## The Current Trade Union Situation in Nepal

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### Introduction

The population of Nepal is 23.2 million. The growth rate of the population is 2.27 percent. About 80 percent of the Nepalese work in agriculture, where growth depends on the vagaries of monsoon. The GDP growth rate of 3.1 percent roughly balances the population growth rate. The life expectancy is 59.7 years. Illiteracy and poverty rates are high--GNP per capita income is US \$ 249. About 60 percent of its development budget comes through foreign aid. Adult literacy constitutes around 57.6 percent. Nearly half of the population is below the poverty line living on a dollar or less a day. About 54 percent of Nepal's population constitutes the labor force (aged between 15-64 years). Every year three hundred thousand persons enter into the labor market in Nepal. Five percent of the population is totally unemployed while the under-employment ratio is 45 percent. 41 percent of children aged 5-14 are economically active. Higher unemployment, lower paid jobs and unfavorable working conditions badly affect the workers. (for development indicators see, APPENDIX-1)

Due to the decline of employment conditions in the country, there is an increasing trend toward the migration of Nepalese workers abroad. The Labor Department reveals that 242,005 Nepalese workers are employed in 48 countries, the bulk of them in the Gulf region, Japan, East Asia, Southeast Asia, Europe and America. Nearly half of them (104,039) migrated just last year after the declaration of the state of emergency in the country on November 26, 2001. Two hundred thousand Nepalese workers have applied for jobs abroad. In India alone, there are over 115,000 Nepalese ex-servicemen getting pensions and almost same number is serving in the Indian army. Due to the open border, seasonal migration of Nepalese workers in India and Indians in Nepal is enormous. The share of workers' remittances in the Nepalese GDP is about 9 percent. Growing regional inequality, economic stagnation and political instability at the national level easily fractured the country's security. The flow of capital, commodities and entrepreneurs from the periphery to the center, Kathmandu, left behind tattered social fabrics and a crumbling local economy. Both the agricultural and industrial growth rates in Nepal hover around 3 percent. The industrial sector is import substituting except in the case of the carpet and garment sectors. Both the sectors have shown a sign of decay since 1995--carpet due to negative advertisement of the use of child labor in Germany and garment due to gradual phasing out of quota under the WTO regime. Reduced trade barriers have allowed foreign goods to enter the country freely and at lower tariffs, applying pressures on native industries.

Until 2001, Nepal's foreign investment portfolio included 554 enterprises worth Rs.65.94 billion, 23 percent of which is provided by foreign capital. Liberalization provided favorable ground for financial sector growth. Aside from the National Bank of Nepal and the Nepal Commercial Bank, liberal economic policies helped to establish 15 commercial banks, 8 development banks, 5 regional rural banks, 1 postal saving bank, 48 financial companies, 30 micro-credit banks and 39 NGOs involved in small scale credits. Most of these services are confined to urban nodes and are beyond the access of

the needy poor.

Reckless privatization of state-owned industries (out of 60 state-owned public sector industries, 17 industries have already been privatized and 8 industries are on pipeline for privatization), collapse of industrial enterprises (2 public industries are already liquidated), violent conflicts and lack of opportunities in Nepal have been propelling the workers to migrate abroad for livelihood security. During 2001-2002 alone 679 enterprises have collapsed having a negative impact on the job market of the

country. The vehicles of the Structural Adjustment Program (SAP)--privatization, denationalization, deregulation and globalization--vigorously adopted since 1992 caused a sharp decline of enterprises, erosion of household economies, increasing loss of jobs and, consequently, weakened the collective bargaining capacity of workers. The use of neo-liberal policies for subordinating the state to market forces has made Nepal largely a *subsidiary state* where poor subsidizes the rich, the periphery the core and the rural the urban areas.

### **Strength of Trade Union Federations**

Restoration of multi-party democracy in Nepal in 1990 opened the space for civil society organizations including trade unions. Registration of trade unions started in 1993. The Trade Union Act of 1992 makes the registration and renewal of trade unions in every two years mandatory. The period between 1993 to 1999 can be called a "conducive" period for union activism while the period between 2000-2002 can be regarded as a bad period. Violent Maoist conflicts, closing of many enterprises, the successive government's bias towards the capital, declaration of the state of emergency and suspension of civil rights (also workers' rights) can be attributed to the decline of the trade union movement in Nepal.

