paper, tripartite institutions for dialogue about economic and social issues exist, but in reality do not operate in a serious and systematic manner (see below for details), it should come as no surprise that both trade union leaders and employers continue to use whatever political channels they can to influence prominent decision-makers. Trade union leaders and em-

ployers’ representatives are employed to defend and promote the interests of their members. In the absence of a transparent, fair and influential process for tripartite consultation and negotiation, trade union leaders and employers will naturally utilize whatever political leverage they have to pursue these objectives.

### **Industrial relations and the proposed labour market reforms**

The final PRSP document for Nepal states:

“In order to provide employers more flexibility to adjust their labour requirements with due compensation to those affected, the Tenth Plan will take a number of measures to reform existing labour laws. The major objective outlined in the Tenth Plan for the labour sector is to ensure a congenial industrial environment by maintaining a flexible labour market while safeguarding the basic rights of workers. The major strategies adopted in the Plan to achieve this objective are: the initiation of timely reforms in labour laws to promote private investment, promotion of better industrial relations, increasing productivity and elimination of child labour.”<sup>19</sup>

The policy matrix attached to the Report contains a section entitled “labour” and sets out a strategy which is summarized as “make labour laws flexible”. Earlier sections of the PRSP document cite labour laws that prevent retrenchment of workers as “a significant impediment to private sector development”.<sup>20</sup> The World Bank and the IMF, in their review of the Nepal PRSP, give some prominence to these reforms. According to the staff review: “The PRSP identifies the leading role of the private sector in generating growth while acknowledging that much needs to be done to improve the private business climate through structural reforms in several key areas, including labour legislation. Failure to implement these reforms could reduce private investment and jeopardize achievement of PRSP goals.”<sup>21</sup>

## ILO role

The PRSP is only a summary document and it is possible that the current administration has formulated a comprehensive and constructive strategy to implement these labour market reforms. However, if this is the case, the PRSP provides little insight into the process through which this will be achieved.

Over the last year, the ILO has been attempting to facilitate negotiations between the trade unions and the employers' association over labour market reform (see below for details), but there are grounds for concern that the proposed reforms to labour legislation and the labour market that were envisaged in the PRSP might be implemented unilaterally by the current administration in an unbalanced manner and without careful consultation and involvement of the social partners. These concerns are heightened in a situation where Parliament has been suspended and the normal democratic process has been curtailed.

Despite these concerns about process, there can be no doubt that industrial relations reform is required in Nepal. The ILO, in its input to the PRSP, had strongly advocated institutional, legislative and attitudinal changes to industrial relations. According to the ILO:

"The system of social dialogue in Nepal is in its infancy. Unfortunately Nepal does not have the luxury of allowing a slow evolution of its social dialogue system. If economic growth, decent employment expansion and poverty eradication are to be accelerated during the Tenth Plan period, the industrial relations development process must be accelerated. A direct and detrimental link exists between the current state of industrial relations and the economic and social performance of Nepal. For this reason, the evolution of industrial relations in Nepal should be a concern for the Government as a whole and reforms proposed in this paper should attract support from the donor community."<sup>22</sup>

Within the small formal economy, the present state of industrial relations is a

significant constraint on productivity improvement and a factor contributing to poor labour market outcomes. Tensions at the workplace result in high levels of absenteeism, low levels of motivation and the imposition of go-slows or work-to-rule systems. The industrial relations environment is therefore having a significant negative impact on productivity within existing enterprises. Perhaps of more significance is the impact on international perceptions of industrial relations in Nepal.

In a highly competitive global environment, the image of uncertainty and potential unrest at the workplace must have a detrimental impact on direct foreign investment. The industrial relations environment is probably also one factor contributing to the rapid growth in the employment of foreign workers (guest workers) in skilled and semi-skilled jobs. A trade union survey indicated that there were foreign workers in over 40 per cent of enterprises, the greatest concentration being in the garment and textile sector.<sup>23</sup> In addition to the skills they bring to the enterprise, unorganized foreign workers are probably more malleable and less demanding than Nepalese workers because of their precarious employment status.

