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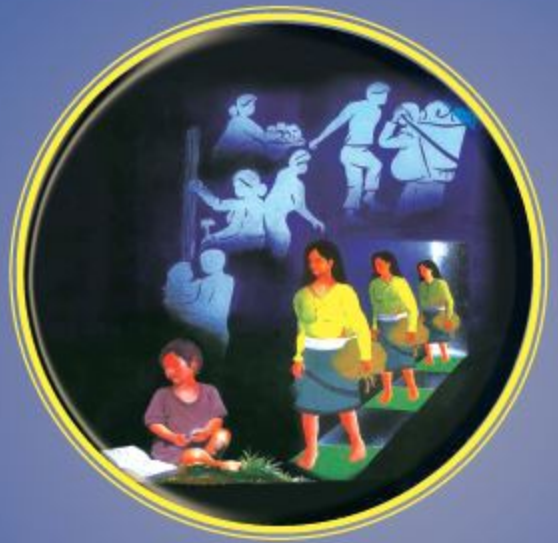
TRAFFICKING IN PERSONS IN NEPAL NATIONAL REPORT

# TRAFFICKING IN PERSONS IN NEPAL

## NATIONAL REPORT



**National Human Rights Commission**
**Office of the Special Rapporteur on Trafficking in Persons (OSRT)**
Harihar Bhawan, Pulchowk
Lalitapur, Nepal
September, 2018

# TRAFFICKING IN PERSONS IN NEPAL

## NATIONAL REPORT

**National Human Rights Commission (NHRC)**
Office of the Special Rapporteur on Trafficking in Persons (OSRT)
Harihar Bhawan, Pulchowk
Lalitapur, Nepal

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# Foreword

Human Trafficking is one of the oldest, immoral, sinful and serious crime and human rights violation. It has been continuously committed from ancient period to till now. It was started from slavery system in the world, but the purpose and *modus operendi* of it has been changed with changing of political, social and economic structure and the development of transportation and communication. In previous days, it had been committed only for servants, dancer, and sexual exploitation, but, nowadays, it is committed for sexual exploitation, prostitution, sex tourism, pedophilia, child marriage, force marriage, domestic servant, bound labor, circus worker, removal of organs etc. It is violation of the right to liberty, freedom and security of a person as well as it is crime against the humanity, society and it is also against the whole human civilization.

Many years of tireless efforts to create laws, policies, and programs to prevent trafficking could not reach the international consensus on the definition of trafficking. But at least there is increasing recognition of trafficking as a process of recruitment (involving coercion and/or deception), transport, and labor exploitation. Traditionally, trafficking in persons in Nepal started with female sexual exploitation in Indian brothels. Trafficking was taken narrowly as a form of violence against women because it put women at special risk of violence and abuse. While this problem still exists and often overshadows other forms of exploitation, a significant paradigm shift in human trafficking patterns has occurred in recent years in the country. The modern trend of foreign labor migration has resulted in a rise in the exploitation of Nepali migrant men as well as women abroad.

Cases of human trafficking in Nepal occur in many areas like: entertainment, hospitality, brick kiln, and garment industries, in agricultural and domestic work, street begging, and transplantation of organs. Human trafficking remains the most profitable illegal tread. Annually women and children are trafficked across international border and trafficked within country. Number of factors and reasons increase vulnerability or be the root cause of trafficking. It is essential to identify the causes of trafficking or the factors that make people vulnerable. These factors are poverty, unemployment, lack of means of livelihoods and landlessness, illiteracy, lack of awareness, globalization, and migration.

The Convention on the Elimination of All Forms of Discrimination against Women requires States to take all appropriate measures to suppress all forms of trafficking in women. Nepal has promulgated many laws to combat trafficking and transportation. Nepal has ratified many human rights treaties and conventions including ILO conventions and four international humanitarian laws as of April 2009. Nepal is a party to three anti trafficking conventions: the 1926 Slavery Convention, the 1956 Supplementary Convention on the Abolition of Slavery, and the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. In 2002, the government signed but has yet to ratify the UN Convention against Transnational Organized Crime. Similarly, Nepal has not ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children ("Palermo Protocol"). NHRC has been recommending for its ratification. While the international norms are clear, gaps still exist in the implementation.

It is still to be address the issues of prevention of human trafficking such as witness

protection, repatriation of victims, and immigration status of foreign victims in Nepal, international counter-human trafficking cooperation, and border measures. The issue of TIP is needed to be prioritized by each of concerned agencies focusing on human rights based approach. Similarly, the Government of Nepal and other agencies need to focus to achieve targets in line with the Sustainable Development Goals. The collaborative efforts of state agencies, non-governmental organizations, development partners, and media are essential to combat human trafficking. As Nepal has entered into federal structure and has power and authority to local governments. The role of local governments is important to make an effective program, plan and policy. The Government of Nepal has also seriously taken the NHRCN recommendations on prevention and combating TIP as the Prime Minister's office ordered the concerned Ministries for implementation.

I thank the member of NHRCN, Ms. Mohna Ansari for her tireless efforts to prepare this report. Similarly, I also appreciate the effort of the report writing team including Mr. Kamal Thapa Kshetri and Ms. Yeshoda Banjade for their contribution in content designing, information collection, coordination, and communication with relevant stakeholders. The expert, Dr, Govind Subedi, deserves special thanks for his contribution in preparing this report. I thank all the NHRC staffs for their active coordination in the field. Finally, I thank all the Key stakeholders who provided information and suggestions to prepare this report.

Finally, I am hopeful that the findings of this report will be significant to combat TIP and effectively implement anti-trafficking initiatives and to improve human rights issues in Nepal.

Anup Raj Sharma
Chairperson
National Human Rights Commission,
Nepal

# Preface

Human trafficking is Global threat to fundamental Human Rights. Human Trafficking is growing so quickly because there is a huge profit margin. "You can sell a bag of drugs once, but you can sell a person can sell a person multiple times." The root cause of slavery is lack of economic opportunity and that is compounded by social failures. "We hear a lot about what is pulling peoples into Trafficking situations; It's almost always in international setting, a lack of economic opportunity."

Trafficking in persons is considered one of the gravest crimes in Nepal. In ancient time in Nepal human trafficking was in the form of *kamara kamari*, *Das Dasi and human* being were like a commodity they were sale and purchase.

But in recent years Nepali men, women and children who are subjected to forced labor and sex trafficking and human organ trafficking also. Nepali migrants are smuggled to developed countries. Human trafficking of women are growing to South Asian, Middle East and African countries also besides India.

Fake marriage, pretending to a tour and pretending to visit relatives are also the modus operandi of trafficking of girls and women to India and oversea. Trafficking takes place in a network chain and it is an organized crime. The group comprised of two persons, three persons, four persons and five and more person. There is specific role of the traffickers in the trafficking chain.

Broadly, cross-border trafficking (to India), oversee trafficking (beyond India) and internal trafficking has been found in Nepal. Trafficking of girls/women to India today takes place for prostitution, dance in orchestra, circus performance and even for marriage. Trafficking of persons to oversee is mainly for the labor exploitation but it has also turned to be sexual exploitation in night clubs, dance bars and hotels and other entertainment sectors.

Internal trafficking takes place for both labor exploitation and sexual exploitation. Trafficking victims often are taken to locations within Nepal, often from rural areas to the urban centers. Mainly girls and women are trafficked for sexual and labor exploitation in places such as cabin/dance restaurants, massage parlors, and other places within tourism sector.

And most victims were lured with promises of better jobs in areas such as India, Dubai, or Saudi Arabia. Trafficking of girls/women for dance, performing erotic performances, involvement in production of pornography in night clubs and other so called entertainment sectors in African countries like Kenya, Tanzania and South Africa is also reported. Smuggling of MWs to USA using illegal route via a number of countries has emerged a very profitable business for the traffickers. Further, trafficking in the name of performing cultural programs, study, family visits, medical treatment are also the emerging dynamics of trafficking phenomenon in Nepal.

The majority of trafficking victims are women and girls, who are especially vulnerable due to limited economic opportunities, illiteracy or low education, and low socio economic. Women and girls are also more vulnerable to trafficking if they are involved in marginalized livelihoods, deserted by their husbands or families, victims of abuse and violence, and those from disadvantaged communities and extremely poor families.

This National Report on *Trafficking in Persons in Nepal* is a continuation of previous National Reports published by NHRC. This Report mainly focuses on situation of trafficking in persons in Nepal with especial reference to both cross-borders trafficking and internal trafficking. It examines the nexuses between migration for foreign employment and trafficking; monitors the counter-trafficking initiatives and law enforcement status and judicial responses to trafficking. It further goes on assessing the implementation status of the NHRC recommendations related to prevention and combating.

The Report has been prepared by the report writing team under my close supervision. I would like to extend thanks to Mr. Bed Prasad Bhattarai, Secretary for entire administrative arrangement. The efforts of staff of NHRC office Biratnagar and Janakpur for monitoring in bordering district of India . Mr.Kamal Thapa Kshetri and Yeshoda Banjade Human Rights Officers make efforts towards the preparation of report in this shape. The consultant Dr. Govind Subedi deserves special thanks for making efforts to prepare the reports. I would like to thanks all the concern ministry, department, offices for providing the information. Similarly, I would like to thanks all the Non Governmental Organization for providing information, comments and suggestion to the report.

I believe that the Report will serve as a fact based reference to those working for combating trafficking at national and also at international level. Since this report mainly reveals the implementation status and its challenges in the effort in combating TIP, it will support the policy makers, legislative body and general public to take effective steps for strengthening impact based progress in planning, implementation and monitoring of the policies and acts. The Report may have errors but the suggestions from the distinguished readers will through light for its further improvement.

**Mohna Ansari**
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# Acronyms and Abbreviations

| | |
|---|---|
| AATWIN | Alliance against Trafficking in Women and Children in Nepal |
| CAP Nepal | Center for Awareness Promotion Nepal |
| CBO | Community Based Organization |
| CBS | Central Bureau of Statistics |
| CCWB | Central Child Welfare Board |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CRC | Child Rights Convention |
| CTIP | Combating Trafficking in Persons Project |
| CWIN | Child Workers Concerned Center in Nepal |
| DCCHT | District Committee on Controlling Human Trafficking |
| DoFE | Department of Foreign Employment |
| FEPB | Foreign Employment Promotion Board |
| FWLD | Forum for Women, Law and Development |
| FY | Fiscal Year |
| GBV | Gender based Violence |
| GCC | Gulf Cooperation Council Countries |
| GDP | Gross Domestic Product |
| GO | Governmental Organization |
| GoN | Government of Nepal |
| I/NGO | International Non-Governmental Organization |
| IEC | Information, Education and Communication |
| ILO | International Labor Organization |
| INSEC | Informal Sector Service Center |
| IOM | International Organization for Migration |
| KI Nepal | Kingdom Investment Nepal |
| MoE | Ministry of Education |
| MoFA | Ministry of Foreign Affairs |
| MoHA | Ministry of Home Affairs |
| MoLESS | Ministry of Labor, Employment and Social Security |
| MoPH | Ministry of Population and Health |
| MoU | Memorandum of Understanding |
| MoWCSW | Ministry of Women, Children and Social Welfare |

| | |
|---|---|
| MoWCSC | Ministry of Women, Children and Senior Citizens |
| NCCHT | National Committee on Combating Human Trafficking |
| NGO | Non-Governmental Organization |
| NHRC | National Human Rights Commission of Nepal |
| NJA | National Judiciary Academy |
| NPA | National Plan of Action |
| NRNA | Non-Residence Nepali Association |
| OAG | Office of the Attorney General |
| OSRT | Office of the Special Rapporteur on Trafficking, NHRC |
| PAF | Poverty Alleviation Fund |
| PNCC | Prawasi Nepali Coordination Committee |
| PPR Nepal | Forum for Protection of People's Rights Nepal |
| SAMI | Safe Migration Initatives |
| TIA | Tribhuvan International Airport, Kathmandu |
| TIP | Trafficking in Persons |
| UAE | United Arab Emirates |
| UN | United Nations |
| UNHCR | UN High Commissioner for Human Rights |
| UNICEF | United Nations Children's Fund |
| UNODC | United Nations Office on Drugs and Crime |
| USA | United States of America |
| VAW | Violence against Women |
| VDC | Village Development Committee |
| WCSC/D | Women and Children Service Center/Directorate, Nepal Police |
| WL | Watch List |
| WMWs | Woman Migrant Workers |
| WOREC Nepal | Women's Rehabilitation Center |
| WOFOWON | Women Forum for Women in Nepal |

# Tables of Contents


**Executive Summary** **XIII**

**Chapter 1** **1**
**Introduction** **1**
1.1 The Context 1
1.2 Objectives 2
1.3 Definition of Trafficking in Person 3
1.4 Data and Methods 4
1.5 Meeting the Targets of SDGs and Elimination of Trafficking in Persons 7
1.6 Limitation 8
1.7 Organization of this National Report 8

**Chapter 2** **9**
**Situation of Trafficking in Persons** **9**
2.1 Magnitude of Trafficking in Persons 9
2.2 Media Coverage on Trafficking to India 17
2.3 Child Trafficking 18
2.3.1 Vulnerability of Trafficking: Violation of Human Rights Violation of Children 18
2.3.2 Vulnerability of Trafficking: Missing Children and Women 19
2.3.3 Vulnerability of Trafficking: Online Sexual Exploitation of Children 23
2.3.4 Vulnerability of Trafficking: Children in Brick Kilns 24
2.3.5 Vulnerability of Trafficking: Inter-Country Adoption 25
2.4 Assessing the Trafficking Situation: Cases of Some Selected Districts 25
2.5 Assessing the Trafficking Situation: Cases Investigated by Metropolitan Police Crime Division Kathmandu 31
2.6 Trafficking of Human Organs 34
2.7 Entertainment Sector, Sexual Exploitation and Trafficking 35
2.8 Nepali Migration to Korea and Nexus of Trafficking 39
2.9 Human Smuggling to USA 40
2.10 Education Consultancies and Human Smuggling 41
2.11 Nepal as a Transit Country 41

**Chapter 3** **43**
**Migration for Foreign Employment and Nexus of Trafficking in Persons** **43**
3.1 Magnitude of Migration for Foreign Employment 43
3.1.1 Origin of Migrant Workers for Foreign Employment 44
3.1.2 Destination Countries 46
3.2 Process of Migration for Foreign Employment 48
3.2.1 Mode of Migration 48
3.2.2 Migration Planning among Prospective Female Migrants 51
3.2.3 Ban on Sending Domestic Workers and Its Adverse Impact 53
3.3 Violence against Migrant Workers and Linkage to Trafficking 54
3.3.1 Media Coverage on Deportation of Migrant Workers 54
3.3.2 Rescue from Abroad 56

3.3.3 Nepali Migrant Workers in Imprisonment 57
3.3.4 Exploitative and Forced Labor Situation 58
3.3.5 Deaths 61
3.4 Skills of Migrants Workers 63
3.5 Complaints 64
3.6 Remittances 66
3.7 Responses 69
3.7.1 Laws and Policies 69
3.7.2 Institutional Mechanisms 69
3.7.3 Private Actors 71
3.7.4 Report of the Sub-Committee of International and Labor Relations of Parliament 2017 73
3.8 Emerging Challenges 77

**Chapter 4 78**
**Monitoring of Anti-Trafficking Polices, Programs and Activities 78**
4.1 Nepal's Position in US TIP Report 78
4.2 Legal and Policy Initiatives 79
4.3 Institutional Mechanism 81
4.4 Anti-Trafficking Programs and Activities 86
4.5 Government of Nepal's Budget on Prevention and Combating Trafficking in Persons 96
4.6 Number of Victims Provided Rehabilitation Services by the Government Funded Rehab Centers and Service Centers 102
4.7 Monitoring at the Local Levels: Cases of Jhapa, Kavre, Sindhupalchok and Surkhet 105
4.8 OSRT-NHRC Handling of TIP Complaints 109
4.9 Responses of Nepali Embassy: the Rescue Efforts 112
4.10 NGOs Responses 118

**Chapter 5 127**
**Law Enforcement Status and Judicial Responses to Trafficking 127**
5.1 Legal Framework 127
5.2 Law Enforcement Status 129
5.3 Judicial Responses to Trafficking 131
5.4 Victim's Access to Compensation 138

**Chapter 6 145**
**Implementation Status of NPA and NHRC Recommendations 145**
6.1 Implementation Status of the NPA against TIP Especially Women and Children (2012-2022) 145
6.2 Implementation Status of the NHRC Recommendations 150

**Chapter 7 161**
**Conclusions and Recommendations 161**
7.1 Conclusions 161
7.2 Recommendations 164

**Reference Cited 167**
**Annex 169**

# Executive Summary

**On Situation of Trafficking in Persons**

It is difficult to estimate the magnitude of trafficking in persons due to the lack of representative household survey. Neither the precise estimate can be done from the NGOs or GOs interventions because of the possibility of reporting a case by more than one organization, and because of not having a unified and integrated counter-trafficking database system. Therefore, it is required to look at the different sources for understanding the magnitude, processes and causes of the TIP in Nepal.

Magnitude - The number of trafficking cases registered in Nepal Police increased from 185 in FY 2013/14 to 305in FY 2017/18. Of the total filed trafficking cases in 2016/17, the highest number was in Province 3 (n=76). More than three fourth of the trafficking cases have been filed in 10 districts, namely, Kathmandu, Rupandehi, Banke, Kanchanpur, Sunsari, Jhapa, Chitwan, Makwanpur, Bardiya and Parsa. According to the Report of Armed Police Force (*Sasatra Sima Bal)* of India, Nepal's girls trafficked into India for the purpose of sexual exploitation increased very remarkably in between 2012 and 2017. The number increased from 72 in 2012to 607 in 2017 and the number of traffickers apprehended also increased from 7 in 2012 to 154 in 2017. In FY 2017/18, the distribution of the trafficking cases registered also holds the similar patterns by Provinces as in the case of FY 2016/17.