The registration of trade union federation is based on the legitimate membership patterns of member unions under Trade Union Act. The recognition of all three national federations--Nepal Trade Union Congress (NTUC), General Federation of Nepalese Trade Unions (GEFONT) and Democratic Confederation of Nepalese Trade Unions (DECONT)--will remain until 2003.

NTUC claims that it has 192,000 members. GEFONT affirms that it has 500,000 members and DECONT claims that it has 239,000 members. But, the fee-paying members are less than stipulated. The Department of Labor also reveals that only half a million workers are unionized, 100,000 in the agriculture sector and 400,000 in the industrial sector, the bulk of those organized are concentrated in the construction and transportation sectors. NTUC and GEFONT's strength lies in the organized sector while DECONT's strength lies in unorganized sector. (see APPENDIX-2)

**Registration and the Type of Membership of Trade Unions**: the Trade Union Act of 1992 has underlined four criteria for the registration of Trade Union Association:

- 1. At least 50 Enterprise Level Trade Unions can form a national Trade Union Association by Mutual Agreement (Clause 4(1) of Trade Union Act).
- 2. 5,000 workers from a similar nature of Enterprise can also form a trade union (Clause 4 (1) of Trade Union Act).
- 3. In the case of the agriculture sector, 5,000 workers can form a union by mutual agreement but the union must have a representation from at least 20 districts and a minimum of 100 workers' representation from one district (Clause 4 (1) of Trade Union Act).
- 4. Those working in the informal sector and the self-employed can also form a union if they have at least 500 members working in the same nature of occupation (Clause 4 (2) of Trade Union Act).

In the Department of Labor 85 national level Trade Unions are registered. Out of them only 57 are "active." In this figure, the share of GEFONT is 15, NTUC 17, DECONT 14 and those unaffiliated to any federation is 11. Out of 15 trade unions affiliated to GEFONT 7 trade unions are registered under the Clause 4 (1) of Trade Union Act having more than 50 enterprise level unions, 2 trade union associations have been registered under the more than five thousand individual membership, 1 agricultural workers' union and 5 unions are registered under Clause 4 (2) of Trade Union Act.

Out of 17 trade unions affiliated with NTUC 3 unions are registered under the Clause 4 (1) having more than 50 unions at enterprise level, 4 union are registered under Clause 4 (1) of Trade Union Act with 5,000 individual membership, and 10 unions are registered under Clause 4 (2) of Trade Union Act.

None of DECONT affiliated unions are registered with 50 or more enterprise level unions. Its 7 unions are registered with 5,000 members each, 1 agricultural workers' union with 5000 members and rest of its unions are registered under Clause 4 (2) of the Trade Union Act having each union 500 individual members.

Though the legal status of the central level unions formed on individual membership basis is equal to the central federation of enterprise level unions, at the local level they are not effective in collective bargaining, since they do not participate in industrial relations committee, become authoritative through election, run public welfare fund and engage in day to day problems of workers. This implies that in Nepal's labor market out of existing 57 active trade unions it is only GEFONT's 7 and NTUC's 3 unions organized at the enterprise level which have the real capacity to empower the unions in the organized sector. Unaffiliated unions have their own independent role. It is not clear whether there is a decline of members in unions formed by individuals. Industrial decay throughout the nation indicates that there is a corresponding decline in the number of such unions.

The survival of the Nepal Hotel Workers' Union of NTUC is in danger. In the days ahead the Nepal Independent Workers' Union and Nepal Independent Food and Beverage Worker's Union of GEFONT and Nepal Hotel Workers' Union of NTUC might suffer the same fate if they do not have fifty union membership. This implies that the unions affiliated with GEFONT have an important role in collective bargaining. Evidently, no matter how many numbers they have in the trade union federation registered under Clause 4(2) of Trade Union Act they are counted only as four unions.

Twenty-three national level unions relating to brick, wood, barber, restaurants, garment, health workers, leather shoe, commercial artist, workshop, etc affiliated with different federations and others' registration at the Labor Department were cancelled recently due to a lack of requisite members.