The key to sustained success, in an attempt to reform any industrial relations system, is the process utilized to bring about the changes. The objectives of higher productivity, employment growth and poverty reduction will best be served if the reforms result from a process that is, and is seen to be, fair and transparent.

The ILO had put forward various proposals to achieve this objective, but they are not included in the published PRSP document. Rather, the PRSP has concentrated attention on the restrictive nature of some components of labour legislation, which is a major complaint of employers in Nepal. Employers are particularly concerned about restrictions that the legislation places on the prerogative of management to dismiss regular (or what are termed "permanent") employees in Nepal. They also object to the definition of permanent employees in the legisla-



tion. Nepal, like several other South Asian countries, has no comprehensive system of social security or state support for workers made unemployed. To an extent, the stringent laws regarding dismissal are the corollary of the absence of a social safety net for unemployed workers.

These and other provisions in the legislation – regardless of whether or not they are excessively restrictive – are a significant factor encouraging employers to contract out activities and replace regular employment positions with casual workers. The expansion of non-regular employment is most prevalent among labour-intensive small and medium-sized enterprises. Some employers have called for the establishment of export processing zones where the labour laws would not apply, and for a ban on strikes throughout the whole country.

On the other hand, as mentioned, the trade unions complain that existing labour laws are regularly violated with impunity. Collective agreements are negotiated and signed but not implemented.<sup>24</sup> The institutions established to monitor and enforce labour laws and collective agreements appear powerless. Trade unions also complain that employers often do not bargain in good faith and, after agreements have been reached, they regularly have to take strike action on rights issues. It would also appear that the procedures used to consider labour legislation reforms in recent years have been less than transparent. Consequently, confidence in the legislative and institutional framework for industrial relations has been undermined.

Given the complexity and diverse nature of the industrial relations problems existing in Nepal, and their direct link to economic performance, the ILO suggested an integrated package of reform measures.<sup>25</sup> This involved trying to reconcile employer concerns about the restrictive nature of current labour laws with trade union concerns over the failure to implement the laws and the provisions of collective agreements. In order to broker a compromise deal among unions, employers and the administration, the ILO

suggested it might be desirable to expand the list of issues under review to include wages policy, social security, training and the changing pattern of employment, since important problems and competing interests also exist in these fields.

The trade union movement in Nepal has indicated that they are prepared to consider reforms that would provide greater labour market flexibility, providing there is some form of social safety net for those workers adversely affected by such reforms. Given these statements, the potential for compromise and consensus would appear to exist between the social partners. The ILO previously indicated that it is prepared to assist the parties to explore this potential.

To start the process, it was suggested that the ILO could review, and make recommendations for reforming, the existing labour legislation and institutions for social dialogue – taking into account best practice in other countries and international labour standards. The review would, *inter alia*, consider legislation and practice concerning dismissal and the notion of permanent employment. In so doing, the ILO could present the parties with suggestions about alternative ways to prevent unfair dismissals. The ILO would endeavour to make recommendations that would provide an appropriate balance between flexibility and employment security.

However, it was made clear that any review of the legislation and social dialogue institutions should not be restricted to the “hire and fire” issue, as it is commonly referred to in Nepal. It would appear that there are many other areas in which the legislation and institutions could be improved and inconsistencies removed. For instance, the ILO argued that the debate about legislative reform must be predicated on a substantial improvement in compliance.

There are three essential ingredients in this process. First, the mechanisms for monitoring the implementation of labour legislation and collective agreements need to be substantially upgraded. At present, the system of labour inspection is virtually

non-existent. Second, the procedures for seeking recourse to mediation and the labour courts in the event of persistent non-compliance must be made more efficient and timely. Third, the status and support available to the Ministry of Labour and Transport Management in the fields of labour administration and labour management relations must be upgraded.