Characteristics of Victims and Traffickers - According to the Nepal Police records from FY 2012/13to 2017/18, majority of trafficking victims is females but there are also male survivors. In FY 2017/18, there were 22 percent victims were males and rest 78 percent were females. Note that no cases of trafficking survivors reported among the third sex in Nepal Police. However, discussion with the Blue Diamond Society and other stakeholders in Sunsari district, it was revealed that the third sex persons are also the victims of trafficking. In terms of age group, at least one-fourth of trafficking survivors are children and rest are adult in FY 2017/18. An overwhelmingly majority of the victims do not have education at all (86% in FY 2016/17). Looking at the figures of FY 2017/18, majority of trafficking survivors are Janajati (49%), followed by Brahman/Chhetri (29%), Dalit (15%) and Madeshi (6%).

No fundamental difference in the characteristics of the trafficking victims and trafficking accused person is evident in terms their education, occupation and caste/ethnic groups. It is known, however that female offenders are increasingly used for luring the girls/women. The female offenders accounted for one thirds of the total 389 offenders in FY 2016/17. Majority of the offenders have either no education or they are just literate (75%). Offenders come across all the major caste/ethnic groups of Nepal - the highest being Janajati (39%), followed by Brahman/Chhetri (32%), Dalit (15%), Madeshi (13%). Among the 389 offenders in FY 2016/17, one-third was escaped - majority being males.

Process of Trafficking- Traffickers use different modus operandi for luring the victims. A few victims are trafficked by using coercive measures such as threats, using drugs or medicines. Rather, victims are largely tempted by false promises of good job and good salary (65% in FY 2016/17), luring (23.5%). Fake marriage, pretending to a tour and pretending to visit relatives are also the modus operandi of trafficking of girls and women to India and oversea. Trafficking

takes place in a network chain and it is an organized crime. The group comprised of two persons, three persons, four persons and five and more person. There is specific role of the traffickers in the trafficking chain. Broadly, cross-border trafficking (to India), oversee trafficking (beyond India) and internal trafficking has been found in Nepal. Trafficking of girls/women to India today takes place for prostitution, dance in orchestra, circus performance and even for marriage. Trafficking of persons to oversee is mainly for the labor exploitation but it has also turned to be sexual exploitation in night clubs, dance bars and hotels and other entertainment sectors. Internal trafficking takes place for both labor exploitation and sexual exploitation. During the FY 2016/17 and FY 2017/18, several media have covered the news about the trafficking of Nepali girls to India in Orchestra especially from Nawalparasi, Sunsari and Saptari districts to Bihar and Utter Pradesh, to selling of girls in Haryana for marriage and trafficking of girls in New Delhi in prostitution. Media has also widely reported trafficking of girls/women to night clubs/dance bars in Kenya, Macau, Tanzania and other countries.

Child Trafficking - Vulnerability of child trafficking is very high in Nepal. The Human Rights Reports of INSEC show a large number of children as victims of rape, sexual abuse, child trafficking, physical punishment, child labor, and child marriage. The three-yearly (2015-2017) average number of child victims was 782 and 4 percent of these child victims were the victims of trafficking while more than one-thirds were victims of sexual assault and were at high risk of trafficking. Studies indicate that there is close relation between missing children phenomenon and trafficking of children (OSRT-NHRC, 2011). The reported number of missing children in National Center for Children at Risk (toll free no. 104) has considerably increased to 2,772 in FY 2017/18 from 1,453 in 2012/13. Annually more than 1750 children are reported missing in Nepal. Among them, girls accounted for 55 percent and rest 45 percent boys. The untraced rate is very high (54.5%).The untraced rate is considerably higher for girls (59%) compared to boys (43%). Out of the total missing children in FY 2016/17, 53 percent were 17or 18 years of age.

There has been increasingly child abuse through the use of new technology such as social media, internet and mobile phone. The ECPAT (2017) study among the 452 children aged 5 to 12 years in Kathmandu valley revealed that nearly 80 percent children used mobile and laptop for internet. In the sample, 15 percent children were sexually abused online. The NHRC (2017) monitoring report in brick kilns in Kathmandu and Lalitapur districts in April 2017 found that child labor prevails in brick kilns. Of the estimated 400 laborers, 6 percent were children under 18 years of age. Incidence of child marriage, early pregnancy, abortion and problem of re-union with the family, sexual abuse wasidentified as the crucially important protection issue in these brick kilns. Adolescent girls are also at risk of rape, sexual abuse and are at risk of trafficking. The number of inter-country adoption was declined sharply in Nepal. There were only two cases (one in USA and one in Slovenia) of inter-country adoption in FY 2015/16 and there were no inter-country adoption in FY 2016/17 but domestic adoption was reported (15 cases).

Trafficking to Overseas - A total of 6 cases of human trafficking and transportation were handled by Metropolitan Police Parisar, Kathmandu in FY 2016/17. These cases are crucially important to understand the current processes of trafficking: route, modus operandi of trafficking, network of trafficking, destination of trafficking, purpose of trafficking as well as the characteristics of the victims and offenders. There has been diversification of routes of trafficking. Now it is not only from Kathmandu, but also from New Delhi to Bangkok, Bangkok to different cities in African countries and from African countries to Latin America and to USA. There is multi-layered, multi-

country trafficking or smuggling chain. Although the foreigners are also found involved in the trafficking chain, it is mostly the Nepali traffickers in the trafficking chain even from Nepal, New Delhi, to Thailand, and other destination countries. The destination countries of trafficking have also been diversified: it is traditionally from India to China, to European countries, African countries to North America. The purpose of trafficking is also multiple one: ranging from dancing in the night clubs, orchestra dance to domestic work to sexual exploitation. The trafficking has become a big economy. A trafficker in the chain of trafficking on the average earns more than Rs. 300,000 if the MW reaches the US safely.

Trafficking of Persons for Kidney Removal - Media has also reported that prevalence of the crime of kidney trafficking. However, there are no studies after the People's Forum Nepal (PPR Nepal) study on kidney trafficking victims (36 victims) in 2014 in Kavre district. The study estimated more than 150 people from Kavre district were victims of kidney removal. However, only three cases were filed in Kavre District Police Office in 2013 and after that there were no other cases registered in the Kavre District Police Office as of December 2017.

Vulnerability of Trafficking in Entertainment Sectors - Entertainment business has emerged especially after Nepal entered into the liberal economic policy and increase in the urbanization especially after 1990s.The growth of entertainment sectors is mainly reported to be in Kathmandu valley, Pokhara, Narayanghat, Itahari, and Dharan including other highway heads. Recent data is not available to map the magnitude of the girls/women working in the entertainment sectors in Nepal. In 2010, Terres des homes Foundation (2010) estimated 11,000 to 15,000 girls and women in the entertainment business. The present situation of female workers in entertainment sectors has been discussed here on the basis of the findings of the workshop organized by AATWIN. A total of 30 female workers participated in the workshop. Major findings of the survey are:

- The recruitment process in the entertainment sectors is unfair, abusive, unfree and not competitive. Almost all 24 girls interviewed initiated the job in their childhood (< 18 years) and more than 60 percent engaged in the entertainment sectors without their prior knowledge about the nature of work they have to do in the entertainment sector.
- Entertainment sector has become both the destination as well as the transit place of trafficking of girls. Sixty percent female workers reported that they were approached by the middle to go to India and overseas for dancing in night clubs and restaurants.
- Of the 24 girls interviewed, 70 percent reported they have ever been sexually abused.
- The mode of payment system appears to be exploitative. The waiters are paid on the basis of their sale of volume of beverage, food and alcohol to the customers. The lower the sale to the customers, the higher the changes that the female workers are scolded and not paid on time.
- Many female workers find entertainment sectors not safe, orderly and conducive one.

- Many feel socially stigmatized while working in the entertainment sectors.
- Majority do not wish to go to the justice sector for legal treatment because justice is delayed and not believe in the justice system.
- Cases of forced and unwanted pregnancy were also reported among the girls working in the restaurants.

A study of National Center for AIDS and STD Control, Ministry of Health (2016) revealed that female injecting drug users in Kathmandu valley are at most risk of sexual exploitation. Of the 160 interviewed, 17 percent reported that they exchanged sex with drugs or money. This group is most risk of trafficking.

Trafficking for Marriage Migration - According to the Report of NHRC Korea 2014, three are more than 151,000 marriage migrants in Korea. Of them 85 percent are females. In Nepal, there is no consolidated data on the number of marriage of female migrants to Korea. The previous National Report (2013-2015) reported that there were more than 1,200 Nepali young girls in Korea for marriage migration. Mismatch marriage, marriage with the disabled and old men, marrying in a remote area have been reported.

Trafficking of Nepali girls/women for marriage is also reported in China.

Human Smuggling to USA - Human smuggling to USA from Nepal is widely reported in media although there is no study to map the magnitude, processes and impact of smuggling to the victims themselves and the economy of smuggling. According to the Ministry of Education (MoE), there were about 2,500 education consultancies across the country. One thirds of these consultancies are running illegally. The officials of MoE claimed that they have received complaints about cheating and human smuggling. More than 32,000 students received No Objection Letter (NOC) annuallyand students planning to study language, hospitality and hotel management are reported at high risk of trafficking.

Nepal Emerging as Transit Country- Evidences suggests that Nepal is not only the country of origin of human smuggling and trafficking, but it has also become the country to transit for the human smugglers. This was evident when the incident of rescuing of two Sri Lankan women from Thamel, Kathmandu came into limelight in September 10, 2017.

**On Migration for Foreign Employment and Nexus of Trafficking in Persons**

Magnitude and Origin - The annual outflow of MWs was 759,230 in FY 2016/17. During the five-year period (FY 2012/13-2016/17), 2.23 million migrant workers obtained labor permit from the Department of Foreign Employment (DoFE) through institutional as well as individual basis. The highest proportion originated from Terai (51%), followed by hills (41%), mountains (6%) and Kathmandu valley (2%). By Provinces, the highest proportion originated from Province 2 (24%), followed by Province 1 (23%), Province 5 (19%), Province 3 (16.5%) and Province 4 (11%) and the least were from Province 6. All the top-ten districts from which the MWs originated are Terai districts. The MWs from these 10 districts accounted for more than 36 percent of the total MWs from Nepal. In case of WMWs, the top-10 origin districts are Sindhupalchok, Makwanpur, Kathmandu, Kavre, Nuwakot and Illam from hills and Jhapa, Morang, Sunsari and Chitwan from Terai.

Destination Countries- The GoN has opened 110 countries for MWs through the institutional channels and 167 countries from the individual basis. However, data reveal that there is high concentration of Nepali MWs in mainly in Qatar (26%), Saudi Arabia (22.6%), and UAE (12%) and in Malaysia (35%). These four countries alone accounted for 96 percent of total Nepali MWs during 2006/07-2015/16. This high concentration is much pronounced in case of male MWs. In case of WMWs, the destination countries are relatively diversified including Macau, Hong Kong, Japan, Turkey, Jordan, Lebanon, Cyprus, Afghanistan, Maldives and Mauritius.

Mode of Migration - There are two ways from which an aspirant migrant goes for foreign employment: one is through the institutional channels and another through the individual basis. Media reported that the MWs going through individual basis has increased after the GoN took the decision about free visa and free ticket in Gulf countries. It is, however, reported that a migrant worker going via the institutional basis is much secured against those going through the individual basis. Data reveal that the proportion of the MWs going through institutional channels has increased from 75 percent in FY 2008/09 to 92 percent in FY 2016/17. This holds for male MWs. In case of WMWs, still around 20 percent go abroad through individual channels. A case study from Kailali district suggested that a relatively large number of female are going for foreign employment using illegal and informal channels. In Kailali district, 5086 females received the passports during the five-year period (FY 2012/13-FY 2016/17). And only 15 percent of them obtained labor permit from DoFE while the rest is believed to have gone via India. In case of male, 86 percent of the passport holders went overseas employment by taking labor permit from DoFE.

Pre-Departure Knowledge and Information - The aspirant female migrants have poor knowledge on the process of foreign employment. Among the 161 prospective first time migrants in a study conducted in Morang, Rupandehi and Chitwan by Amramsky et al., (2018), only 35 knew about 'need of visa', 27 percent about 'medical clearance' and 16 percent knew about the pre-departure orientation training. Similarly, more than 7 in 10 prospective female migrants planned to go abroad for work using agents/brokers/recruiting agencies. However, a few know about whether they are holding licensed or not (26% for prospective first time migrants and 21% for prospective repeat migrants know about it). The main source of migration for job was the broker/agent/recruiting agencies among the prospective repeat migrants (70%), and it is migrant family/friends (47%) and broker/agent/recruiting agencies (35% for prospective first time migrants). Similarly, the main persons to be asked about the types of documents needed is also the agents/brokers or recruiting agencies.

Ban of Women's Migration and Increase Risk of Trafficking- The Government of Nepal has taken several measures to protect the WMWs. One of such measures taken is the ban on women's migration or imposing the terms for migration. Currently, Nepali women aged 24 and above will be able to take up domestic jobs in the Gulf and Malaysia. In March 2017, the Parliament's International and Labor Relations Committee instructed the Government to implement a ban on Nepali women to go for Gulf countries for foreign employment as housemaids. However, a study conducted by ILO (2015) indicated that the bans have had the adverse consequences on women migrants. The age ban has not discouraged younger women from migrating; the age ban has no effect on treatment of women workers by their employers; the age ban may have increased irregular migration and a risk of trafficking; the age ban also has resulted in undermining the economic opportunities for women and social opportunities.

Trafficking of Men for Forced Labor - Studies have established that a large number of men have been subject to trafficking for forced labor in the name of foreign employment (Mak, Joelle et al., 2017). Their study conducted among the 140 returnee male migrant workers in Dolakha district estimated that 73 percent of men experienced forced labor during their most recent migration. Among the dimensions of forced labor, work/life duress contributes a lot in forced labor experiences (71%), followed by unfree recruitment (44%) and lowest 14 percent for impossibility to leave the employers. There is no distinct pattern of experiences of forced labor situation by age group, caste/ethnic groups, even destination countries of migrant workers.

Grievances of MWs - Examining the media report, it is revealed that the vast majority of Nepali MWs especially of women migrant workers are deceived, tempted during the migration process, once they end in the work; they are exploited as well. One proxy indicator of how migrant workers are largely deceived may be the scale of deportation of the MWs from different countries. No consolidated data is available to estimate the number of rescue and repatriation of the MWs. The DoCS initiated online application for the rescue request since FY 2016/17. Accordingly, it received 227 rescue requests in the FY 2016/17 through this medium (online application). The highest proportion of rescue request was field from MWs in Saudi Arabia (32%), followed by Malaysia (29%), Kuwait (8%), Qatar (5%) and Oman (5%).

Data reveal that there are large numbers of Nepali MWs in different grievances situation. There were 458 Nepali MWs in jail in different 12 countries as of June 2018. Nearly half of them are in Saudi Arabia (48%) and there are remarkable proportions in Kuwait (15%), UAE (14%), Qatar (10%) and Thailand (8.5%). The Cabinet meeting held on July 2, 2018 approved *the Guideline for Legal Protection of Nepali Workers in Foreign Employment 2075*. The Guideline has the provision that GoN may incur up to Rs. 1.5 million per worker for legal protection.

During the nine fiscal years (FY 2008/09-2016/17), a total of 5,765 number of MW deaths has been recorded in FEPB. Of which, 127 were females and 5,892 were males. Considering data for all 9 fiscal years, the death rates among the MWs is estimated to be 1.68 per 1,000. Comparing the death rates of the MWs with the age-specific death rates of the general population of Nepal, the death rates of MWs do not appear to be higher one. But, as the MWs are expected to be healthy, have much information exposure, their death rates must have been much lowered than that of the general population.

Skills of MWs - Data reveal that a large majority of Nepali MWs for foreign employment are unskilled workers, that is, 3 in 4 MWs are unskilled workers. The share of unskilled workers is very high among WMWs compared to male ones. While 90 percent of WMWs in the GCC countries and Malaysia are the unskilled workers, the comparable figure for the male MWs is 75 percent.

Complaints Handling - The five-yearly (FY 2012/13-2016/17) average number of complaints registered in DoFE was 2,418.The share of individual complaints declined from 54 percent in FY 2012/13 to 39 percent in 2016/17. Further, DoFE have settled a relatively higher proportion of complaints against the recruiting agencies (47%) compared to the complaints against individuals (17%). A total of 34 natures of complaints were recorded in DoFE. Among them, the top-five natures of complaints were: i) prosecute the accused, reimburse and compensate, ii) prosecute, reimburse, compensate and repatriation, iii) compensation, iv) prosecute and compensate and v) repatriation. In Foreign Employment Tribunal (FET), the cases registered increased from 158

in FY 2009/10 to 560 in FY 2016/17 while the case disposal ratio was very low over the years. It was 36 percent in FY 2016/17.

Responses to Regulation of Foreign Employment - The foreign employment business is regulated through *Foreign Employment Act, 2007* (first amendment 2015) and *the Foreign Employment Rules* (First Amendment, 2011). The Government of Nepal has continually placed importance of foreign employment in its Periodic Plans. In 2012, the Government adopted Foreign Employment Policy. The Government of Nepal's institutional mechanism to regulate the foreign employment business is conducted through i) Ministry of Labor, Employment and Social Security (MoLESS), ii) Foreign Employment Promotion Board (FEPB), iii) Department of Foreign Employment (DoFE), iv) Foreign Employment Tribunal (FET) and v) Labor Attaché appointed in the destination countries. All of these structures are centralized in Kathmandu and there is rare opportunity to make, for example, complaints against a middle person in outside of Kathmandu valley.

In addition to the Government actors, there are private actors in foreign employment business. Section 11 of the Foreign Employment Act 2007 makes the provision that the private sector may involve in the foreign employment business by taking license from the Foreign Employment Department. Accordingly, as of the end of 2017, 1130 recruiting agencies have been registered in DoFE. Of them, 932 were effectively functioning. Majority of these recruiting agencies are located in Kathmandu valley. There are only 47 branch offices outside of Kathmandu valley. In addition, 733 individual agents were provided license. There were 15 orientation institutions providing training for the domestic workers.

Nepal has signed bilateral agreements, Memorandum of Understanding (MoU) with seven countries (Qatar, UAE, Republic of Korea, Bahrain, Japan, Israel and Jordan as of 2017. In 2015, Nepal conducted a Joint Pilot Program with Israel in 2017, the Government accomplished agreement with Jordan. This shows that despite the years of migration of Nepali workers in Saudi Arabia, Kuwait, Lebanon, the Government of Nepal has yet signed the bilateral labor agreements. Neither, the Government of Nepal initiated to facilitate to implement the MoU signed between the National Human Rights Committee (NHRC) Qatar and NHRC Nepal and also facilitate to expand such MoU with other destination countries.