### Promulgation and Implementation of Labor Laws in Nepal

After the promulgation of the Constitution of the Kingdom of Nepal in 1990, many progressive acts are formulated to promote labor welfare, such as

- Labor Act 1992 (amended in 1998),
- Child Labor Act 1992,
- Transportation and Vehicles Management Act 1993,
- Tea Plantation Workers' Regulation, 1993
- Foreign Employment Act 1985 (revised in 1993)
- Trade Union Act 1993 (amended in 1999),
- Working Journalist Act 1994,
- Labor Court Regulation Act 1995,
- Establishment of a Labor Court 1996,
- Formation of a Central Labor Advisory Board 1998
- Child Labor (Prohibition and Regulation) Act 1999
- Revision of Bonus Act, 1973 in 2000, and
- Creation of National Welfare Fund 2000

Nepal also endorsed 9 conventions passed by International Labor Organization (ILO), such as

- Weekly Rest in Industrial Enterprise Convention, 1921 (No. 14).
- Forced Labor Convention, 1930 (No. 29).
- Right to Organize and Collective Bargaining Convention, 1949 (No. 98).
- Equal Remuneration Convention, 1951(No. 100)
- Discrimination (Employment and Occupation) Convention, 1958 (No.111).
- Determination of Minimum Wage Convention, 1970 (No. 131).
- Minimum Age Convention, 1973 (No.138).
- Tripartite Consultation (International Labor Standards) Convention, 1976 (No. 144).
- Worst Forms of Child Labor Convention, 1999 (No. 182).

### **Minimum Wage Structure**

In Nepal, minimum wages for workers per month have been classified into four categories:

- a) unskilled workers US \$ 27.00
- b) semi-skilled workers \$27.76
- c) skilled workers \$31.61
- d) highly skilled workers\$33.00

The minimum wage structure is unable to meet even the basic needs of workers and their families where the average family ratio is 4.5 members. Trade Unions are, therefore, demanding a rise in minimum wage conditions and its effective implementation so that it can meet the basic needs of workers. In informal sectors, there is the problem in the implementation of this wage structure. Due to the lack of adequate resources and proper institutional mechanism many of these labor standards have become *non-actionable and non-justiceable*. The government also violates these standards. There are several examples:

- In 2001 the government banned the Independent Hotel Workers Union's strike on March 19, 2001. The hotel workers had gone on strike demanding a ten per cent service charge in the hotel sector which was suppressed by imposing the Essential Service Act 1957. The Joint Struggle Committee had filed a case at the Supreme Court against the government's move to ban the hotel workers from going on strike. ILO in a letter sent to the government has requested it to lift the ban and has said the hotel workers have the right to go on strike.
- Trade unions also resisted the former premier Sher B. Deuba's efforts to bring flexible labor laws by giving the right to "hire and fire" to employers contrary to labor laws.
- The verdict of the Supreme Court on July 26, 2002 also went contrary to the government's decision to relax labor laws. The Court has instructed the government to initiate necessary steps towards reviewing provisions in the treaty and the Labor Act to issue work permits for foreigners.
- The parliament has even passed the International Financial Center Bill in 1998 that contravenes the Nepalese people's right to work, right to information and citizenship rights.
- A Labor Force conducted in 1998-1999 unveils that about 41 percent of the total 4.9 million children aged between 5 to 14 years are child labor involved in agriculture

and even in worst forms of child labor practices, such as rag-pickers, carpet workers, mines workers, porters, bonded labor and child trafficking. About 12,000 girls are trafficked each year. Child labor practices continue due to the laxity in the implementation of Child Labor Act 1999.

GEFONT conducted a survey research in 2001 in 750 enterprises (textile, garment, jute, spinning mills, tea plantation, printing press, carpet, cement, chemical iron, food and beverage, hotel, construction, transportation, agriculture, etc) to test the "effective implementation of labor laws" since the enactment of the Labor Act of 1992.