The process for reaching some form of trade-off between unions and employers over issues related to labour legislation, increased compliance and reform of the social dialogue institutions would require careful management. For example it would be extremely detrimental to industrial relations in the long term if trade unions were to agree to accept some modifications to the labour laws in the expectation that improved compliance would follow, but over time find in practice that the laws were weakened yet still not implemented in full. This would inevitably lead to more strikes, lower productivity and a further deterioration in economic performance. Because of its tripartite structure and international reputation in this field, the ILO would be well suited to assist the parties with this process and help them reach agreement on the timing and sequencing of such reforms.

The ILO indicated it was prepared to continue and accelerate its technical assistance to Nepal in these various fields of labour administration. However, successful reform also requires political will and a genuine commitment by the Government to labour administration. Labour inspection, conciliation and mediation and the operation of labour courts are all relatively expensive and labour-intensive activities. Given the correlation between poor industrial relations and the dismal economic and social performance of Nepal in the last decade, the ILO recommended to the donor community that this was a field that warranted greater investment. Unfortunately, neither the PRSP, nor the staff review by the IFIs, makes any reference to the problems with implementation of existing labour laws or collective agreements. Nor do

they contain any suggestion that there is the political will, or any resources available, to upgrade the technical capabilities of these important labour institutions or the Labour Ministry.

Despite this important omission in the PRSP, over the past year the ILO has been facilitating consultations and negotiations between the trade union movement and the employer associations over a range of issues related to labour legislation and the labour market, along the lines suggested in the ILO input to the PRSP. As part of this process, the employers and the trade unions agreed to examine seven key policy areas: labour flexibility, exit policy, gender, the informal economy, social security, collective bargaining and labour administration. Representatives of the Government have participated as observers in these bipartite negotiations. At the time of writing, the negotiations were continuing. There were suggestions, at the time of writing in February 2004, that the Government and the IFIs were reluctant to allow these bipartite negotiations to run their full course. Unilateral action by the administration to amend the labour code has been strongly mooted in Nepal.

## Organizing for rights

Some other important industrial relations reforms are required in Nepal. For example, the current system of social dialogue covers only a very minor proportion of the working population. It provides a degree of income and employment protection to less than 10 per cent of workers. Over 90 per cent of workers therefore remain outside the framework of protection.

Organizing non-permanent workers in the formal sector and both entrepreneurs and workers in the “informal economy” is imperative, in order to ensure that all workers have representation and protection. Because of the concerns about “rent-seeking” behaviour, the ILO advocated reforms that would foster, rather than restrict, a broad public interest perspec-

tive among the social parties. Assisting the existing trade unions and employer organizations to significantly expand their organizational base is therefore the best way to eliminate any potential “insider-outsider” problems and ensure that wage levels, employment conditions and labour legislation reflect the best interests of all workers and entrepreneurs throughout the economy.

Organizing the currently unorganized is also the best way to permanently eradicate abuses of worker rights. The forms and extent of worker exploitation in Nepal remain extreme. For example, there are still significant problems associated with child labour, bonded labour, discrimination and other abuses of workers. The eradication of these human rights abuses will have an obvious direct impact on poverty by raising the incomes and living standards of those suffering such abuses. However, it also has a longer-term impact on poverty reduction. A key component of the economic and employment strategy for Nepal must be to improve the productivity of existing economic activities, and this entails upgrading the quality of human capital.

A basic precondition for a skilled and motivated labour force is the elimination of anti-worker abuses and the full achievement of fundamental rights at work. Specific targeted programmes can, and are, making a valuable contribution to reducing the incidence of abuses of workers’ rights. However, the permanent and comprehensive elimination of worker exploitation will depend on organizing people in precarious work situations and providing them with the scope to jointly defend their own interests.

Broadening the base of these organizations will serve two other important objectives. First, strengthening the role of democratic and representative organizations of employers and workers throughout all regions of Nepal and all sectors of economic activity is the best way to counter the appeal of any undemocratic movement that may seek to recruit support among the working poor. As the World Bank/IMF

staff review of the Nepal PRSP noted: “The Maoist insurgency is, in part, a reflection of the rising disenchantment with inefficiency and corruption in the public sector, large persistent inequalities including along ethnic and gender lines, and poor delivery of public services”.<sup>26</sup> Second, it would support the general thrust of decentralizing authority for the implementation of programmes and activities designed to stimulate economic growth and reduce poverty, by creating and/or strengthening worker and employer organizations at the regional and local level.