At the political level, the issue of MWs was seriously taken into account. The International Relations and Labor of Parliament Committee visited four major destination countries of Nepali MWs: Saudi Arabia, Kuwait, Qatar and UAE from March 18 to 26, 2016. The Committee observed and monitored the Departure Section of Tribhuvan International Airport; had conducted interaction with Nepali Missions in these four countries; met the Government authorizes of these countries including the Nepali MWs and visited and monitored the working place in the destination countries.

The Parliamentary Committee identified the following problems in relation to employment in these countries. First, there is high prevalence of organized human smuggling and trafficking: 60% of Nepali domestic workers come via Tribhuvan International Airport (TIA) by creating 'setting' among staff of Immigration, security forces and staff of Airline Company. Second, carelessness of sate mechanism in control of human smuggling and trafficking is established especially in relation to domestic workers. Third, there is widespread deception and fraud involved in foreign employment business and the Government's decision to send the workers at the minimum cost has completely failed. Fourth, there is high prevalence of exploitation due to the dual labor agreement system: 90% of the domestic workers are reported to force

sign in two Labor Agreements: one in Nepal and another in the destination country. The Labor Agreement done in Nepal does not carry legal status while the Labor Agreement done in the destination country has the legal status. Fifth, the sponsorship system (*Kafala*) in Gulf countries is like modern day slavery. Sixth, fraud was involved in 'orientation training'. Majority of the MWs in Gulf countries came without receiving the orientation training in Nepal. Seventh, many MWs are deprived of minimum needs for their survival: food and accommodation. Finally, the Report described as the miserable condition of domestic workers due to not having adequate food, accommodation, and humiliation, scolding and physical threats.

**On Monitoring of Anti-Trafficking Policies, Programs and Activities**

Nepal in US TIP Report - The US TIP Report has placed Nepal in Tire 2 over the last 5 years (2013-2017). Nepal's situation appears to be satisfactory compared to other South Asian countries. According to the US TIP Report 2017, the GoN during the reference period, increase the trafficking investigations and identification of the victims, and it revoked the licenses of more than 400 foreign employment agents in 2017. Despite these efforts, the GoN did not meet the minimum standards in several areas: i) the laws do not prohibit all forms of forced labor and sex trafficking; ii) the Government does not have any serious protection efforts for the male MWs; iii) official involvement in trafficking offenses is frequently reported and is a serious problem; iv) a large number of cases related to trafficking in the course of foreign employment are registered under the Foreign Employment Act and v) the government's measures to prevent female migration increased their vulnerability to trafficking.

Policies Initiatives- The anti-trafficking programs are surfaced in Development Periodic Plans of Nepal especially from the 8$^{th}$Periodic Plan (1992-1997). The subsequent Periodic Plans have explicitly addressed the need of prevention and combating the trafficking in persons, especially women and children. The current 14$^{th}$ Plan (2016/17-2018/19) provides a separate Chapter for the prevention and combating TIP. The Plan has adopted four strategies to combat TIP. They include: i) introducing the targeted programs for the vulnerable groups/communities; ii) strengthening the capacity of mechanisms and structure established to combat TIP; iii) providing the integrated services to the trafficked victims ensuring their human rights and iv) increasing access to justice to the trafficked victims by elimination of impunity.

The GoN has adopted and implemented the National Plan of Action (NPA) against TIP 2012 including several guidelines and standards.

Institutional Mechanism - As the institutional mechanism in addressing the TIP, Ministry of Women, Children and Senior Citizens (MoWCSC) is the key line agency. Under the Ministry, National Committee on Combating Human Trafficking (NCCHT) is formed as an interagency committee. In FY 2016/17, NCCHT conducted five times meeting and the key agendas for the meeting were related to approval of budget for the rehab centers; monitoring of rehab centers; repatriation of trafficking victims and development of guidelines for maintaining the minimum standards of rehabilitation centers. At the district level, District Committees on Combating Human Trafficking (DCCHT) have been established in all 75 districts[1]. At the local level, more than

1 *Note after the 2015, there are 77 districts in Nepal. The information about the newly formed districts (Nawalparasi east and Rukum east) has not been found.*

753Local Committees on Combating Human Trafficking (LCCHT) have been formed. However, the Current NCCHT, DCCHT and LCCHT need restructuring given the changing context of Nepal.

Women and Children Service Directorate (WCWD)/Women and Children Service Centers (WCSC) are the key law enforcement agency for combating TIP. As of March 2018, there were 243 WCSCs extending down to the sub-Police Office, Area Police Office; border Police Office including in the Kathmandu metropolitan Police circles. Nepal Police also adopted the *Operation Guideline for Border Surveillance Centers 2073*. There were 1,359 police posts sanctioned in theseWomen and Children Service Directorate (WCSD)/Women and Children Service Centers (WCSCs). Of which only 47 percent are working and about two-thirds of the working Police are female police in WCSCs.

Government Programs- The GoN has launched a number of programs which are directly or indirectly relevant to prevention and combating TIP especially of women and children. Under the Ministry of Education, the scholarship provisions to the children of disadvantaged families such as Dalit, Janajati and children from Karnali zone is directly relevant for the prevention of trafficking of children. Under the Ministry of Health and Population (MoHP), One-stop Crisis Management Centers (OCMCs) have been constituted in 29 hospitals to provide the integrated services GBV victims. Under the Ministry of MoWCSC, a total of 104 community service centers are in operation in various 17 districts and the Ministry also supported 10 rehab centers.

Under the MoWCSC, a number of child rights protection and promotion programs have been in operation. There were 23,000 child clubs in all 75 districts by the end of 2017. There are about 438,000 children as the active members in these Clubs. *Bal Balika Khoja Talas Kendra* (104) and child help line (1098) are the intervention for child protection. As of July 2017, there were altogether 567 Child Care Homes in 44 different districts in which 16,536 children are residing.

In relation to the skills development training to be provided to the aspirant MWs, data reveal that the number of persons provided skill and vocational training is far lower compared to the number of young people enter into labor market in Nepal. In FY 2015/16, the FEPB did not conduct any skill development training while it provided 160 hours training to only 9,900 aspirant migrants in 2016/17.

With regard to providing the safe migration information, Migration Resource Centers (MRCs) have been established in collaboration with International Organization for Migration (IOM) and International Labor Organization (ILO). By FY 2016/17, the MRCs have been extended to 20 districts including in the Tahachal Kathmandu and central office of FEPB. However, the performance of the MRCs appears to be low. In FY 2015/16, only 25% of the targeted budget of Rs. 12 million was spent and it was only 8 percent of the targeted budget of Rs. 3 million in FY 2016/17.

Ministry of Education (MoE) introduced some contents related to human trafficking, sexual exploitation, prostitution, and migration from class 6 to class 10. In FY 2016/17, the Curriculum Development Center (CDC) has framed the new curriculum for class 11 and 12. There is also need to include the contents related to TIP in class 11 and 12.

Examining the annual progress reports of National Judicial Academy (NJA), NJA has not provided any training related to human trafficking and transportation crimes in FY 2015/16 and FY 2016/17.

Government Budget on TIP Programs- The GoN initiated to allocate the budget for the prevention

and combating of TIP programs/activities mainly through the Ministry of Women, Children and Senior Citizen (MoWCSC) and Ministry of Foreign Employment, Labor and Social Security (MoLESS) and Ministry of Foreign Affairs (MoFA). The MoWCSChas initiated to release the money for the Nepali diplomatic missions at abroad since FY 2011/12 for rescue and repatriation of trafficking victims. The FEPB releases the money for the Nepali Embassies for the rescue of MWs, operation of the Safe House at abroad, and money required for bringing the dead body. The GoN has established the Rehabilitation Fund. As early 2018, there was about Rs. 20 million in the Fund. The MoWCSC allocated the budget in different anti-trafficking related activities at the central levels, at the district levels. For the central level program, MoWCSC increased budget from Rs. 2 million in the FY 2012/3 to Rs. 30 million in the FY 2016/17. Similarly, for the district level programs, the Ministry allocated budget Rs. 3.75 million in the FY 2012/13 and it increased to Rs. 18.78 million in the FY 2015/16, but there is no allocation of budget in the FY 2016/17. The budget supported to the Rehab Centers ranged from Rs. 9 million in FY 2011/12 to 14.3 million in FY 2016/17.

GBV Fund and Service Centers - The Department of Women and Children (DoWC) has created the GBV Fund under the direct supervision of District Women and Children Office in all 75 districts in the country. The amount of the Fund has increased very substantially in FY 2016/17 (Rs. 292.7 million) from merely Rs. 10 million in FY 2015/16. At the same time, the rate of spending has also substantially increased from merely 15 percent in FY 2015/16 to 87 percent in FY 2016/17. Also, the MoWCSC has allocated budget for the mobilization of Service Centers. The MoWCSC has established the district and community level service centers in 17 districts to end the violence against women (VAW). In addition to the providing the services to the trafficking victims, these service centers provide services to the women and children victims of domestic violence. Since the FY 2016/17, the President Women's Promotion Programs was initiated in 19 districts for ending the VAW. However, the coverage of these service centers/ President Women's Promotion programs is not evenly distributed across the seven Provinces of Nepal. Coverage is particularly lacking in Province 2 and Karnali Province.

Monitoring at the District Levels - This Report writing team conducted the monitoring visits in Jhapa, Kavre, Sindhupalchok, Surkhet, Surkhet and Sunsari districts to identify the changing dynamics of TIP and program intervention by the GOs and NGOs. The OSRT-NHRC team found the following. One, in Sindhupalchok and Kavre, surveillance centers have been established after the 2015 earthquake in two places. The centers were found well managed, well-functioning and effective in surveillances. Two, in Sindhupalchok and Surkhet, the MoWCSC has funded rehab centers. The rehab centers in both districts were monitored and found that they were well managed and have maintained the minimum standards. Three, there was also cooperation of Nepal Police in surveillance in border areas. NGOs have run surveillance centers in Kakarbhitta and Bhadrapur in Jhapa district while there were no NGOs in other border points. Four, the WCSCs in these districts do not have separate space for victims and child friendly rooms. Finally, the stakeholders in all districts reported that there is also need of orientation about combating TIP to the Local Levels Governments representatives.

Handling of Complaints by OSRT-NHRC– OSRT-NHRC has received more than a dozen of applications and requests from the individuals as well as from the organizations for effective rescue of the trafficking victims and bringing the traffickers into justice. OSRT-NHRC followed some of the cases by itself to protect and promote the rights of the victim of trafficking.

Rescue Efforts by Nepali Embassies/Diplomatic Missions - In 2016/17, 17 Embassies/Missions

reported that they rescued the Nepali MWs from different countries:

- **Nepali Embassy to China, Beijing** - during the three FYs (2014/15-2016/17), it rescued 119 MWs and 72 were repatriated to Nepal.
- **Nepal Embassy to Saudi Arabia, Riyadh –** The three year (2014/15-2016/17) total figure of rescue conducted by the Embassy comes out to be 1,836. Among the victims rescued, more than 90 percent were males and rest females.
- **Nepali Embassy to Kuwait –** In Kuwait, the rescue of the trafficking victims was conducted by the Embassy only in FY 2014/15 but there were no information about the rescue in the following years.
- **Nepali Embassy to South Africa** - In FY 2016/17, it rescued 52 MWs and repatriated to Nepal (20 were from Kenya, 23 from Tanzania, 6 from South Africa, and 1 was from Mauritius).
- **Nepali Embassy to Bangkok, Thailand –**In 2015/16, 9 persons was rescued and in FY 2016/17, 46 persons were rescued.
- **Nepali Embassy to Egypt**- rescued 64 women from Lebanon in 2015/16. In FY 2016/17, 57 persons were rescued from Egypt, Lebanon and Syria.
- **Nepali Embassy to Paris, France** – In 2016/17, the Embassy rescued 22 men from Greek.
- **Nepali Embassy to Colombo, Malaysia –**In FY 2016/17, one woman and 11 men were rescued from the Philippines (2 persons) and Indonesia (10 persons) and provided one-way travel permit and repatriated to Nepal successfully.
- **Nepali Embassy to Russian Federation, Masco –**In FY 2015/16, the Embassy rescued 3 women and 27 men from different central Asian countries.
- **Nepali Embassy to Islamabad, Pakistan–**In 2015/16, 3 men who were smuggled to Afghanistan did not get job for a long time and they entered into Pakistan illegally. In FY 2016/17, 13 persons were rescued by the Embassy.
- **Nepali Embassy to India, New Delhi and Consulate General Office, Kolkata -** Altogether, 317 persons were rescued in the three fiscal years (FY 2014/15-2016/17). Majority of the victims rescued were women (48%), followed by boys (28%) and girls (21%). Majority of rescue operation was done from New Delhi (especially those being transported to third countries).
- **Problem of Rescue from Saudi Arabia -** Examining the series of letters written by the Nepali Embassy to Saudi Arabia to the MoFA in Kathmandu, to the Ambassador of Kuwait, it is known that the rescue and repatriation of Nepali MWs is very problematic from Saudi Arabia when the MWs are especially do not possess the visa and passport.

NGOs Reponses - A number of NGOs have been involved in anti-trafficking issues in Nepal. Some NGOs work especially for prevention area, while other in protection and other in legal support to the victims of trafficking. OSRT-NHRC requested all the leading NGOs to provide their interventions and achievements. However, the following eight NGOs: Biswas Nepal, Change Nepal, Chhori, HimRights, KI Nepal, Kumudini, Shakti Samuha and Maiti Nepal provided their

prevention, protection and legal aid related intervention in the FY2016/17. In FY 2016/17, 1065 number of trafficking victims was rescued by five NGOs: KI Nepal (466), Maiti Nepal (310), Biswas Nepal (276), Shakti Samuha (9), Chhori (3) and Kumudini (1). Maiti Nepal carried out 65 rescues from abroad. Among those who were rescued from abroad, majority (52) were from India while there were 2 from Saudi Arabia, 3 from Kuwait, 1 from Bangladesh, and 7 from Sri Lanka. KI Nepal in collaboration with Nepalese diplomatic mission and Nepal Police rescued 466 girls and women from different border points between Nepal and India in the FY 2016/17.

NGOs also provided rehabilitation services like temporary shelter, food, medical treatment, skill development training, psychosocial counseling, legal aids. Among the NGOs reported to OSRT-NHRC, Maiti Nepal (286), Shakti Samuha (166), KI Nepal (67), Chhori (58), Kumudini (17) and 9 by Biswas Nepal provided rehab services to the trafficked victims. A total of 340 trafficked victims were reintegrated by six NGOs in the FY 2016/17. NGOs have received the victims through different referral channels. Majority of victims are referred by Police Office, CDO office, District Women and Children Office, District Child Welfare Board including by NGOs. In FY 2016/17, 49 victims were received by the NGOs that have run the rehab centers. All the referral cases were females. Data reveal that 106 victims were referred to other organizations for more support such as skill development training, psychosocial counseling, medical treatment, and legal support.

Overall 3,196 missing person applications were received by Maiti Nepal, KI Nepal and Shakti Samuha in the reference year. In FY 2016/17, NGOs like Maiti Nepal, Shakti Samuha, KI Nepal, Chhori and Biswas Nepal supported 88 trafficked victims to file the case in Police.

**On Law Enforcement Status and Judicial Responses to Trafficking**

International Legal framework - Although Nepal has ratified the *UN Convention on Transnational Organized Crime 2000,* the GoN yet to ratify the *UN Convention on Transnational Organized Crime, 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000*. The GoN has yet to give the priority to ratify the *UN Convention on Migrant Workers and Their Families, 1990*; *ILO Convention 189 on Domestic Workers 2011* and*ILO Convention on Forced Labor Number 29 Protocol of 2014*.

National Legal Commitment - At the Nepal's domestic legal framework, the *Constitution of Nepal* (2015) is the overreaching law of the land for the protection of rights of the victims, right against exploitation. The Constitution also grants special rights for women and children. The *Human Trafficking and Transportation (Control) Act 2064* (2007) and its accompanying Rule 2008 are the laws for punishment of trafficking crime and protection of the rights of the victims. The GoN has amended the Act in 2016. Now, the Act has increasingly become victim friendly although the scope of the Act is still limited within the country. Although the Act has been amended in several areas, according to the Mid-Term Implementation Report on NPA against TIP (MoWCSC, 2018), the Act still fails to include pornography, forced labor or services, slavery, slavery like practices and servitude in the definition of trafficking.

Status of Law Enforcement -The key law enforcement agency is the Nepal Police. The number of trafficking cases filed in the Nepal Police has not substantially increased over the years compared to the widespread reporting of the large number of victims of trafficking occurring in Nepal. The numbers of prisoners in charge of TIP crime were 793 prisoners in FY 2015/16 and 852 persons in FY 2016/17. Both males and females are imprisoned in charge of TIP cases although majority is males.

Judicial Responses - Data reveal that the total number of TIP cases in the courts of Nepal was 1007 in 2013/14, which slightly increased to 1092 in FY 2015/16 and it reduced to 946 again in FY 2016/17. The 5-yearly average (FY 2012/13-2016/17) number of the trafficking cases registered and decided by the Supreme Court come out to be 165 and 25, respectively. Note that the conviction rates are relatively higher in the FY 2015/16 and FY 2016/17 compared to the earlier three years.

The 5-yearly (FY 2012/13-2016/17) average number of cases registered in the High Court comes out to be 281 and the 5-yearly average conviction rate and pending rates are 42 per cent, and 51 percent, respectively. Data clearly reveal that the number of TIP cases filed in the High Courts increased from 208 in FY 2012/13 to 365 in FY 2016/17. Among the 18 High Courts, the Patan High Court alone had one-thirds of the total cases. There are also much higher proportions of TIP cases in High Courts of Biratanagar (14%), Butawal (12%), Illam (7%) and Nepalgunj (7%) compared to other High Courts.