- On recruitment process, for example, regarding the granting of appointment letters, making permanent after working 240 days, an advertisement for recruitment and employment on contract basis on permanent jobs, the survey result reveals that only 38 percent of enterprises provide appointment letters to their workers, 20 percent made workers permanent after the stipulated days of work, 11 percent did advertise before recruiting workers and 40 percent did not employ workers in contract in permanent nature of works.
- On working hours and facilities, for example, the survey shows that 63 percent of enterprises did have fixed working hours (8 hours a day), only 44 percent of them paid for overtime work, and 42 percent of them implemented minimum wage.
- On **provision of leaves**, such as, weekly rest, public holiday, compassionate leave, house leave, sick leave, and maternity leave the survey result shows that 64 percent of enterprises provides weekly leave, very few of them provide 45-day maternity leave, 55 percent provides both public holidays and compassionate leave and 50 percent provides house leaves.
- On **trade union rights**, 40 percent of the enterprises accepts the charter of demands, in 42 percent of the enterprises management discusses about the collective bargaining process and in 64 percent of enterprises, collective agreements and decisions made by the government are not implemented. Thirty-seven percent of enterprises has tried to harass the establishment of unions while 35 percent of enterprises frequently harass the workers involved in union activities.
- On occupational safety and health 62 percent of enterprises has treatment facilities during accident and injury, 15 percent of enterprises has compensation during sickness, 15 percent has health check-up facilities, 22 percent has accident insurance and 23 percent has treatment facilities.
- On the worker-management relationship and regulation, 24 percent of the enterprises has their own regulations and 7 percent has constituted labor relations committee according to Labor Act 1992. Most of the organized sectors have their own regulation and labor relation committee in each enterprise to settle industrial disputes.

In 1999, the Industrial Relations Forum conducted a study on labor disputes. Based on 150 cases sampled from the court, it is found that over 56 percent of the cases was related to employee's dismissals while another 23 percent was related to remuneration. On average it took nine month to settle the case. These findings vividly indicate that violations of labor rights are frequent. The carpet sector is a major one which does not maintain even minimum norms and labor standards. There is an increasing trend of recruiting workers on a casual and contract basis, the agricultural and construction sectors host a big number of guest workers and the majority of the enterprises are not prepared to operate the labor relation committee. The bulk of enterprises ignores occupational health and safety measures. Trade unions claim that Labor Departments are often biased in tripartite negotiations, influenced by the government in power and suffer from inadequate personnel, legal jurisdiction and government's neglect. Yet, compared

to the trade unions, the employer's council Federation of Nepalese Chambers of Commerce and Industry (FNCCI) is very much institutionalized and is backed by research and development, specialized departments, government's backing and international support. To solve some of the problems underlined above, Nepalese trade unions are demanding a Code of Ethics for Business Communities and MNCs and a legislation for ethical business practices.

### The situation of trade unions since June 2002

After the declaration of the state of emergency in November 2001, the law and order situation of the country sharply deteriorated, causing the shutdown of industries and business and, consequently, accelerating the process of layoffs of workers. This process has badly affected enterprise level trade unions. Trade Union Acts require compulsory renewal of all the enterprise level registered trade unions in every two years. Those duly renewed and registered ones are called "active unions." Based on the data provided by 10 Labor Departments of the country until June 2002, the analysis below explains the situation of trade unions in Nepal.

The year 1999 can be regarded as the most favorable period for union registration. The year 2000 marks a declining trend owing to the growth of Maoist attacks on industries and the closing of many ailing factories by the government. This brings the union registration trend back to 1993, pointing a disturbing trend in Nepal's labor market. Owing to a lack of a systematic record-keeping system about the renewal and registration system in the Labor Department, it is very difficult to present an accurate picture. Official records show that there were 1,491 enterprise level unions until June 2002. Out of those the registration of 731 unions has been abrogated. All the federations are badly affected in terms of cancellation of the registration of unions.

The Labor Court has announced the cancellation of registration of five trade unions, which were registered with fake names and signatures. They are:

- Nepal National Independent Shopkeepers Workers' Union
- Nepal National Independent Grill Workers' Union
- Nepal Electric, Electronics Technicians' Union
- Nepal Independent Trekking Workers' Association
- Nepal Independent Construction Workers' Organization

### **General Focus of Trade Union Activities**

- a. Trade Union education/ training/ workshop/exposure
- b. Networking/solidarity building
- c. Democratization of Workplace
- d. Policy Intervention at various levels
- e. Occupational Health and Safety measures
- f. Social security
- g. Elimination of child labor/ bonded labor/ forced labor and caste discrimination over Dalit community
- h. Campaign and education on gender equality at workplace
- i. Collective bargaining agreements
- j. Lobbying and collective action