Unfortunately, this recommendation from the ILO has been completely ignored in the PRSP. On the contrary, the fact that the PRSP significantly understates the role of the social partners in the consultative process would suggest that the administration might prefer to further diminish trade union density and the political power of unions in the country. If so, this is a short-sighted strategy in a country that already faces a significant democratic deficit. The IFIs could be doing more to support freedom of association, the organization of workers and employers and social dialogue in order to provide a “safety valve” to reduce political tensions in a situation where Parliament is suspended and other forums for peaceful and pragmatic dissent are discouraged. Unfortunately, this issue was not mentioned in the staff review of the PRSP undertaken by the World Bank and the IMF.

## Social monologue

As mentioned, a comprehensive legal framework for industrial relations and many institutions for social dialogue have been established in Nepal. But they are not functioning in a systematic or efficient manner. For example, there have been several institutions established to promote tripartite consultation and negotiation on labour issues. The main bodies include the Central Labour Advisory Body (CLAC) for reviewing labour policy, labour legislation, training policy and measures to promote

industrial peace. Other tripartite institutions include the Minimum Wage Fixation Committee, the Wage and Compensation Fixation Committee for determining the remuneration of journalists, the National Welfare Fund Managing Committee, the Foreign Employment Advisory Committee, the Tripartite Arbitration Committee and the Tripartite Committee for the Prevention and Settlement of Disputes.

Unfortunately, many of these tripartite institutions either only meet spasmodically or exercise little influence over decisions. The CLAC took almost six years to convene its first meeting, and between 1996 and 2000 it met on only six occasions. It had no impact on the formulation of the Trade Union Act in 1993, has not been involved in considering legislative reforms, which have been debated in recent years behind closed doors and in various ad hoc public forums, and was not used to help resolve major industrial disputes such as the one in the hotel industry in 2003. In fact, the Government declared the hotel industry an essential service in order to end the industrial dispute.

As one observer has noted, "... in practice, the use of tripartite mechanisms is very much limited. Yet politicians are never tired of speaking the terms like dialogue, consensus, cooperation, participation and understanding. Why is this so? First, democracy arrived too late in Nepal and second, we are simply used to monologue, not dialogue".<sup>27</sup> Unfortunately, the unilateral approach to industrial relations reform suggested in the PRSP may further entrench these undesirable trends.

Even on issues that directly affect the welfare of union members and employers, dialogue is underdeveloped. For example, up until recently trade unions had never been invited to participate in the influential Privatization Committee, although on paper there is provision for union involvement and the employer association (FNCCI) regularly participates. The PRSP seeks to accelerate the privatization process. The document states: "As per liberal economic policy, the government will gradually reduce its role in economic

activities... such as investments in social and economic infrastructure and service delivery".

The PRSP goes on to cite the following sectors as ripe for privatization: "power, roads, communications and other infrastructure development".<sup>28</sup>

As mentioned previously, privatization of public enterprises has been on the agenda for some considerable time but has made little progress. It is claimed, by some, that one factor inhibiting privatization is trade union resistance. However, the unions dispute this assertion. They claim that they recognize the need for public enterprise reform and improved economic efficiency. In their opinion, a necessary first step is the introduction of professional management that can implement the necessary reforms, prepare for the possibility of privatization and avoid corruption. In fact, the unions claim that it is government officials who are reluctant to push through the plans for privatization. According to some senior union representatives, government officials exert control over access to jobs and promotion within state enterprises and refuse to give up this power of patronage.

Unfortunately, the PRSP and the staff review by the IFIs appear to have ignored the concerns expressed by the unions in respect of privatization. These documents contain no suggestion that transparent, systematic and specific consultations and negotiations between the administration and the social partners are being contemplated on either privatization or civil service reform. The failure to fully integrate the social partners into these reforms can only exacerbate the underlying political tensions in Nepal.