District courts are the trial courts of Nepal. The 5-yearly (FY 2012/13-FY 2016/17) average number of trafficking cases registered and disposed in the district courts comes out to be 358 and 191, respectively. The 5-yearly average conviction and pending rates are 54.5 per cent 47 per cent, respectively. In FY 2015/16, there were 395 TIP cases in the district courts of Nepal. Of them, more than two-thirds were filed under the 'human transportation', 31 percent under the crime of 'selling or purchasing of a person', less than 1 percent (8%) for 'extraction of human organs' and 1 percent 'to use someone into prostitution'. In FY 2016/17, there were 454 TIP cases filed in the district courts. Of them, only 30 percent cases were filed under the crime of 'selling or purchasing of a person' while 70 percent were field under the crime of 'human transportation'. At the individual district court, an overwhelmingly large number case was in Kathmandu district court (153 cases). This is followed by other three districts courts, namely, Jhapa (36 cases), Rupandehi (30 cases) and Banke (25 cases).

The status of the access to compensation to the victim has been discussed here drawing a study conducted by FWLD (2017). Their findings show that access to the compensation to the victims has yet to be increased.

**On the Implementation Status of NPA and NHRC Recommendations**

Assessing the NPA Implementation Status - In 2017, the Ministry has conducted the mid-term evaluation of the implementation status of the NPA against TIP Especially for Women and Children. The Mid-Term Evaluation Report revealed that only 51.5 percent of the 163 activities in the NPA have been either fully or partially implemented. Conversely, 79 activities out of 163 activities listed in the NPA have not been implemented at all. Among the five components, it is the Coordination, Cooperation and Partnership (only 32% of the activities) and Prosecution in which a few activities have been implemented (21% of the activities).

The 50 prevention related activities listed by the NPA can be broadly classified into six categories for the purpose of analysis. Of them, 'mapping and identification of most risk communities, locations and groups of trafficking' has not been implemented yet all while other activities were being introduced.

The NPA listed 36 protection related activities. These activities can be broadly re-grouped into three categories for analytical purpose. They include: i) identification of victims in need of rescue and repatriation, ii) safely return to the country, return to the community and reunion with the family and iii) strengthening the rights based rehab and protection service system. These activities were either partially or very limited implementation.

The NPA listed 22 prosecution related activities. They can be broadly classified into three groups: i) ending the impunity by increasing the effectiveness and responsibility of the justice system, ii) ratification of Trafficking Protocol and domestication of the internal and regional laws and iii) establishing centralized and unified database system of the law enforcement and execution status of the TIP cases. Many of these activities were limited implementation.

NPA listed 27 activities related to capacity development of various GOs, NGOs, civil society, and networksat the national, district and local levels across the country in dealing with the TIP issues. The Mid-Term Evaluation Report indicated that many of the capacity development activities have been conducted, but such capacity development programshave little focused on the TIP related issues.

The Mid-Term Evaluation Report indicated that the coordination and cooperation activities are not visible and there is no significant progress in this area. The Report claimed that the coordination between the Government agencies has been improved. The coordination between the GOs and NGOs has also somewhat improved. But, there is little work in establishing and strengthening the coordination between Nepal and major destination countries of Nepali MWs including the Nepali Diaspora and other human rights organizations at abroad in dealing with the combating TIP.

Assessing the NHRC Recommendations Implementation Status- National Human Rights Commission provided recommendations to the Government of Nepal for the prevention and combating TIP on the basis of its National Report of 2013/15. The recommendations were sent to the Prime Minister (PM) Office and Minister of Council in July 13, 2016. The recommendations were related to four areas: i) prevention, ii) protection, iii) prosecution and iv) collection and generation of systematic data on situation of trafficking and initiatives. The PM Office, in turn, ordered for the implementation of the recommendations.

The Ministry of Women, Children and Senior Citizen (MoWCSC)- has carried out several activities and established the institutional mechanism to address the trafficking issue, yet the Ministry has not addressed the several areas for prevention and combating TIP. Therefore, the compliance level of the recommendations is **low**. Although the Ministry initiated the process of collecting the suggestion for the ratification of the Trafficking Protocol 2000, it has taken a long-time to come as visible outcome. The Ministry has not increased the budget for the mobilization of the DCCHT and LCCHT, the Embassies and Missions at abroad. Further, the monitoring in the entertainment sector is reported to be not satisfactory. The Ministry has yet to develop the systematic data reporting system. Neither data from the DCCHT are regularly reported to the NCCHT although by rule they have to submit their progress report to the NCCHT in each three month. The DCCHT themselves are not actively engaged in prevention and combating TIP.

Ministry of Labor, Employment and Social Security (MoLESS) – The level of compliance of the NHRC recommendations by the Ministry can be labeled as **low**. The FEPB provided one-month skill development training to about 10,000 during the two fiscal years while the magnitude of

the MWs going abroad for work was 759,230 alone in FY 2016/17. In relation to safe migration information to the aspirate migrant workers, the Migration Resource Centers have been in operation only in 20 districts while there are more than 40 districts that require Migration Resource Centers immediately. The Ministry has neither substantially increased the number of Safe Houses in the destination countries nor it has increased the amount of budget for the Safe Houses.

Ministry of Home Affairs (MoHA)-Under the Ministry, a number of rescues, investigations and prevention activities has been carried out by the Nepal Police. Despite this, the Ministry has not fully implemented the recommendations provided by NHRC and thus the compliance level of recommendations of NHRC can be said to be **low to medium**. WCSC has yet to be expanded in major border locations in the country. There is also gap of working police to the sanctioned police posts in the WCSCs. Further, although many WCSCs have separate buildings or are being constructed separate building in many districts, they are still not well equipped and they also lack the victim friendly rooms. The Metropolitan Police *Parisar* has initiated rescue efforts from abroad and only 7 cases of transnational organized trafficking and smuggling were investigated in FY 2016/17. The Ministry has not initiated revision of the Immigration Act and Passport Act in view of the protection of the rights of trafficking victims and victims of human smuggling and in favor of undocumented migrants.

Ministry of Foreign Affairs (MoFA)-The Ministry has initiated issuing of Machine Readable Passport (MRP) so that the deception and fraud can be reduced. Now, the passports of Nepali citizens are available from the concerned District Administration Office. Despite these efforts, the compliance of the NHRC recommendations by the Ministry can be placed as **low.** This is due to the fact that hundreds and thousands of Nepali are being subjected to trafficking for forced labor and sexual exploitation in the Gulf countries. The *Kafala* system in Gulf countries still prevails. The MoFA has failed to increase the regional diplomatic dialogue to the Gulf countries to repeal the system. Further, the capacity of the Department of Councilor Services (DoCS) has yet to be increased in order to quick response to the victims of trafficking and bringing the death body of the MWs. Also, the Embassies/Missions at abroad are yet to be strengthened and adequate allocation of budget is crucially important to rescue the victims in the destination country, provide them temporary rehabilitation services and repatriate them safely.

Ministry of Education, Science and Technology (MoEST) -Drawing the analysis of the Ministry's programs and activities carried out in the FY 2015/16 and FY 2016/17, the MoEST's level of compliance to these NHRC's recommendations can be said as **medium** or satisfactorily implemented. This is because the Ministry has initiated incorporation of human trafficking's contents in its school education (class 6-10) in Social Studies and other Subjects. Also, the Ministry has yet to introduce the trafficking related curriculum in class 11 and 12 and also introduce some curriculum in University level education, especially in Faculty of Law, and Journalism. The scholarship provisions to the children from the disadvantaged communities must also be linked to the victims of TIP.

Ministry of Finance (MoF) -NHRC recommendations related to the Ministry's jurisdiction was to increase budget in anti-trafficking activities and safe migration issues. Our analysis suggests that the Ministry has continued the allocation of budget for the prevention and combating TIP through MoWCSC, MoLESS, Nepali Embassies abroad and MoF itself and DoCS. However, it is found that budget has not been increased substantially. Thus, the level of compliance of the

recommendations can be labeled as **low**. The provision of budget of less than Rs.500,000 per DCCHT is very insignificant to carry out the anti-trafficking and safe migration campaign. More importantly, the annual budget (Rs. 1,500,000) allocated to the Safe Houses for the five Safe Houses is very insignificant. Further, there is little ownership of the anti-trafficking programs by the Government of Nepal while taking into account of the Government's budget allocation. Nearly 80 percent of the anti-trafficking budget is contributed by the external sources while only 20% is contributed by the Government budget or internal sources of the anti-trafficking organizations. As the nearly 30 percent of the GDP is contributed by the migrant workers' remittance in Nepal, the contribution of MWs to the national economy must be valued and put in lexical priority while allocating the budget for welfare of the MWs and their families accordingly.

Ministry of Law, Justice, Parliamentary Affairs (MoLJPA) -The NHRC recommendation related to the Ministry were to i)facilitate the process of ratification Trafficking Protocol; and ii) provide capacity development of public prosecutors, judges, court officials, Bar Association and private law practitioners on anti-trafficking, human rights and gender justice issues. In relation to the second recommendation, the Ministry has limited capacity development programs in the FY 2015/16 and FY 2016/17 especially related the TIP issues. Although the Ministry has provided suggestions to the MoHA and MoWCSC about the ratification of the Trafficking Protocol before ratification of the Protocol, the fast-track response and urgency of the TIP related issues has yet to be introduced in the Ministry. The Ministry has also amended some provisions of the Human Trafficking and Transportation (Control) Act 2007.

Ministry of Communication and Information Technology (MoCIT) – We do not have any testimony to confirm that the Ministry has adequately provided orientation to the media houses both at the central and local level.

Finally, the Report draws the conclusions that the crime of TIP in Nepal has widely extended in spatial dimension, forms and types. Trafficking takes place not only to India, but a myriad of countries across the globe for the purpose of labor exploitation, sexual exploitation and for other purposes. While Nepal remains still a dominant country of origin given the fact that thousands of MWs going abroad, it has also increasingly becoming a country of transit and destination for the trafficking. Addressing the emergent issue of TIP is, therefore, increasingly becoming difficult, if not impossible lion task. This requires mobilization of range of stakeholders within the country and at abroad and establishing the good governance politic, economic and market sectors as well.

The recommendations for prevention and combating TIP are forwarded in prevention, protection, prosecution, capacity development and coordination and cooperation areas.

# Chapter 1

# Introduction

National Human Rights Commission of Nepal (NHRC) was established in 2002 and it was elevated as a constitutional body in 2007. Article 248 of the *Constitution of Nepal*2015 makes the provision of the formation of the NHRC and Article 249 sets the functions, duties and powers of NHRC as to 'to respect, protect and promote human rights and ensure effective enforcement thereof' (Article 249, Clause 1). NHRC is mandated to investiga tecomplaints of violations of human rights; make recommendation to the concerned authority to take action against those who violates the human rights; makere commendation to file a case in the court; coordinate and collaborate with the civil society to ensure the increased awareness on human rights; make recommendation with reasonable grounds for taking action against those who have violated human rights; carry out periodic reviews of the relevant laws relating to human rights; monitor whether any international treaty in which Nepal is a party has been implemented. The International Coordination Committee of National Human Rights Institutions (NHRIs) has accredited NHRC with 'A Status' (fully compliance with the Paris Principles) for the promotion and protection of human rights in the country.

Since its establishment, it has already implemented four Strategic Plans[1] and currently it has the fifth Strategic Plan 2015-2020. Each of the Strategic Plans provides the highest priority to gender equality, prevention and combating human trafficking. NHRC believes that trafficking in persons violates the right to liberty, human dignity, and the right not to be held in slavery or involuntary servitude, in particular and it believes that trafficking is a transnational organized crime which possesses threats to the individuals and groups.

As an institutional mechanism, the NHRC has central office, regional offices and sub-regional offices. They all are competent to receive the complaints; carry out investigations upon complaints; monitor the human rights situation; conduct dialogue, advocacy, and lobbying, campaigning programs and publish and disseminate of reports under their jurisdiction.

## 1.1 The Context

Official of the Special Rapporteur (OSRT) on Combating Trafficking in Person constituted under the NHRC in 2005 to look after the cases of trafficking in persons especially focusing on women and children. At the beginning, the Special Rapporteur was appointed but since the restructuring of NHRC in 2012, the provision of Special Rapporteur is dropped. Now, OSRT works on TIP

1 *The Strategic Plans were as follows: First, 2001-2003; Second, 2004-2008; Third, 2008-2010; Fourth, 2011-2014.*

issues regularly. OSRT is mandated to monitor the incidence of trafficking; coordinate national, regional and international efforts to combat trafficking; generate high level commitment to efforts aimed at improving the human rights situation of women and children in Nepal; develop indicators for monitoring the situation of TIP; facilitate to maintain a comprehensive and up-to-date national database system and publish Annual Report on situation of TIP.

OSRT has annually or bi-annually published the TIP National Report since 2005. The common themes of National Reports are to identify the situation of TIP, monitor the initiatives against TIP carried out by the different GOs and I/NGOs and also evaluate the status of the law enforcement. In addition to these common themes, each National Report has a focused theme. The National Report 2005, for example,focused linkage between conflict and TIP; the National Report 2006/07 focused on linkage between the foreign labor migration and TIP; the National Report 2008/09 brought the narratives of the national and international dignitaries on combating TIP. The National Report 2011 focused on the status of 4Rs (rescue, repatriation, rehabilitation, reintegration) policies.

There is a shift in understanding and defining human trafficking as reflected by the National Reports of OSRT-NHRC. The tile of the National Reports from 2005 to 2011 (four Reports) were coined as '*Trafficking in Persons Especially Women and Children in Nepal*' while after the National Report 2012/13, the title of the National Report is given as *Trafficking in Persons: National Report*. The previous National Report 2013/15 discussed the situation of TIP, vulnerabilities of TIP in aftermath of earthquake of April 2015, foreign Labor Migration and TIP, initiatives for combating TIP and monitoring of anti-trafficking laws, policies, programs and activities. On the basis of the previous National Report (2015/16), NHRC recommended the Government of Nepal for the prevention and combating TIP. There were 10 recommendations related to prevention, 14 related to protection, 6 prosecution and 3 related to study and reporting.

This National Report (FY 2017-2018) is a departure from the previous National Report mainly in the following two grounds. First, this National Report covers information of Nepali FY 2073/74 (2016/17)and data of FY 2074/75 (2017/18) of Nepal Police and media reporting on trafficking situation and initiatives taken during the reference periodto prevent and combat TIP. Second, this Report critically assesses the implementation status of NHRC recommendations regarding prevention and combating TIP to the Government of Nepal.

## 1.2 Objectives

The overall objective of the study is to contribute to understand the changing dynamics of trafficking in persons in Nepal and assess the counter-trafficking endeavours carried out by different organizations in Nepal.

The specific objectives include the following:

1. To analyze the situation of Trafficking in Persons (TIP) in Nepal, forms of trafficking, internal or cross-border, magnitude, processes, causes and consequences.
2. To explore the linkage between migration for foreign employment especially focusing onwomen and trafficking.
3. To evaluate the Governmental and non-Governmental counter-trafficking initiatives and

their effectiveness.

4. To assess the implementation status of the NHRC recommendations about prevention and combating TIP to the Government of Nepal and provide further recommendations for improvement of the situation.

### 1.3 Definition of Trafficking in Person

This National Report understands human trafficking from the definition of UNs *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children 2000 supplementing the UN Convention against Transnational Organized Crime* (hereafter Trafficking Protocol) and the definition provided by the *Human Trafficking and Transportation (Control) Act 2007* of Nepal (hereafter HTTCA 2007). The Trafficking Protocol stipulated (Article 3(a) says:

> *Trafficking in persons shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.*
>
> *Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.*
>
> *The consent of the victim of trafficking in persons to the intended exploitation set forth in paragraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.*

The Trafficking Protocol requires that the crime of trafficking be defined through a combination of the three constituent elements acts, means and purpose of trafficking (United Nations, 2009).

The Human Trafficking and Transportation (Control) Act 2007 of Nepaldefines TIP into two forms: i) human trafficking and ii) human transportation.

*(1) If anyone commits any of the following acts that shall be deemed to have committed human trafficking:*

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

*(2) If anyone commits any of the following acts that shall be deemed to have committed human transportation:*

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

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

The Act offers the different punishment and fine according to the offences of human trafficking and transportation defined here: offences of internal or cross border trafficking; offences of child or adult trafficking; offences of human trafficking or transportation; offences committed by the Government staff or other (please refer to Chapter 5 for detail discussion).

The terms 'trafficking', 'migration' and 'migrant smuggling' used in this National Report have specific meaning. **Migration** is a voluntary movement of a person from one country to another and from one area to another area. Article 3 (a) of Smuggling Protocol defines '**smuggling of migrants** shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident'. On the other hand, **trafficking** is a movement by deception or coercion. All acts of trafficking involve migration but not all acts of trafficking are migration. If migration is not accompanied by coercion or deception and does not result in forced labor or slavery like conditions, it is not trafficking. Utilizing this definition, trafficking is a continuous offence that continues from source to transit and to destination. Trafficking is a basket of crimes. Trafficking in persons is a multi-dimensional one, involving not only cheating, kidnapping, abduction, buying and selling, confinement leading to various forms of exploitation and crimes such as sexual exploitation, labor exploitation, organ trade and others. Trafficking in persons takes place within the country and outside of the country: involving internal trafficking and cross-border trafficking. Trafficking crime initiates at a source area where the first agent in the chain of trafficking takes an action to recruit a victim. It follows through transit area through which the victim is transported to the destination where the victim is exploited for some form of economic gain. Exploitation may happen at various stages by multiple traffickers during the chain of the crime of trafficking.

The understanding of trafficking crime that is the basket of crime and it happens in the chain of trafficking process is useful in understanding how the Nepali migrant workers for foreign employment are subjected to trafficking for forced labor and sexual exploitation (please refer to Chapter 3 for detail discussion) and how female workers in the entertainment sectors within Nepal are at high risk trafficking and how Nepali girls and women are subjected to trafficking for orchestra dancing, trafficking for marriage, trafficking for sexual exploitation to India and overseas (please refer to Chapter 2 for detail discussion).

This National Report uses the terms 'Trafficking in Persons' instead of the terms of 'Human Trafficking'. This is because trafficking in person is gender neutral and it encompasses all children, adult, men, women and third sex as well. It also denotes the trafficking of human organs. Note the US TIP Reports also use the term trafficking in person'.