#### **Joint Initiatives of Trade Union Federations**

- a. Dialogue between NTUC and GEFONT for creating a joint high-level national confederation. A high-level task force has been formed for this. They have agreed to work jointly, at least for one year, on the following issues:
  - Full implementation of Labor Act
  - Authentic membership verification process
  - Working unity among affiliated federations
  - Addressing terrorism and its impact on workers, and
  - Occupational Health and Safety
- b. All three unions (NTUC, GEFONT and DECONT) are involved in the Poverty Reduction Strategy Paper (PRSP)
- c. A Trade Union Committee for Gender Equality and Promotion (TUCGEP) secretariat has been created in 2000 on gender issues. Chiefs of women departments, women leaders and executive level male counterparts of all trade union federations man it.
- d. Under the initiative of IFBWW, there is a joint committee of GEFONT, NTUC and DECONT in the construction, wood and building sectors.
- e. Under the ICEM initiative a national steering committee has been established for the Chemical, Iron and Energy Sector of NTUC, GEFONT and independent unions.
- f. NTUC and GEFONT affiliates at hotel and catering sectors have constituted a Joint Struggle Committee.
- g. On Foreign Employment and Migrant Workers all the federations have established a common position.
- h. On the revision and promotion of Minimum Wages all the federations have established a common position
- i. All the federations consult among themselves regarding their representation in ILO, the government, and even MNCs.
- j. A Social Security Bill has been tabled by the NTUC in the parliament, that has been supported by all federations.

### Role of the FES in Strengthening the Trade Union Movement in Nepal

The FES Nepal Office is cooperating with its TU partners to achieve the following objectives:

- 1. Professionalization of Trade Unions
- 2. Improving knowledge, skills and information among trade unions and assist them in building solidarity

To meet these broad objectives, the following activities have been carried out:

- Preparation of training manuals on Information Handling, Documentation and Union Office Management.
- Material support in the forms of journals and books.
- Trainers' Handbook on Trade Union Organization, Trade Union Rights and Collective Bargaining
- Financial support to invite technical experts related to Trade Union education.
- Training on the issues of collective bargaining, co-determination, labor economics, health and safety for the workers, trade union rights and responsibilities and status of informal sector workers in Nepal

- Seminars and research publication on labor legislation, strengthening union capacity through membership drives, organizing female workers through union campaigning, leadership empowerment, the impact of structural adjustment and globalization on the workers, women in garment industries.
- Facilitation of international and regional exposure of trade union leaders and workers through participation in international seminars, workshops and training programs.
- Providing scope for the unions and their leaders to share experiences and conduct joint national and regional programs with International Trade Secretariats such as: International Transport Workers Federation (ITF); International Federation of Metal Workers (IMF); Union Network International: Asia-Pacific (UNI-APRO); International Federation of Chemical, Energy, Mine and General Workers Union (ICEM); International Federation of Building and Wood Workers Union (IFBWW); Asian and Pacific Regional Organization of the International Federation of Commercial, Clerical, Professional and Technical Employees (APRO-FIET); Public Service International (PSI); International Federation of Journalists (IFJ); Education International (EI); International Labor Organization (ILO); International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Association (IUF); Postal, Telegraph and Telecommunication International (PTTI); International Confederation of Free Trade Unions: Asian-Pacific Regional Organizations (ICFTU-APRO); and FESorganized regional and international conferences, including the extension of cooperation to South Asian Trade Union Council (SAARTUC).
- Translation and publication of various trade union educational materials into simple Nepali language and dissemination of those materials to the national and district offices of the unions. Besides these three federations, other smaller trade unions have also benefited from these publications.