## Promoting cohesion

Nepal, despite vast potential, faces a precarious economic and political future. Poverty remains at extreme levels. Against this difficult background, an economic strategy has been formulated that is reasonably realistic and holds the promise of reducing rural poverty and removing at least some of the segmentation in this society. There is much to commend in the policy content and the process used to negotiate the Nepalese PRSP. For example, it is clear that the NPC are striving to make employment growth a central element of their economic strategy. They have incorporated many of the recommendations made by the ILO in respect of economic and employment policy into their PRSP.

On the other hand, it is evident that the fragile security situation and the highly unstable domestic political environment represent major challenges for the country. These risks are significant and should not be compounded. Given the challenges it currently faces, Nepal needs to have all key sections of society pulling together to give this economic strategy a chance of success. It can ill afford to alienate powerful political groups, like the trade union movement, through the unilateral implementation of unbalanced labour market reforms.

But structural changes and labour market reforms are definitely required to promote private sector investment and reduce decent work deficits. The ILO has made detailed proposals for a fair and transparent process to negotiate much-needed institutional and legislative changes to the industrial relations system in Nepal. Implementation of this comprehensive reform programme, in consultation with the social partners, would be the best way to promote a more cohesive society and limit the risks of what is otherwise a desirable economic strategy.

## Notes

<sup>1</sup> This paper greatly benefited from comments made by Duncan Campbell and Graham Buckley of the ILO.

<sup>2</sup> National Planning Commission – Government of Nepal: *The Tenth Plan (Poverty Reduction Strategy Paper)*, 2002-2007, May 2003.

<sup>3</sup> The PRSP is in fact presented as an executive summary of the Tenth Plan.

<sup>4</sup> International Development Association and International Monetary Fund: *Joint staff assessment of the poverty reduction strategy paper*, 24 October 2003, p. 2.

<sup>5</sup> *ibid.*, p. 11.

<sup>6</sup> *ibid.*, p. 11.

<sup>7</sup> *ibid.*, p. 12.

<sup>8</sup> *The Tenth Plan (Poverty Reduction Strategy Paper) 2002-2007*, Foreword.

<sup>9</sup> International Development Association and International Monetary Fund, *op. cit.*, p. 3.

<sup>10</sup> Internal ILO mission reports.

<sup>11</sup> ILO activities related to privatization have been limited to workshops conducted for the social partners and have taken place outside the PRSP context.

<sup>12</sup> ILO: *Decent Work for Poverty Reduction: An ILO contribution to the PRSP in Nepal*, 2002.

<sup>13</sup> Narayan Manandhar: *Labour Relations: Problems and Issues in Nepal*, July 2001, p. 60.

<sup>14</sup> GEFONT: *Trade unions in critical situation*, Nepal, 2003.

<sup>15</sup> The NTUC is linked to the Nepali Congress Party and GEFONT to the UML.

<sup>16</sup> DECONT was established after a split within the NTUC. DECONT and NTUC are associated with different factions of the Nepali Congress Party.

<sup>17</sup> Manandhar, *op. cit.*, p. 55.

<sup>18</sup> *ibid.*, p. 62.

<sup>19</sup> National Planning Commission, *op. cit.*, p. 49.

<sup>20</sup> *ibid.*, p. 17.

<sup>21</sup> IDA and IMF, *op. cit.*, p. 6.

<sup>22</sup> ILO, *op. cit.*

<sup>23</sup> *ibid.*, p. 14.

<sup>24</sup> Bishnu Rimal: *Trade Union Rights: Implementation of Labour Laws in Nepal*, GEFONT, 2001.

<sup>25</sup> ILO, *op. cit.*, pp. 23-28.

<sup>26</sup> IDA and IMF, *op. cit.*, p. 2.

<sup>27</sup> Manandhar, *op. cit.*, p. 87

<sup>28</sup> PRSP, p. 48.