## 1.4 Data and Methods

This National Report utilizes a variety of sources to assess the situation of trafficking in persons in Nepal. Various studies indicate several reasons for not having reliable, valid and routinely data on TIP in Nepal. The UN High Commissioner for Human Rights (UNHCR) Recommended

Principles and Guidelines on Human Rights and Human Trafficking[2] urges the states to use the internationally agreed definition of trafficking contained in the Trafficking Protocol while collecting and maintaining data on trafficking and other related movements by ensuring that data on trafficking survivors disaggregated in line with age, sex, ethnicity and other relevant attributes. In Nepal, there is no unified and integrated counter-trafficking database. The situation of trafficking thus should be assessed by pooling the different sources of data especially from the following sources:

1. Assessing the Status of Law Enforcement – Nepal Police, Women and Children Service Directorate, Central Investigation Bureau, Interpol Police, MoFA and Foreign Missions of Nepal.
2. Assessing the Status of Prosecution and Execution of Traffickers - Office of the Attorney General (OAG) and the Supreme Court.
3. Assessing the Status of Protection of Trafficked Survivors and Persons Vulnerability to Trafficking - the National Center for Children at Risk (NCCR), Child Helpline-Nepal, Rehabilitation Centers, Women and Children Service Centers, Central Child Welfare Board, National Committee on Combating TIP (NCCHT).
4. Assessing the Situation of Trafficking and Status of Prevention of Trafficking – Different Ministries/Departments regular development and rights based programs related to addressing issues of children, women and marginalized groups. The key Ministries/ Departments include: Ministry of Education; Ministry of Women, Children and Senior Citizens; Ministry of Labor, Employment, Social Security; Ministry of Health and Population, Ministry of Finance and Poverty Alleviation Fund.
5. Assessing the Situation of Foreign Employment - Department of Foreign Employment, Foreign Employment Promotion Board, Foreign Employment Tribunal, Foreign Missions of Nepal, Ministry of Foreign Affairs.

From these sources, extensive review of the raw data, annual progress report, period report (both published and unpublished) was done.

## Primary Sources

In addition to the secondary sources, this National Report utilizes primary information. The primary information was collected during October 2017-May 2018. The primary information comprised the following:

**Consultation Meeting in Kathmandu** – Two consultation meetings held in NHRC office with the concerned Government Officers, NGOs and media persons. The consultation meeting set forth the conceptualization of the themes and pertinent issues to be addressed by the National Report. The -Honorable Member of NHRC, Mohana Ansari attended in the both consultation meetings, enquired to the participants about their implementation status and provided her feedback for brining to the Report.

**Visits of Jhapa District** – In October 2017, OSRT-NHRC team visited Jhapa district. Jhapa district is selected for the study because it has the highest number of female migration for foreign employment. It is also the district having one of the major border points between Nepal and India such as Kakarbhitta from where hundreds of thousands of people daily cross the border

2 *http://www.unhcr.bg/other/r_p_g_hr_ht_en.pdf*

for their daily needs as well as their business. The team monitored the major border points between Nepal and India in Jhapa district (four points visited). The team interviewed the border police, NGOs in surveillance centers and also conducted a consultation workshop with the key stakeholders in Chandragadhi. Also, the team interviewed a victim of trafficking in Damak Municipality who was recently rescued from Saudi Arabia.

**Visit of Kavre and Sindhupalchok Districts** – In March 2018, the OSRT-NHRC team visited Kavre and Sindhupalchok districts aiming to monitor the rehab center funded by the Government of Nepal and also monitor the surveillance points established after the 2015 earthquake in Kavre and Sindhupalchok districts. These districts were selected because they have also high female foreign labor migration and these districts were identified as the most trafficking prone districts for trafficking for 'prostitution' to India. Kavre district is reported to have been affected by trafficking of human organs since 2000 and recently in the name of network business to India. In Kavre, interviews were conducted with the District Police Office, District WCSC and NGOs personnel. The team visited to Kavrebhanjyang where Maiti Nepal has been running a surveillance center. In Sindhupalchok district, team visited to the Shakti Samuha rehab center. The Rehab center is funded by the MoWCSC. The team also visited the District Police Office, WCSC staff and visited to Migration Resource Center. The Center is established in the premise of the District Administration Office from where people make passports.

**Visit of Sunsari District** – In June 2018, OSRT-NHRC team visited Sunsari district especially focusing on the trafficking situation in the entertainment sectors. In Sunsari, interaction with the NGOs and media persons was held in Itahari and Inaruwa. The case of trafficking from Sunsari was evolved for trafficking for Orchestra dance in Bihar, and not only the girls and boys are trafficked but also trafficking of third sex is also reported.

**Visit of Surkhet District** – In May 2018, the OSRT-NHRC team visited Surkhet aiming to monitor the Government funded rehab center. The MoWCSC has been providing financial support to a rehab center run by Aawaj –a Local NGO. The team also collected information from the District Police Office Surkhet.

**Collected Information from NGOs** – OSRT-NHRC developed a semi-structure questionnaire to collect data from the NGOs. The questionnaire was administrated to NGOs and requested them to send back to OSRT-NHRC office. The questionnaire included the following information: i) profile of NGO, ii) coverage and focus area of intervention, iii) prevention related activities, iv) protection related activities, v) prosecution or legal aid related activities and vi) any capacity development activities including coordination and collaboration activities. OSRT-NHRC sent letter to more than 25 leading NGOs, but unfortunately, having frequent follow-up, only eight NGOs responded on time.

**Attendance in Workshop with the Female Workers of Entertainment Sector** – In May 2018, AATWIN organized two-day interaction program with the female workers of entertainment sectors in Dhulikhel, Kavre. OSRT-NHRC team also participated in the two-day workshop and also collected information from the workshop. In the workshop, there were 30 female workers in entertainment sectors. The workshop participants performed different activities in the workshop like singing, dancing, arts writing, telling the childhood chronicles, drama and interviews as well.

**Visited Government Offices in Kathmandu** – OSRT-NHRC team visited some of the key

concerned Government organizations for collection of information and to understand the types of intervention being conducted by the organizations. The visit took much longer time about three months (October 2017-March 2018). The team consulted to the Human Trafficking and Transportation Section of the MoWCSC, the Women and Children Service Directorate, the Department of Counselor Services, Central Investigation Bureau, Department of Foreign Employment, Foreign Employment Promotion Board and others.

**Review of Media** – OSRT-NHRC team collected the news and views published in different social media during the FY 2016/17 and the news were critically reviewed and contextualized in the text of this National Report. The media review helped to understand different dimensions of human trafficking taking place in Nepal, the role of the Police and Government Authorities and civil society in combating it.

**Utilization of Complaints/Requests to NHRC** – OSRT-NHRC team also reviewed the complaints of the victims filed in OSRT-NHRC and also requests/demands of the anti-trafficking networks about to NHRC to strictly monitor the evolving situation of trafficking dynamics and brining the traffickers into justice.

### 1.5 Meeting the Targets of SDGs and Elimination of Trafficking in Persons

Combating TIP especially of women and children is also the Sustainable Development Goals (SDGs). SDGs are adopted on 25th September, 2015 by the UN General Assembly to be achieved by 2030. There are 17 SDGs and 169 specific targets. Six SDG targets are relevant for combating sexual exploitation of children and trafficking (Box 1.1). Thus, meeting the targets of the SDGs is the pre-condition for eliminating trafficking, sexual exploitation, eliminating the worst forms of child labor and ending all forms of violence against women and children, and protection of the rights of migrant workers as well.

### Box 1.1 Sustainable development goals and TIP

| SDGs | Targets |
|---|---|
| **SDG 5** Achieve gender equality and empower all women and girls | **Target 5.2** Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation.<br>**Target 5.3** Eliminate all harmful practices, such as child, early and forced marriage. |
| **SDG 8** Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all | **Target 8.7** Eliminate the worst forms of child labor.<br>**Target 8.8** Protect labor rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment |
| **SDG 16**: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive society | **Target 16.1** Significantly reduce all forms of violence and related death rates everywhere.<br>**Target 16.2** End abuse, exploitation, trafficking and all forms of violence against and torture of children |

## 1.6 Limitation

- This National Report has mainly built upon the information obtained from the different national level GOs and NGOs. It has not focused on anti-trafficking intervention initiated by the Local Levels Governments and Province Governments if any. It has already been two years that the Local Levels Governments have formed in Nepal while the Province Governments have been established for the last 6 months. Constitutionally, these Governments have also responsibility to end the trafficking in persons.
- Although the perspectives of female workers in entertainment sectors, victims residing in the rehab centers, and some returnee women migrant workers were contacted during the process of writing the National Report, there is little discussion on victims' perspective especially of those who have been subjected to forced labor and sexual exploitation. Further, while the Report highlights the process of migration for foreign employment, working conditions of male and female migrant workers at abroad drawing information through media and other sources, the OSRT-NHRC team did not visit the destination countries to interact with the migrant workers and heard their voices and charts the elements of trafficking or forced labor, if any involved.
- This National Report largely utilizes information of migration for foreign employment from the documented sources while there are hundreds and thousands of Nepali MWs going through the irregular channels especially going via India. Further, this Report has little focused on migration to India for labor and linkage to trafficking.
- This Report could not cover all the interventions carried out by NGOs and civil society during the reference period. Only a few NGOs reported their interventions about prevention and combating TIP to OSRT-NHRC. Despite this, the NGOs intervention provides the indication that the types of interventionsthat NGOs carry out.
- As the National Report is prepared by pooling of different counter-trafficking databases, the validity of the findings also depends upon the validity of such counter-trafficking databases. Despite this, the Report has attempted to use the authentic sources of data/ information.

## 1.7 Organization of this National Report

This Report is organized in Seven Chapters. **Chapter 1** provides the context of the Report – background, defining the trafficking in persons, objectives of the study and methods and data used in the Report. **Chapter 2** analyzes the situation of trafficking in persons in Nepal – both internal and cross-border trafficking, trafficking of adults and trafficking of children. It also discusses how smuggling of migrant workers for dance, marriage and education purposesis subjected to trafficking for forced labor and sexual exploitation. **Chapter 3** discusses the magnitude, processes and working conditions of the migrant workers and attempts to juxtapose the elements of trafficking for forced labor situation. It further goes on assessing the responses of foreign labor migration. **Chapter 4** attempts to assess the implementation status of the anti-trafficking initiatives, particularly focusing on policy initiatives, budget allocation, and Government and NGOs interventions. **Chapter 5** assesses the law enforcement status and responses of judiciary. **Chapter 6** assesses the implementation status of NPA against TIP especially women and children and of NHRC recommendations to the Government of Nepal regarding prevention and combating TIP. **Final Chapter** draws the Conclusions and Recommendations.

Chapter 2

# Situation of Trafficking in Persons

This Chapter discusses on the situation of trafficking in terms of magnitude of trafficking, missing children and women.

## 2.1 Magnitude of Trafficking in Persons

It is difficult to estimate the magnitude of trafficking in persons due to the lack of representative household survey ever conducted to understand the situation of trafficking in persons in Nepal. The number of trafficking cases can be obtained from different sources including from Nepal Police, NGOs and I/NGOs.

**Trafficking Cases Registered in Nepal Police –** Nepal Police is one of the key sources for understanding the number of trafficking cases registered in Nepal (Table 2.1). According to the Women and Children Service Directorate (WCSD), Nepal Police records, the number of trafficking cases registered in Nepal Police was 227 in FY 2016/17 and 305 in FY 2017/18. In 2016/17, of the total 227 trafficking cases registered in Nepal Police, the highest number of cases registered in Province 3 (n=76), followed by Province 5 (n=59) while the number of trafficking cases registered Provinces of 1, 4 and 7 ranged in between 17 to 24. The lowest number of cases registered in Province 6 (n=3). In FY 2017/18, the distribution of the trafficking cases registered also holds the similar patterns by Provinces as in the case of FY 2016/17.

**Table 2.1 Number of Trafficking Cases registered in Nepal Police by districts and Provinces, FY 2016/17 and FY 2017/18**

| | 2016/17 | | 2017/18 | |
|---|---|---|---|---|
| | Number | % | Number | % |
| Province 1 | 29 | 12.8 | 51 | 16.7 |
| Province 2 | 17 | 7.5 | 23 | 7.5 |
| Province 3 | 76 | 33.5 | 102* | 33.4 |
| Province 4 (Gandaki) | 24 | 10.6 | 6 | 2.0 |
| Province 5 | 59 | 26.0 | 91 | 29.8 |
| Province 6 (Karnali) | 3 | 1.3 | 6 | 2.0 |
| Province 7 | 19 | 8.4 | 26 | 8.5 |
| **Total** | 227 | 100.0 | 305 | 100.0 |

Note: out of 172 cases in FY 2017/18, 39 were registered in Valley, 42 in CIB and 21 in Province 3 and all cases were lumped here in Province 3 as all the locations are in Province 3.

Source: raw data obtained from Women and Children Service Directorate, Nepal Police, 2018.

With respect to districts, more than three fourth of the trafficking cases have been registered alone in 10 districts of Nepal, namely, Kathmandu, Rupandehi, Banke, Kanchanpur, Sunsari, Jhapa, Chitwan, Makwanpur, Bardiya and Parsa. While there were no trafficking cases registered in 36 districts of Nepal in FY 2016/17. These districts are mainly from mid-western and far-westerns hills and mountain districts of Nepal. The top-ten districts in terms of number of trafficking in person (TIP) cases registered are considered to be traditionally trafficking prone districts of Nepal. These are also the districts with a densely population and have commercial sectors expanded much in recent years. There were 2 districts with 4 cases each registered; 4 districts with 3 cases each registered; 11 districts with 2 cases each registered and 12 districts with 1 case each registered. On the other hand, there were no trafficking cases registered in 36 districts (Table 2.2).

## Table 2.2 Number of trafficking cases registered by districts, FY 2016/17

| Number of cases | Number of districts | Number of districts | Total cases | % |
|---|---|---|---|---|
| 10-top districts | Kathmandu (63), Rupandehi (27), Banke (19), Kanchanpur (12), Sunsari (11), Jhapa (10), Chitwan (9), Makwanpur (8), Bardiya (8), Parsa (6) | 10 | 173 | 76.2 |
| 4 Cases | Dhanusa and Kailali | 2 | 8 | 3.5 |
| 3 cases | Saptari, Rasuwa, Kaski and Kapilbastu | 4 | 12 | 5.3 |
| 2 cases | Illam, Morang, Khotang, Bara, Sindhuli, Nuwakot, Bhaktapur, Lalitpur, Baglung, Surkhet and Bajhang | 11 | 22 | 9.7 |
| 1 case | Panchthar, Udayapur, Siraha, Sarlahi, Ramechhap, Dolakha, Parbat, Myagdi, Nawalparasi, Dang, Jumla and Dadeldhura | 12 | 12 | 5.3 |
| No cases | Taplejung, Dhankuta, Terathun, Sankhuwasabha, Okhaldhunga, Solukhumbu, Bhojpur, Rautahat, Mahottari, Kavre, Sindhupalchok, Dhading, Syanja, Tanahu, Lamjung, Gorkha, Manang, Mustang, Palpa, Gulmi, Arghakanchi, Rukum, Rolpa, Pyuthan, Dailekha, Jajarkot, Salyan, Humla, Mugu, Dolpa, Kalikot, Doti, Bajura, Achham, Baitadi and Darchula. | 36 | 0 | 0.0 |
| | Total | 75 | 227 | 100.0 |

Source: raw data obtained from Women and Children Service Directorate, Nepal Police, 2018.

Table 2.3 shows the number of trafficking cases registered in Nepal Police in the FY 2017/18 according to the months. There is no clear pattern of trafficking cases by months but it is generally seen that the registration of trafficking cases was generally higher from December 15 to July 15 compared to the trafficking cases in the July to November.

**Table 2.3Number of trafficking cases registered in Nepal Police by Nepali months, FY 2017/18**

| Months (Bikram Sambat) | A.D. months (tentatively days) | Trafficking cases | Number of victims |
|---|---|---|---|
| Srawan | July 15-August 15 | 25 | 40 |
| Bhadra | August 15-September 15 | 20 | 35 |
| Aswin | September 15-October 15 | 17 | 21 |
| Kartik | October 15 –November 15 | 15 | 26 |
| Mansir | November 15-December 15 | 10 | 17 |
| Paush | December 15-January 15 | 28 | 70 |
| Magha | January 15-Feburary 15 | 19 | 30 |
| Falgun | February 15-March 15 | 28 | 45 |
| Chaitra | March 15-April 15 | 43 | 82 |
| Baisak | April 15-May 15 | 27 | 36 |
| Jestha | May 15-June 15 | 44 | 101 |
| Ashad | June 15-July 15 | 29 | 43 |
| Total | | 305 | 546 |

Source: raw data obtained from Women and Children Service Directorate, Nepal Police, 2018.

**Cases of Trafficking to India: The SSB India Report -** According to the Report of *Sastra Sima Bal* (SSB or Border Security Force) of India, Nepal's girls trafficked into India increased very substantially in the last 5 years (Table 2.4). According to the Report, the girls are forced into prostitution and pushed into domestic help or other forms of exploitation labor. According to the SSB Report, the number of trafficking cases, traffickers arrested and victims rescued has dramatically increased over the years. The number of trafficking cases increased from 8 in 2012 to 147 in 2017. Similarly, the number of trafficked victims rescued increased from only 72 in the 2012 to 336 in 2015, 501 in 2016 and 607 in 2017. Taking the 2012 as the constant, data reveal that each year, the number of trafficking victims rescued increased, it increased by nearly 5 folds in 2015; 7 folds in 2017 and 8 folds in 2017 against the number of trafficked victims in 2012. Similarly, the number of traffickers apprehended also increased from merely 7 in 2012 to 148 in 2016 and 154 in 2017.

**Table 2.4Number of trafficking cases, traffickers arrested and victims rescued in between Nepal-India border, 2012-2017**

| Year | Cases | Traffickers apprehended | Victims rescued | % increase with 2012 as constant =1. |
|---|---|---|---|---|
| 2012 | 8 | 7 | 72 | 1.0 |
| 2013 | 14 | 19 | 108 | 1.5 |
| 2014 | 8 | 8 | 133 | 1.8 |
| 2015 | 73 | 102 | 336 | 4.7 |
| 2016 | 76 | 148 | 501 | 7.0 |
| 2017 | 147 | 154 | 607 | 8.4 |
| 2018 (Till February) | 28 | 40 | 94 | |

Source: Times of India, March 31, 2018.