# APPENDIX 1

### **Key Development Indicators**

Indicators	Value	Year
Population size (m)	23.2	2002
Population Growth Rate%	2.27	2002
Population as % of labor force (aged between 15 to 64 years)	54	2002
Life Expectancy at Birth (yrs)	59.7	2002
GNP per capita (US \$)	249	2002
Human Development Index (value)	0.466	2000
Human Development Index (rank)	129.0	1999
Percentage of Population below national poverty line	38.0	2000
Total outstanding loans as % of GDP	64.6	1999

Prevalence of HIV/AIDS in Adult population aged 15-49 years (%)	0.29	1999
Population without access to drinking water supply	20.01	2001
Percentage of Underweight under-five children	48.3	2000
Adult Literacy Rate (%)	57.6	2000
Net Enrolment rate in primary education (%)	72.1	1999
Ratio of girls to boys in primary education (%)	74.0	1999
Under five mortality rate (per 1,000 live births)	91.0	2001
Maternal Mortality Rate (per 100,000 live births)	539.0	1996
Percentage of population relying on traditional fuels for energy use	92.0	1995

## APPENDIX 2

# **National Unions of Nepal**

### **NTUC-Affiliated National Unions**

No	Name of Union	Type of Me	f Membership	
		Enterprise	Individual	
1	Nepal Factory Labor Congress	50		
2	Nepal Carpet Workers' Union	50		
3	Nepal Tourism and Hotel Workers Union	50		
4	Nepal Transport Workers Union		5105	
5	Financial Employees Union of Nepal		6360	
6	Nepal Tea Garden Workers' Union		5100	
7	Nepal Press Union		277	
8	Nepal Inter-Corporation Employees Union		7185	
9	Nepal Electric Workers Union		538	
10	Nepal Wood Workers Union		567	
11	Nepal National Barbers Union		540	
12	Nepal Leather and Leather Shoe Workers Union		544	
13	Nepal Shop Workers' Union		568	
14	Nepal Small Hotels & Restaurant Workers' Union		525	
15	Nepal Building & Construction Workers Union		637	
16	Nepal Rikshaw Drivers Union		772	
17	Nepal Embroidery Workers Union		298	

## **GEFONT-Affiliated National Unions**

No.	Name of Union	Type of Membership	
		Enterprise	Individual
1	Nepal Independent Workers Union	50	
2	Independent Textile-Garment Workers Union of Nepal	50	

3	Independent Transport Workers Association of Nepal		8662
4	Nepal Independent Carpet Workers Union	50	
5	Nepal Independent Hotel Workers Union	50	
6	Union of Trekking, Travels Rafting Workers-Nepal	50	
7	Independent Tea Plantation Workers Union of Nepal		5416
8	Independent Press Workers Union of Nepal		519
9	Nepal Auto-Mechanics Trade Union		549
10	Central Union of Painters, Plumbers, Electro- and		1485
	Construction Workers- Nepal		
11	Independent Garbage Cleaners' Union of Nepal		820
12	Nepal Rikshaw-Pullers Union		9897
13	Nepal Independent Food and Beverage Workers Union	50	
14	Nepal Independent Chemical & Iron Workers Union	50	
15	Federation of Agricultural Workers-Nepal		35387

## **DECONT-Affiliated National Unions**

No.	Name of Union	Type of Membership	
		Enterprise	Individual
1	Construction and Allied Workers Union of Nepal		7777
2	Nepal Custom and Airport Workers Union		502
3	Nepal Film Workers Union		511
4	Garment Workers' Union of Nepal		5700
5	Nepal Painter, Plumber & Wiring Workers Union		486
6	Nepal Transport Workers Union		5348
7	Readymade Garment Workers Union of Nepal		5773
8	Nepal Small Hotel and Restaurant Workers Union		5235
9	Nepal Building Construction Workers Union		259
10	Agricultural Workers Union of Nepal		9064
11	Commercial Sector Workers Union		2500
12	Rikshaw and Cart-Pullers Union		1200
13	Nepal Hotel Workers Union		7200
14	Barbers Union of Nepal		7085

## Other National Unions

No.	Name of Union	Type of Membership	
1	Inter-Corporation Banking Workers Union	6115	
2	Inter-Corporation Employees Union	7436	
3	All Nepal Construction Workers' Union	242	
4	All Nepal Rikshaw-Pullers' Union	253	
5	All Nepal Thanka Art Workers Union	573	
6	All Nepal Taxi-Drivers' Union	525	
7	Nepal Wood Workers Union		
8	National Independent Rikshow-Pullers' Union of Nepal		
9	Independent Carriers/Loaders Union of Nepal		

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