**Cases of Trafficking Survivors Rescued by Nepal Police in FY 2017/18:** According to the data of WCSD, a total of 270 trafficking survivors were rescued by Nepal Police in collaboration with the different NGOs across the country in the FY 2017/18 (Table 2.5). Of the total trafficking survivors, a total of 104 cases were filed. Among the total trafficking survivors, 83 percent were females while the rest 17 percent were males. Of the trafficking survivors, children (persons under 18 years of age) comprised of 41 percent while adult 59 percent. According to the Province, the highest number of trafficking survivorsrescued were from Province 5 (48%), followed by Province 7 (20%), Province 1 (14%) and the least was from Valley (less than 1%).

## Table 2.5 Number of trafficking survivors rescued by Nepal Police and trafficking cases registered by Nepal Police, FY 2017/18

| Province | Districts | Number of trafficking cases | Number of trafficking survivors | | | | | % of total survivors |
|---|---|---|---|---|---|---|---|---|
| | | | Females | Males | Children | Adult | Total | |
| Province 1 | Jhapa (14), Illam (1), Morang (4), Udayapur (1), Sankhuwasava (1) | 21 | 34 | 3 | 15 | 22 | 37 | 13.7 |
| Province 2 | Parsa (5), Sarlahi (1), Mahottari (1), Siraha (1) | 8 | 21 | 0 | 6 | 15 | 21 | 7.8 |
| Province 3 | Chitwan (3), Makwanpur (1), Nuwakot (1), Sindhuli (1) | 6 | 13 | 0 | 1 | 12 | 13 | 4.8 |
| Province 4 (Gandaki) | Nawalparasi-East (1) | 1 | 1 | 0 | 1 | 0 | 1 | 0.4 |
| Province 5 | Nawalparasi-West (2), Rupandehi (26), Kapilbastu (2), Gulmi (1), Dang (1), Pyuthan (2), Banke (17), Bardiya (5) | 56 | 125 | 5 | 29 | 101 | 130 | 48.1 |
| Province 6 (Karnali) | Jumla (2) | 2 | 14 | 39 | 53 | 0 | 53 | 19.6 |
| Province 7 | Kailali (2), Kanchanpur (7) | 9 | 13 | 0 | 6 | 7 | 13 | 4.8 |
| Valley | Kathmandu (1) | 1 | 2 | 0 | 0 | 2 | 2 | 0.7 |
| | Total | 104 | 223 | 47 | 111 | 159 | 270 | 100.0 |
| | Row % | | 82.6 | 17.4 | 41.1 | 59.9 | 100.0 | |

Note: Figures in parentheses indicate the number of trafficking survivors in each district.

Source: raw data obtained from Women and Children Service Directorate, Nepal Police, 2018.

**Characterizing the Trafficking Survivors** – The key characteristics of the trafficking survivors can be examined from the data of WCSD data and Table 2.6 summarizes the key characteristics of trafficking survivors from FY 2012/13 to 2017/18 and for making more consistent results. Data reveal that an overwhelmingly majority of trafficking survivors are females, but there are also males as survivors. In 2017/18, there were 22 percent victims were males and rest 78 percent were females. Note that no cases of trafficking survivors reported among the third sex in Nepal Police. However, discussion with the Blue Diamond Society and other stakeholders in Sunsari district, it was revealed that the third sex persons are also the victims of trafficking.

In terms of age group, at least one-fourth of trafficking survivors are children and rest are adult in FY 2017/18 while the proportion of children is relatively high in the previous years. An

overwhelmingly majority of the victims do not have education at all (86% in FY 2016/17) while the rest had some secondary education (8%) and 5.5 per cent having SLC or more education. Majority of survivors were involved in agriculture (45%) and 23 per cent in non-agriculture before they were trafficked. Looking at the figures of FY 2017/18, majority of trafficking survivors are Janajati (49%), followed by Brahman/Chhetri (29%), Dalit (15%) and Madeshi (6%). Comparing these proportions with the share of these social groups in the Nepal's population, Janajati are overrepresented as the survivors of trafficking (37% population of Nepal comprised of Janajati); while this is not the case for Brahman/Chhetri and Dalit. Madeshi are underrepresented as the survivors of trafficking.

**Table 2.6 Distribution of trafficked survivors by selected characteristics, FY 2013/14-2017/18, Nepal**

| Characteristics | 2013/14 | | 2014/15 | | 2015/16 | | 2016/17 | | 2017/18 | |
|---|---|---|---|---|---|---|---|---|---|---|
| | N | % | N | % | N | % | N | % | N | % |
| **Sex** | | | | | | | | | | |
| Male | 0 | | 36 | 12.9 | 2 | 0.6 | 3 | 1.0 | 119 | 21.8 |
| Female | 296 | 100.0 | 244 | 87.1 | 350 | 99.4 | 308 | 99.0 | 427 | 78.2 |
| **Age groups** | | | | | | | | | | |
| <=18 years | 136 | 45.9 | 144 | 51.4 | 109 | 31.0 | 89 | 28.6 | 135 | 24.7 |
| >18 years | 160 | 54.1 | 136 | 48.6 | 245 | 69.6 | 219 | 70.4 | 411 | 75.3 |
| **Education*** | | | | | | | | | | |
| No schooling | 252 | 85.1 | 191 | 68.2 | 283 | 80.4 | 267 | 85.9 | | |
| 6-10 grade | 32 | 10.8 | 71 | 25.4 | 57 | 16.2 | 24 | 7.7 | | |
| SLC and above | 12 | 4.1 | 12 | 4.3 | 16 | 4.5 | 17 | 5.5 | | |
| **Occupation*** | | | | | | | | | | |
| Agriculture | 145 | 49.0 | 105 | 37.5 | 192 | 54.5 | 126 | 40.5 | | |
| Non-agriculture | 92 | 31.1 | 84 | 30.0 | 59 | 16.8 | 55 | 17.7 | | |
| Study | 49 | 16.6 | 72 | 25.7 | 52 | 14.8 | 38 | 12.2 | | |
| Household work | 10 | 3.4 | 19 | 6.8 | 0 | 0.0 | 92 | 29.6 | | |
| **Caste/ethnic groups** | | | | | | | | | | |
| Brahman/Chhetri | 85 | 28.7 | 84 | 30.0 | 89 | 25.3 | 96 | 30.9 | 159 | 29.1 |
| Janajati | 122 | 41.2 | 122 | 43.6 | 205 | 58.2 | 147 | 47.3 | 268 | 49.1 |
| Dalit | 57 | 19.3 | 43 | 15.4 | 43 | 12.2 | 37 | 11.9 | 82 | 15.0 |
| Madeshi | 32 | 10.8 | 31 | 11.1 | 13 | 3.7 | 11 | 3.5 | 35 | 6.4 |
| Others | | | | | | | 20 | 6.4 | 2 | 0.4 |
| Total | 296 | 100.0 | 280 | 100.0 | 352 | 100.0 | 311 | 100 | 546 | 100.0 |
| Number of cases | 185 | | 181 | | 212 | | 227 | 305 | 546 | |

Note: * the break-down data by education and occupation of the victims was not found for FY 2017/18.

Source: data obtained from Women and Children Service Directorate, Nepal Police, 2018.

**Characteristics of Trafficked Accused Persons –** It must be noted that there is no fundamental differences in the characteristics of the trafficking survivors and trafficking accused persons when it comes to education, occupation and place of residence and caste/ethnic groups. It is only the sex and age that differ between trafficking survivors and the accused persons. The offenders are both males and females, but the share of females is reported to be increasing over the years. It is increasingly known that female offenders are used for luring girls and women MWs. They are also used for transportation of trafficking survivors from one place to another within the country. By age groups, an overwhelmingly majority of the offenders is adults. Offenders mainly comprised of 25 to 50 years of age.

As presented in Table 2.7, majority of the offenders have either no education or they are just literate (64%) while the rest have secondary (3%) and SLC and above education (32%) (Considering the data of FY 2016/17). By occupation, majority were involved in agriculture (54%) while there is also large proportion in non-agricultural sector (46%). Offenders come across the major caste/ethnic groups of Nepal.

## Table 2.7Distribution of trafficked accused persons by selected characteristics, FY 2013/14-2017/18, Nepal

| Characteristics | 2013/14 | | 2014/15 | | 2015/16 | | 2016/17 | | 2017/18 | |
|---|---|---|---|---|---|---|---|---|---|---|
| | N | % | N | % | N | % | N | % | N | % |
| **Sex** | | | | | | | | | | |
| Male | 255 | 68.9 | 219 | 70.6 | 354 | 79.2 | 289 | 74.3 | 463 | 73.6 |
| Female | 115 | 31.1 | 91 | 29.4 | 93 | 20.8 | 100 | 25.7 | 166 | 26.4 |
| **Age groups*** | | | | | | | | | | |
| <=18 years | 2 | 0.5 | 13 | 4.2 | 2 | 0.4 | 10 | 2.6 | | |
| 19-25 | 103 | 27.8 | 88 | 28.4 | 84 | 18.8 | 81 | 20.8 | | |
| 26-35 | 134 | 36.2 | 125 | 40.3 | 187 | 41.8 | 131 | 33.7 | | |
| 36 and above | 131 | 35.4 | 84 | 27.1 | 174 | 38.9 | 167 | 42.9 | | |
| **Education*** | | | | | | | | | | |
| No schooling | 321 | 86.8 | 173 | 55.8 | 395 | 88.4 | 250 | 64.3 | | |
| 6-10 grade | 24 | 6.5 | 111 | 35.8 | 36 | 8.1 | 13 | 3.3 | | |
| SLC and above | 25 | 6.8 | 26 | 8.4 | 16 | 3.6 | 126 | 32.4 | | |
| **Occupation*** | | | | | | | | | | |
| Agriculture | 175 | 47.3 | 115 | 37.1 | 302 | 67.6 | 210 | 54.0 | | |
| Non-agriculture | 180 | 48.6 | 170 | 54.8 | 143 | 32.0 | 157 | 40.4 | | |
| Study | 11 | 3.0 | 17 | 5.5 | 0 | 0.0 | 6 | 1.5 | | |
| Household work | 4 | 1.1 | 8 | 2.6 | 2 | 0.4 | 15 | 3.9 | | |
| **Caste/ethnic groups*** | | | | | | | | | | |
| Brahman/Chhetri | 86 | 23.2 | 93 | 30.0 | 150 | 33.6 | 150 | 38.6 | | |

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Janajati | 169 | 45.7 | 85 | 27.4 | 204 | 45.6 | 133 | 34.2 | | |
| Dalit | 59 | 15.9 | 66 | 21.3 | 53 | 11.9 | 55 | 14.1 | | |
| Madeshi | 56 | 15.1 | 66 | 21.3 | 40 | 8.9 | 33 | 8.5 | | |
| Foreigner | | | | | | | 1 | 0.3 | | |
| Not stated | | | | | | | 16 | 4.1 | | |
| Total | 370 | 100.0 | 310 | 100.0 | 447 | 100.0 | 389 | 100.0 | | |
| Number of cases | 185 | | 181 | | 212 | | 227 | | 629 | |

Note: * the disaggregated data for the FY 2017/18 was not available.

Source: data obtained from Women and Children Service Directorate, Nepal Police, 2018.

Among the 389 offenders in FY 2016/17, nearly one-thirds was absconded. Majority of abscondedoffenders were males compared to females (40.5% vs. 10%). Conversely, only two-thirds of the trafficking accused persons were arrested. This proportion was much higher for females (87%) compared to males (nearly 60%). In FY 2017/18, there were 629 offenders, of them, 438 (or 69.6%) were arrested while the rest 191 (or 31.4%) were absconded.

**Process and Modus Operandi of Human Trafficking –** Traffickers use different modus operandi for trafficking of victims, especially women and children. On the basis of the data reported by the victims of trafficking in Nepal Police in three years (2013/14, 2014/15 and 2016/17), it can be inferred that a few victims are trafficked by using coercive measures such as threats, using drugs or medicines. But, rather victims are largely tempted by making of false promises of good employment and good salary (65% in FY 2016/17), luring (23.5%). Fake marriage, pretending to a tour and pretending to visit relatives are also the modus operandi of trafficking of girls and women (Table 2.8).

**Table 2.8Distribution of number of trafficking cases by modus operandi of trafficking, Nepal Police, FY 2013/14-2016/17**

| Modus operandi | 2013/14 | | 2014/15 | | 2016/17 | |
|---|---|---|---|---|---|---|
| | N | % | N | % | N | % |
| Using medicine | 0 | 0.0 | 3 | 1.1 | 2 | 0.6 |
| False promises of job | 22 | 11.9 | 70 | 25.0 | 201 | 64.6 |
| Fake marriage | 12 | 6.5 | 15 | 5.4 | 5 | 1.6 |
| Pretending to a tour | 8 | 4.3 | 9 | 3.2 | 3 | 1.0 |
| Pretending to visit relatives | 6 | 3.2 | 2 | 0.7 | 2 | 0.6 |
| Luring | 45 | 24.3 | 160 | 57.1 | 73 | 23.5 |
| Threats | 40 | 21.6 | 21 | 7.5 | 1 | 0.3 |
| Not stated | 52 | 28.1 | 0 | - | 24 | 7.7 |
| Total | 185 | 100. | 280 | 100.0 | 311 | 100.0 |

Note: the FY 2015/16 data were not available and hence not presented in Table 2.6.

Source: data obtained from Women and Children Service Directorate, Nepal Police, 2018.

The DSP of Sindhupalchok district reported that although there is there is no registration of trafficking cases in the Police Office for the last 3-years, he reported that non-registration of the cases does not mean that there is no trafficking crime but it may be happening in the new form. Now a day, the traffickers produce the fake documents so that they could avoid any checking by the police or administration. In traditional mode of trafficking involved transporting of girls to cross the border, selling or transferring the girls to the brothel owner and receiving the cash. While today, trafficking takes place in the name of foreign employment, developing the legal documents such as making the citizenship certificate even for those of the underage people. The human smugglers make a 'setting' from Ward level to the District Administration Office for issuing the citizenship certificate of under age children and issuing a passport. The Safer Migration Initiatives (SAMI) Staff in Sindhupalchok reported that when issuing the citizenship certificate, they also bring the recommendation letters from the Local Levels. If they bring the recommendation letters for issuing the citizenship certificate from the local levels, it becomes mandatory to produce the citizenship certificate by the district administration office to the applicant even if the applicant is suspected to be under age. The victims are so deeply influenced by the agents that the victims do not like to report that they are under age and do not like to report under which influence they are issuing the citizen certificate. Their parents are also deeply influenced by the agents. The following case is developed on the basis of discussion with the SAMI staff in Sindhupalchok districts that how a 14-year old girl was tempted to go to a Gulf country by making of citizenship certificate of 19 years of old.

In Sindhupalchok, Kopila (name changed) has received a citizenship certificate when she was 14 years of age by increasing 5 years in her citizenship certificate. This was known that when she was rescued from India by Maiti Nepal Kanchanpur Branch Office, it was known that she was 'assisted' to receive the citizenship certificate of Kopila and her mother.

**Networking –** Discussion with the stakeholders such as NGO persons visited and Nepal Police, it is revealed that trafficking takes place in networking rather than alone. The group comprised of two persons, three persons, four persons and five and more persons. There is specific role of the traffickers in the group. These roles ranged from identifying of the potential victims to luring them to transportation and recruiting.

**Trafficking route and destination –** Broadly, cross-border trafficking (to India), overseas trafficking (beyond India) and internal trafficking has been found in Nepal. Trafficking to India traditionally took place for the purpose of 'prostitution' and circus performance. While trafficking to India today takes place for prostitution, dance in orchestra, circus performance. Trafficking to oversee is mainly for the labor exploitation but it has also turned to be sexual exploitation. Internal trafficking takes place for both labor exploitation and sexual exploitation. The key internal trafficking sectors identified in Nepal are entertainment sectors and brick kilns. Trafficking routes are especially the highway heads, major border points between Nepal-India including Tribhuvan International Airport. The trafficking takes place by making of the fraud travel documents including passport and air ticket.

**Emerging forms and practices of trafficking –** According to the WCSD, Nepal Police (letter received to NHRC), and the following areas are the emergent trafficking forms and practices

taking place in Nepal:

- People being trafficked in the name of sending a person either legally or illegally to foreign employment;
- In the name of entertainment sectors such as dance, disco to countries of Malaysia, United Arab Emirates, Tanzania, Kenya, Bahrain;
- In the name of sending women for housemaid in countries in visit visas like Syria, Iraq, Kurdistan, Kuwait and other countries;
- Trafficking for marriage in China, Korea through the marriage bureau;
- In the name of sending people in security, Ship/cruise to countries like Nigeria, Morocco;
- In the name of visiting own relatives and friends to India;
- Trafficking in the name of providing education;
- Trafficking in the name of sending a person for a specific program like cultural program; and
- Trafficking takes place by increasing the age of the victim to make the passport and citizenship.

The Police also reported that one of the main problems of rescue of the trafficking victims is that victims do not likely to file the complaints against the traffickers. The victims who are rescued perceive that they are restricted to go abroad for work and earing. They do not generally realize that they have been rescued from the risk of trafficking or trafficking situation. This feeling mainly comes due to the lack of employment in the country.

## 2.2 Media Coverage on Trafficking to India

During the FY 2016/17 and FY 2017/18, several media have covered the news about the trafficking of Nepali girls to India. On January 31, 2018, online[3] news publishes from Chitwan that 'three girls were rescued from India'. The news reported that within one-month, three girls were rescued from India with the active coordination of KI Nepal, Nepali Embassy to New Delhi and Women Commission, India. All three victims rescued were provided shelter in KI Nepal Rehab Home in Bharatapur, Chitwan. According to the Manager of KI Nepal in Chitwan, one woman was sold by her own husband, while another woman was sold by an agent. This news came out when a woman returned to Nepal from Dubai who went to Dubai via India.

**Sell of Nepali Girls in Indian Orchestra** – These are evidences that Nepali girls are trafficked to Orchestra dance in India. In FY 2016/17, Maiti Nepal, Birgunj Branch Office rescued 12 girls from Orchestra dance in Motihari and Bagaha of Bihar, India. Girls are demanded in Orchestra dance. They are involved in erotic dance with naked body. Men enjoy watching such a dance. In the past, girls were used to be sold for prostitution directly, while in recent years this trend has emerged. OSRT-NHRC team also encountered the evidences of selling of Nepali girls to India for Orchestra Dance from Sunsari and Saptari districts. This is also evident from Kantipur news[4] published on January 31, 2018.

The case goes as: Rabina, 18, from Gamahariya, Rautahat and Radha, 14, of Gaighat, Udayapur (name changed), Sita, 16 were intercepted by Nepal Police in border between Nepal and India in Birgunj. These girls were brought to Birgunj promising them a good job and were taken to

3 ***https://www.onlinekhabar.com/2018/01/656205.***

4 *https://www.kantipurdaily.com/feature/2018/01/31/20180131181332.html.*

a village in Bihar, India along the border between Nepal and India. In that village, they were employed in an Orchestra (professional dance). In the first week, they were trained. The Orchestra group used to force the girls in dancing in the marriage ceremony and other rituals. The girls had to dance wearing short clothes. The girls were promised of Rs. 1,500 daily but they were not paid at all. They were sheltered in a hut. At night, stranger men used to come and abused them. One day, Rabina and Radha escaped from the Orchestra group and came to the border to Nepal. Sita is still with the Orchestra group. Rabina and Radha were handed to their parents by Maiti Nepal. Maiti Nepal (Birgunj) has also rescued Soni (name changed) of Waling, Syanja from Bagaha, Bihar. The victim was brought for work in candle making but she was forced to involve in Orchestra.

**Sell of girls for marriage in India** – Media has widely reported that girls are sold in Haryana India for marriage. This case was evident when a woman who came to Nepal reported that she was sold some 17 years ago to a man in Haryana. She reported that there is practice of buying and selling of girls from Uttarakhand, Nepal and Assam to Haryana. The rich men marry by purchasing the bride. If a man is poor, it is difficult to marriage him.

Tara Kami, 32, of Suklaphat Municipality-1 of Kanchanpur district had never thought that she would be able to return to home. In a day of 2001 year she went to Jhalari market for purchasing of goods she was abducted by somebody using drugs. The traffickers took her in a room and locked. When she became the conscious, she was again given the drugs for unconsciousness. She did not know where they brought her. She was sold four or five times. When she was sold to Jasakarn Sing of Haryana, she stayed with him and now she has 15 year old son. She came to Nepal with her 15 year old son to meet the relatives on April 2018.

Source: Kanchanpur (April 4, 2018) RSS - News came from face books and Twitter.

**JB Road Red-light Area of Delhi** – One of the key destinations for selling of Nepali girls to India is said to be JB Road Red-Light Area of New Delhi. Ashasis Luitel in Ratopati[5] (August 9, 2017) online describes how they reached to the red-light areas and what they have learnt. He along with other two Nepali anti-trafficking activists visited the place on August, 2017. They reached to 56 Number *Kholi* (street). The route going to the building where prostitutes were placed was very narrow, dirt, spitting with *pan* and *gudaka*. When they step up the building, they saw women of aged 13-14 years to 40-45 years of old. They also heard the songs in Nepali language *Sunsa Saili Paradesh bata ma aaula…Chalesa Katesi Ramila*…. They found that 80% girls were of Nepali origin and half of them might be Tamang ethnic group as they were speaking Hindi language in Tamang mother tongue. Having observed the brothel and women around there that they the language they speak, the journalist team suspected that Nepali women are also owner of brothel. It was suspected that the new girls are not brought directly to the brothel. When they become consent to involve in the profession, and when they are severely washed their mind by the brothel owner by giving different physical and mental stress, they are brought to the brothel. Heavy make-up to the prostitute girls was required to forget the past.

## 2.3 Child Trafficking

### 2.3.1 Vulnerability of Trafficking: Violation of Human Rights Violation of Children

Drawing on the INSEC's data over the last three-years (2015-2017) about the violence against

*5* *http://www.ratopati.com/story/9168.*

children, it is revealed that a large number of children were victims of rape, sexual abuse, child trafficking, physical punishment, child labor, and child marriage (Table 2.9). The child victims were reported as 838, 720 and 788 in the year of 2015, 2016 and 2017, respectively. The three-yearly average number of child victims was 782. Among the different forms of human rights violation against children, crimes of rape and sexual abuse have stood most important crime against children (63% and 23% respectively) given the size of the victims. The victims of these crimes were only girls. The three-yearly average number of trafficking victims came out to be 31 in the reference years – which constituted 4 percent of the total child victims. There are also noticeable proportion of child victims of child marriage (2.8%), physical punishment (2.6%) and child labor (2.2%). Children from the different age range were victims of the crimes: 10 percent in the age range of 1-5 years, 29 percent in the age range of 6-11 years and 61 percent in between 12-17 years of age.

**Table 2.9 Number of children victims of different forms of crime, INSEC 2015-2017**

| | 2015 | | | 2016 | | | 2017* | Three-yearly average | Percent of three-yearly |
|---|---|---|---|---|---|---|---|---|---|
| | Girls | Boys | Total | Girls | Boys | Total | Total | | |
| Rape | **492** | **-** | **492** | **468** | **-** | **468** | **527** | **496** | **63.4** |
| Sexual abuse | 199 | 1 | 200 | 148 | 11 | 159 | 181 | 180 | 23.0 |
| **Child trafficking** | **34** | **2** | **36** | **18** | **17** | **35** | **23** | **31** | **4.0** |
| Child marriage | 23 | 1 | 24 | 16 | 0 | 16 | 26 | 22 | 2.8 |
| Physical punishment | 7 | 21 | 28 | 8 | 13 | 21 | 11 | 20 | 2.6 |
| Child labor | 24 | 22 | 46 | 1 | 3 | 4 | 0 | 17 | 2.2 |
| Infanticide | 4 | 8 | 12 | 8 | 7 | 15 | 14 | 14 | 1.8 |
| Attempt to kill | - | - | - | 1 | 1 | 2 | 1 | 1 | 0.1 |
| Total | 783 | 55 | 838 | 668 | 52 | 720 | 788 | 782 | 100.0 |

Source: Informal Sector Service Center, INSEC (2016); INSEC (2017) and INSEC (2018).

Note: * Gender disaggregated data were not available for the year 2017.

### 2.3.2 Vulnerability of Trafficking: Missing Children and Women

Studies indicate that there is close relation between missing children phenomenon and trafficking of children (OSRT-NHRC, 2011). In India, realizing the close linkage between missing children phenomenon and risk of trafficking, the Supreme Court of India ordered to the Union of India and States in May 10, 2013 that if the missing children are not found within four months of the first information report (FIR), the matter shall be forwarded to the Anti-Trafficking Unit and take up more intensive investigation regarding the missing child as human trafficking. According to the WCSD, the missing children might be at the risk in the following areas:

- Falling into abuse and sexual abuse
- Misuse of them in the criminal activities
- Murder, violence, bonded and rape victims
- Falling into drug trafficking and wrongdoing habits
- Physical harms and metal distract state

- Falling at the worst forms of child labor
- Involved in criminal activities
- Trafficking to abroad
- Involving in the risk prone entertainment profession
- Affected by the dangerous diseases
- Making them as beggars
- Being victims of kidney removal

In Nepal, *Balbalika Khoja Talasha Samanyan Kendra* was established in 2006 with the joint efforts of MoWCSC, CCWB, Nepal Police, and civil society organizations to seek the missing children and provide the protection and rehabilitation services to the abandoned/neglected children. Data of the missing children, children remain missing are available since FY 2009/10 to FY 2017/18 (Table 2.10). Data reveal that the number of missing children has considerably increased in the FY 2016/17 compared to previous years. As reflected by the nine-yearly (FY 2009/10-2017/18) average numberof missing children, annually more than 1750 children are reported missing in Nepal. Among them, girls accounted for 55 percent and rest45 percent boys. The untraced rate is very high (54.5%).The untraced rate is considerably higher for girls (59%) compared to boys (43%). Out of the total missing children in FY 2016/17, 53 percent were 17or 18 years of age. The higher number of girls missing from the age group of 17 or 18 years establishes the fact that missing children phenomenon may be link to trafficking of children.

**Table 2.10Number of missing children recorded in National Center for Children at Risk, Kathmandu Valley**

| Fiscal year | No. of missing children | | | No. children remain missing | | | Untraced rate | | |
|---|---|---|---|---|---|---|---|---|---|
| | Boys | Girls | Total | Boys | Girls | Total | Boys | Girls | Total |
| 2009/10 | 1139 | 1047 | 2186 | 387 | 514 | 901 | 34.0 | 49.1 | 41.2 |
| 2010/11 | 1228 | 1203 | 2431 | 451 | 636 | 1087 | 36.7 | 52.9 | 44.7 |
| 2011/12 | 774 | 804 | 1578 | 270 | 428 | 698 | 34.9 | 53.2 | 44.2 |
| 2012/13 | 659 | 794 | 1453 | 202 | 428 | 630 | 30.7 | 53.9 | 43.4 |
| 2013/14 | 429 | 408 | 837 | 145 | 229 | 374 | 33.8 | 56.1 | 44.7 |
| 2014/15 | 342 | 444 | 786 | NA | NA | 496 | | | 36.9 |
| 2015/16 | 600 | 902 | 1502 | 397 | 707 | 1104 | 66.2 | 78.4 | 73.5 |
| 2016/17 | 1047 | 1725 | 2772 | 694 | 1358 | 2052 | 66.3 | 78.7 | 74.0 |
| 2017/18* | 923 | 1407 | 2330 | 516 | 797 | 1313 | 55.9 | 56.6 | 564 |
| 9-yearly average (2009/10-2017/18) | 793 | 970 | 1764 | 340 | 566 | 962 | 42.9 | 58.4 | 54.5 |
| Row % | 45.0 | 55.0 | 100.0 | | | | | | |

Note: NA refers to 'not availability'.

Source: CCWB, 2014; CCWB, 2015; CCWB, 2016 and CCWB, 2017 and for * FY 2017/18 data, raw data obtained from WCSD, Nepal Police, 2018.

Table 2.11 summarizes the number of missing children recorded in Nepal Police in the FY 2017/18 according to Provinces of Nepal. The main sources of data of missing children in WCSD are the parents of the missing children and organizations, information obtained from free telephone number of 104, Police control 100, Province offices, District Police offices through e-mail, GOs and NGOs information and e-mail and child help lines.

Among the Provinces, thehighest proportion of missing children was recorded in Province 3 (30%) where majority of children were recorded in Kathmandu valley. Looking at the untraced rate, the Province 1 stands at the first one (70%). The untraced rates are in between 60 to 70 percent in Provinces of 2, 5, 6 and 7 while it is the lowest in Province 3 (38%) and Gandaki Province (53%).

## Table 2.11 Number of missing children, untraced rate by Provinces, FY 2017/18, Nepal

| Province | No. of missing children | | | No. children remain missing | | | Untraced rate | | |
|---|---|---|---|---|---|---|---|---|---|
| | Boys | Girls | Total | Boys | Girls | Total | Boys | Girls | Total |
| Province 1 | 92 | 153 | 245 (10.5) | 66 | 106 | 172 | 71.7 | 69.3 | 70.2 |
| Province 2 | 81 | 206 | 287 (12.3) | 44 | 146 | 190 | 54.3 | 70.9 | 66.2 |
| Province 3 | 317 | 385 | 702 (30.1) | 108 | 160 | 268 | 34.1 | 41.6 | 38.2 |
| Province 4 (Gandaki) | 74 | 201 | 275 (11.8) | 51 | 95 | 146 | 68.9 | 47.3 | 53.1 |
| Province 5 | 129 | 212 | 341 (14.6) | 88 | 148 | 236 | 68.2 | 69.8 | 69.2 |
| Province 6 ( Karnali) | 99 | 111 | 210 (9.0%) | 72 | 61 | 133 | 72.7 | 55.0 | 63.3 |
| Province 7 | 131 | 139 | 270 (11.6%) | 87 | 81 | 168 | 66.4 | 58.3 | 62.2 |
| Total | 923 | 1407 | 2330 (100.0%) | 516 | 797 | 1313 | 55.9 | 56.6 | 56.4 |

Source: raw data obtained from WCSD, Nepal Police, 2018.

Table 2.12 shows the distribution of the missing children recorded in WCSD in FY 2017/18, according to the age and sex of the missing children. Data reveal that of the total 2330 missing children, 1.5 percent were very tender children, 6 percent were in the age range of 6-10 years, 39 percent in the age range of 11-14 years, and 53 percent in the age range of 15-18 years of age. It is found that more girls in the age range of 15-18 (65%) are reported missing against 33 percent for boys.

## Table 2.12 Age-sex of the missing children, FY 2017/18, Nepal

| Age groups | Number | | | Percent | | |
|---|---|---|---|---|---|---|
| | Girls | Boys | Total | Girls | Boys | Total |
| <=5 years | 13 | 22 | 35 | 0.9 | 2.6 | 1.5 |
| 6-10 years | 32 | 114 | 146 | 2.2 | 13.2 | 6.3 |

| | | | | | | |
|---|---|---|---|---|---|---|
| 11-14 years | 465 | 442 | 907 | 31.7 | 51.3 | 38.9 |
| 15-18 years | 958 | 284 | 1242 | 65.3 | 32.9 | 53.3 |
| Total | 1468 | 862 | 2330 | 100.0 | 100.0 | 100.0 |

Source: raw data obtained from WCSD, Nepal Police, 2018.

According to the WCSD, the top-12 districts with the missing children reported are the following: Jhapa, Morang, Kaski, Ramechhap, Rupandehi, Kathmandu, Makwanpur, Sindhupalchok, Nuwakot, Banke, Kailali and Nawalparasi.

In the FY 2017/18, media has also reported the missing children phenomenon in Nepal. A few examples are drawn here. On August 10, 2017, an online-news reported that three girls were missing from two weeks in a village of Rautahat district. The online news also posted the photographs of the missing children. Similarly, the news also reported that three children were also missing from Chandra Nigahapur – 2, Judebela village. The children were of 12 or 13 years of age and two were girls and one was boy. All of them were from a hill Dalit family. From the same village, few months ago, a 12-year old girl of Rai family was missing. The parents complained to the area police about their missing children in Chandra Nigahapur. The Police reported that they have been looking for two weeks of the missing children and they have circulated the photographs and letter to all the Police Units including in the neighboring districts. The parents fears that the missing children might be in risk situation and may have been trafficked. On October 18, 2017, an online media reported that two children were missing from a *Gurukul* school of Kapilbastu district. The children were from Shiva Raj Municipality -5 of the district. The parents of the children complained it to the Area Police Pipara and the police reported that missing children from the *Gurukul* was being searched.

Drawing on the WCSD, Nepal Police, Box 2.1 summarizes the trends and reasons for missing children in Nepal.

**Box 2.1 Trends and Reasons for missing children in Nepal**

- Children in poverty and not like the family environment
- Children having either no mother or father or both or abandoned
- Children either mother or father or both in foreign employment
- Children having the step-father or step-mother
- Children possibility of involving in criminal activities and thefts
- Children run away from the house by friends' luring
- Children involved in child labor
- Children dropped out from schools
- Children mentally or physically disabled
- Children in the hostels and *Gumba* in which stringent discipline is maintained
- Children victims of domestic violence and abuse
- Children involved in the protest or *mela* (gathering of ceremonies)
- Children with lack of caring (themselves lost)
- Children run away from the house for seeking employment without informing the

family

- Children lured for good promises and trafficked
- Children victims of child marriage
- Street children addicted to the drugs
- Children of the migrant families
- Children in the Child Care Homes without proper caring and development
- Children victims of sexual offences and exploitation.

Source: based on letter of WCSD to NHRC, 2018.

Although the WCSD data reveal that missing children are at risk of trafficking, it has yet to precisely track the missing children in relation to trafficking. Further research is needed in this area.

**Missing Cases of Women –** Media reported about the missing children phenomenon handled by the Police. In Makwanpur district, a total of 45 unmarried women and 160 married women were registered as missing in the FY 2016/17. Of the missing, 79 women and 45 children were found. In FY 2015/16, a total of 278 women and children were reported missing and of them only 67 were found.

Missing cases of women whose husbands are in foreign employment have been reported in the media. Suntali (name changed), 24, of Bhimphedi Rural Municipality of Makwanpur district has been missing for two months. Her husband Arjun has been searching her when he came to Nepal from foreign employment. She ran away from the house by taking all the money sent by her husband. In another case, wife of Shyam Sundar of Makwanpur Gadhi has been missing since June 29, 2017.Shyam Sundar is in Malaysia. The case was field in Makwanpur Police by Shyam Sundar's father. Chudamani Aryal (on January 3, 2018) in an-online news writes about missing of women from Bada Ganga Municipality-9 of Kapilbastu district. Gita (name changed), 22, and Radha Nepal have been missing for more than two weeks. Ganga was reported to have gone to her parents' house, but it is known that she already left her parents' house and did not go back to her house. Gita's husband is in Malaysia and Radha's husband is in Oman. Both families registered complaints in Kapilbastu district Police for searching of Ganga and Radha.

### 2.3.3 Vulnerability of Trafficking: Online Sexual Exploitation of Children

There has been increasingly child abuse through the use of new technology such as social media, internet and mobile phone. A growing number of children have also accessed to these new technologies. There is no specific law that criminalizes creating pedophile sites; viewing, possessing, downloading, creating, uploading disseminating child abuse materials and child pornography and online child sex abuse. A survey conducted by ECPAT (2017) among the 452 children[6]aged 5 to 12 years in Kathmandu valleyrevealed that nearly 80 percent children used mobile and laptop for internet. Four in 10 children interviewed used Internet services around 30 minutes while there were 31 percent children using Internet from 1-2 hours, 12 percent using 3-4 hours and rest 6 percent using more than 4 hours. In the survey, 20 percent ever watched pornographic materials online. Of those watched, 24 percent watched due to their friends circles, 14 percent reported that the pornographic links appears themselves while they

*6 Of the total children surveyed, girls were 46.9 percent while boys accounted to 53.1 percent. The interview was carried out among children aged 5-12 years.*

use the Internet and another 14 percent reported that they wished to watch. In the sample, 15 percent children were sexually abused online and when they were asked whether they knew about securing from such online sexual abuse, one-fourth of them do not know. Interestingly, 75 percent of children interviewed have opened their personal face-book account (Table 2.13).

**Table 2.13Overview of children's using Internet and exposure with the Pornographic materials online**

| Number of children surveyed | 452 (212 girls and 240 boys) |
|---|---|
| % used mobile or laptop in own house, friends' house or in the cyber | 79.2 |
| % used Internet more than one-hours | 59.0 |
| % watched pornographic materials online | 18.0 |
| % watched due to friends circle | 23.6 |
| % links comes themselves | 11.6 |
| % wish to watch | 13.6 |
| % reported abused online | 15.0 |
| % don't know to secure from possible online sexual abuse | 25.0 |
| % have face-book account | 72.1 |

Source: ECPAT Luxembourg (2017).

### 2.3.4 Vulnerability of Trafficking: Children in Brick Kilns

The NHRC (2017) staff monitored the brick kilns in Kathmandu and Lalitapur districts in April 2017 to assess the situation of human rights among child laborers. The Monitoring Report estimated a few number of child laborers in brick kilns. Of the estimated 400 laborers, only 20 to 25 or 6% were children under 18 years of age. Laborers are mostly from Ramechhap, Kavre, Sindhuli, Rukum, Rolpa, Dang, Salyan districts and majority of the laborers constituted from the disadvantaged social groups like Janajati and Dalit. The Report also cautiously reported that children are employed by the employers and they are told to lie their exact age. There were 15-20 children of less than 5 years of age. The Report stated the poor education and health status of children. In addition, incidence of child marriage, early pregnancy, abortion and problem of re-union with the family, sexual abuse were identified as the protection issues. Adolescent girls are also at risk of sexual abuse and exploitation.

Although there was no evidence discussed about the internal or external trafficking in the Monitoring report, the situation in the brick kiln described suggested that children are at greater risk of trafficking for sexual exploitation. On March 14, 2018, the Kantipur Daily reported that adolescent girls are unsafe in Brick kilns in Bhaktapur district. This issue emerged when a series of rape cases evident in the brick kilns. A 13 year old mentally disabled girl was victim of rape two times in a brick kiln in Duwakot. In another case, a 16-year old girl was raped in Agni Brick Kiln of Duwakot. In another case, a 45 year old woman was raped in the Jhyauli (hut). Police reported that the alcoholic behavior of laborers, huts made without windows, browsing of pornographic materials from Internet, no fixed working hours, and collective residence in the Jhyauli all make conducive environment for criminal activities.

### 2.3.5 Vulnerability of Trafficking: Inter-Country Adoption

The number of inter-country adoption was higher in some years back, and literature also suggested that there was linkage between inter-country adoption and trafficking. The number of irregular inter-country adoption was reported to have been declined when the Government of Nepal adopted Terms and Conditions for granting the approval of Inter-country adoption in 2008 (Amended in 2011) and establishment of Inter-Country Adoption Management Committee under the Ministry of Women, Children and Senior Citizens. The Committee is responsible for planning and management of inter-country adoption.

- In between 1993-2008, a total of 2,234 inter-country adoptions were recorded (no sex disaggregated data).
- In 2009/10 and 2010/11, there were 50 and 52 inter-country adoptions, respectively while it declined to only 24 in FY 2011/12 and to 7 in 2012/13.
- In the FY 2013/014, there were only three cases (one each in India, Norway and USA) of girl children adoption.
- In FY 2014/015, there were only two cases (one in USA and one in Slovenia) of girl children adoption.
- In FY 2016/017, there were no inter-country adoption but 13 children from Kathmandu and 2 children from Bhaktapur were domestically adopted.

## 2.4 Assessing the Trafficking Situation: Cases of Some Selected Districts

This National Report brings the cases from some selected districts, namely, Jhapa, Sunsari, Saptari, Sindhupalchok, Parsa and Surkhet, to assess the trafficking situation at the local levels. These districts were visited by OSRT-NHRC Report writing team and conducted interaction with the concerned stakeholders especially with the District WCSCs, NGOs and media persons. Data presented in Table 2.14is obtained from the concerned District WCSCs.

**Table 2.14 Number of missing children, number of rescue and trafficking cases, selected districts, FY 2016/17**

| | | Missing children* | | Number of persons rescued** | Number of trafficking cases registered*** |
|---|---|---|---|---|---|
| | | Total | Female | | |
| 1 | Jhapa | 142 (7.7) | 97 (7.2) | 615 (600) | 10 (20) |
| 2 | Sunsari | 26 (42.3) | 18 (55.6) | 2 | 13 (16) |
| 3 | Saptari | 21 (57.1) | 16 (60.0) | 5 | 0 |
| 4 | Parsa | 80 (37.5) | 37 (43.2) | 101 | 6 (10) |
| 5 | Sindhupalchok | 94 (73.2) | 77 (87.0) | 15 (8) | 2 (4) |
| 6 | Surkhet | NA | | NA | 3 (4) |

Note: * Figures in parentheses indicate the untraced rate; ** figures in parentheses indicate females and *** number of parentheses indicate the number of trafficking survivors while outside of it indicates the number of trafficking cases. 'NA' refers to not available.

Source: Letter to OSRT-NHRC by the concerned District WCSC, Nepal Police, 2018.

**Jhapa District**

Missing Children - Among the 142 missing children application handled, more than two thirds were of girls and the rest were of boys. Majority were of Brahman/Chhetri (34.5%), followed by Madeshi (30%), Janajati (25%) and Dalit (11%). In terms of age group, majority of missing children were in the age range of 10-15 years (56%), followed by children in the age range of 15 years and above (39%) and the least 5 to 10 years (4%). The untraced rate of missing children is very low (7%) – a good efforts of searching the missing children is found in this district.

All districts WCSCs considered in Table 2.14 handled the missing children applications and effectively search for the missing children by adopting following measures:

- Contact to the parents of the missing children
- Established and run the free telephone number 104 to handling the complaints, rescue, reunion and coordinate with the family. The 104 telephone number was established with the leadership of CCWB and collaboration with NGOs and Nepal Police
- Conducted awareness programs about missing phenomenon of children and linkage with the trafficking and exploitation
- Provided the referral services to the children abandoned to the NGOs
- Circulated identify of missing children: photograph and other identification sign) to the subordinate police units including in the neighboring district police offices.

Problems to search the missing children

- Difficult to establish the coordination with the parents of missing children
- In some cases, parents do not want to report to the police if their missing children are found
- Open border between Nepal-India makes it difficult to search the missing children if he/she has crossed the border or was caused to cross the border.

Number of Rescue - A total of 615 women and children were rescued from different border surveillance centers in FY 2016/17 (Annex 2.1 for monthly data). Of the total, 92 percent were women, 5.5 percent were girls and 2 percent were boys. Examining the monthly data, a relatively few number of rescue was observed in months of *Srawan-Kartik* (July 15- October 15) compared to other months from *Magha -Jestha* (February 15-July 15). Whereas in the first four months, the number of rescued ranged from as low as 24 to as high as 38, the number of rescue reached to 65 in Magha (February) and it reached to 98 in month of Jestha (June-July).

Number of Trafficking Cases Registered - A total of 10 trafficking cases have been registered in FY 2016/17 with 20 trafficking victims. All the victims were females and they were in the age range of 16 to 60 years. There were 6, 7, 3 and 4 in the age rage 16-25, 26-35, 36-45 and 46-60 years, respectively.

Border Surveillance Points - As presented in Box 2.1, there are 7 major points in Jhapa district in between Nepal and India. Of them, Nepal Police check points have been reported four points while in three points, the Nepal Police Checkpoints have been closed. The reasons for closing the police office in these three locations, however is not known. Of the 7 seven major border locations, only in two border points, namely, Kakarbhitta and Bhadrapur, the NGOs surveillance has been established and in operation.

### Box 2.1 Major border points and NGOs surveillance, Jhapa district

| SN | Border points | Police Offices | Status of operation | NGOs surveillance |
|---|---|---|---|---|
| 1 | Kakarbhitta | Area Police Office | Running | Maiti Nepal, Bishow Sewa Sastha and Tinny Hands Nepal |
| 2 | Gaurigunj | Area Police Office | Running | - |
| 3 | Bhadrapur | Area Police Office | Running | Maiti Nepal, Tinny Hands Nepal, Women Rights Helpline |
| 4 | Nakalband | Border Police Post | Closed | - |
| 5 | Bahundangi | Police Post | Running | - |
| 6 | Jhapa | Area Police Office | Closed | - |
| 7 | Patamari | Police Post | Closed | - |

Source: Letter to OSRT-NHRC by the Jhapa District WCSC, Nepal Police, 2018.

**Sunsari District**

Missing Children - In the FY 2016/17, the DSP Office, and Sunsari received 26 applications for the missing children. Of them, 15 were found while the rest 11 were still missing. The majority of missing children were in between 14-16 years (14), while there were 8 and 4 children in the age range of 12-14 and 10-12 years, respectively. In addition to other measures to search for the missing children stated above, the Sunsari WCSCs also publishes news about the missing children in local newspapers.

Number of Rescue Cases – Only two cases of rescue was reported from Sunsari district in the FY 2016/17.

Case 1 On September 12, 2016, the victim, 18 (D) was lured to provide good employment and she was brought to India. The offenders Ram Narayan (25) and Suresh (27) brought her to Phulakaha of India and allegedly rape her.

Case 2 August 21, 2016, Sangita (28) and Jilai (18) of Sundar Dulari-7 of Morang district were lured by the offenders. The victims were intercepted from the border with the efforts of NGOs and Police.

Number of Trafficking Cases Registered - In the FY 2016/17, a total of 13 trafficking cases were

registered in DSP Sunsari. There were 16 victims in these 13 cases: the victim's ranges as young as 10 years to 30 years of age. There were 2 in the age group of 10-16 years, 5 in the age group of 16-20, 4 in age group of 20-24 and 5 with more than 25 years of age. The victims comprised of Dalit, Janajati and Brahman Chhetri.

Border Surveillance Points - there are 8 major border points in Sunsari district, namely, Koshi Barrage, Bhatabari, Shreepur, Jabdi, Narasing, Ghuski, Kaptangunj and Amaduwa, but none of the NGOs are reported to have surveillance points.

**Saptari District**

The Saptari District Police Office received missing children's application in the FY 2016/17. Of them, 16 were of girls. The overall untraced rate was 57 percent and it was 60 percent for the girls. During the reference period, five girls were rescued from the border of India and they were handed to their parents. There were no trafficking cases registered, however, in FY 2016/17.

**Parsa District**

Missing Children – In FY 2016/17, a total of 80 missing children's applications were received by Parsa WCSCs. Missing cases were more for boys (43) against girls (37). The overall untraced rate was 37.5 percent with relatively higher for girls (40.5%) against boys (35%). The records of the missing children were found from very tender age but majority were in the age range of 11-16 years (60/80). Among the missing children, there were relatively higher number of missing children from Janajati (33) and Madeshi groups (33) compared to Brahman/Chhetri (9) and Dalit (5).

Border Surveillance points- There are 16 border points in the district. Nepal Police border surveillance center is in Inaruwa. NGOs like Maiti Nepal have also surveillance in Raxaul. According to the District WCSC, the border surveillance points have to be extended in 10 locations. They include: Bhisma, Mahadev Patti, Birgunj Chhapkai, Pidariguthi, Ammarpatti, Sabaithawas, Khesraha, Asawari, Dhaure and Bijayabati.

Number of Rescue, reunion- A total of 101 victims of trafficking was rescued from Parsa district in the FY 2016/17. The Parsa WCSC reported that it conducted the awareness program to the parents of the victims and provided shelter for the victims until their parents do not come up. It also conducted the rescue and repatriation by forming the special team of Police and in collaboration with Maiti Nepal, KI Nepal and others and provided the psychosocial counseling to the children

Number of Trafficking Case Registered - A total of 6 cases of human trafficking has been registered in FY 2016/17. There were 10 victims in these cases. All victims were females. Of the 10 victims, one was child and nine were adult women.

Challenges and Emerging Trends – A number of challenges to combat TIP was reported by the Parsa WCSC. Victims are reluctant to share their problem with the Police and hence it is difficult to motivate the victims as they are highly influenced by the outsiders. The Parsa WCSC observed that involvement of own relatives such as husband wife, sisters-brothers relations, father-daughter relations, and neighbors as a trafficker is the key challenge to combat TIP.

**Sindhupalchok District**

Missing Children – In FY 2016/17, a total of 94 children's missing application was handled by the District WCSCs. Of the missing children, majority were of women (55), followed by girls (21) and boys (18). The untraced rate was very high (73%) and it is much higher for women (67%) and girls (76%) and for boys, it is 27.8 per cent (See Annex 2.2 for trends of missing children from FY 2014/15-2017/18).

Number of Rescue - Sindhupalchok district is one of the trafficking prone districts of Nepal and it is also the one of the 14 districts hard hit by the earthquake 2015. In FY 2016/17, a total of 16 persons (one woman, 3 girls and 12 boys) were rescued. The number of rescue was relatively higher in the FY 2014/15 (34) and 2015/16(40) compared to the following years. These years are the years of earthquake in Nepal.

Number of Trafficking Cases Registered – in the FY 2016/17; there were only two cases of trafficking registered (Box 2.2). Examining the cases as sample, Nepal Police effectively maintains the privacy of the victims- both the name of the victim and address have not been disclosed. The Police also did not expose the name and address of the accused in these two cases as the offenders have yet to be arrested. Both the victims – girls – were trafficked to India for sexual exploitation. In the first case, the victim was rescued from one-year of her brothel life while in the second case; the victim had to spend about years in the brothel.

## Box 2.2 Description of the human trafficking cases registered in Sindhupalchok district, FY 2017/18

| SN | Registered date | Police Office | Victim/ Applicant | Offenders | Description of the cases |
|---|---|---|---|---|---|
| 1 | Nov. 9, 2017 | Melmchi Area Police | Melamchi A of resident of district 29 (name change) | Nine offenders absconded | On June 5, 2016, the victim Melmchi A was lured by Aaite Tamang including others for good employment in India. She was brought to Kathmandu and transported to Agra India and sold on Rs. 400,000 in a brothel. The victim escaped from the brothel and came in Nepal in June 2017. |
| 2 | May 23, 208 | Melmchi Area Police | Melamchi E of resident of district 29 (name change) | 1 arrested and 2 still run away | The victim E was deceived and she was brought to New Delhi on April 2010 and sold in a brothel. She was rescued in September 2015 and she came in Nepal. |

Source: Letter of District Police Office, Sindhupalchok to OSRT-NHRC, 2018.

Border Surveillance Points - Discussion with the DSP – Bimal Raj Kadel, Sindhupalchok, it is claimed that after the mid-2015 Gorkha earthquake, the protection measures in the district was emphasized. Accordingly, NGOs in collaboration with Nepal Police have established for the first time surveillance points in three places of main roadways going outside of the district. NGOs like Rehab Center, Maiti Nepal and Women Self Reliant Center have run the surveillance points in Khadichowar, Ban Dev Chok and Bahunepati, respectively.

Establishment of WCSCs - Five WCSCs Offices including the district WCSCs have been established in the districts. There was 4 Police staff in District WCSC while in other WCSCs, two police staff has been allocated for handing of the WCSCs activities. The WCSCs are under the command of Junior Police Officer.

**Surkhet District**

Number of Trafficking Case Registered – Examining the two years trafficking cases registered in Surkhet district, the following many be inferred: i) TIP cases relates for the purpose of sexual exploitation; ii) it is cross-border trafficking to India; iii) fake marriage, luring and deception are the modus of operandi of trafficking, iv) all victims are young women tentatively from 20-35 years of age and offenders are also in the same age range and v) offenders are mostly males but there are also females such as the case second in FY 2015/16.

In the FY 2016/17, two cases of trafficking have been registered in Surkhet District Police Office and three cases in the FY 2015/16. All the victims were women of Surkhet district. In FY 2016/17, in the first case, the victim was sold in Gujarat, India and the offender has escaped. In the second case, the victim was lured and sold in India. In FY 2015/16, in the first case, the victim was lured and sold in India. The offender escaped. In the second case, the victim was lured and involved her in prostitution. The offender is arrested and sent in custody. In the third case, the victim was lured, get raped, being brought to India. She was rescued in border of India by Maiti Nepal. The offender was arrested and is on custody.

## Box 2.3 An overview of trafficking cases registered by District Police Surkhet, FY 2015/16 and FY 2016/17

| Date of registration | Victims | Offenders | Brief description of the case |
|---|---|---|---|
| **FY 2016/17** | | | |
| June 6, 2016 | Birendera Nagar Kha (9) | Prem Bahadur, 27, of Birendra Nagar, Surkhet (Offender absconded) | The offender brought the victim to Gujarat, India and sold her |
| June 11, 2016) | Chhinchu-7, aged 32, Surkhet | Kamal Singh of Ramgda-3 of Jajarkot (Arrested and in custody) | Sold in India |
| **2015/16** | | | |
| FY 2015/16 | Birendra Nagar Ka (8) | Krisna, 27, of Lekhaparajul-6 of Surkhet(absconded) | Sold in India |
| May 3, 2015 | Birendra Nagar Ka (aged 24) A | Vishnu (38) of Kharigaira-6, Dailekha (Arrested and in custody) | Lured the victim including others and involved in prostitution |
| May 13, 2016 | Birendara Nagar Ka (aged 33) | Prem, 24, of Satakhani-4, Surkhet (Arrested and in Custody) | Lured the victim, rape her and being brought to India. The victim was rescued in border in India with the effort of Maiti Nepal |

Source: Letter to OSRT-NHRC by Surkhet District Police Office, 2018.

## 2.5 Assessing the Trafficking Situation: Cases Investigated by Metropolitan Police Crime Division Kathmandu

A total of 6 cases of human trafficking and transportation were handled by Metropolitan Police Crime Division Kathmandu in FY 2016/17 and FY 2017/18. These cases are summarized below to understand the processes of trafficking: route, modus operandi of trafficking, network of trafficking, destination of trafficking, purpose of trafficking as well as the characteristics of the victims and offenders. The Metropolitan Police Crime Division prepared its suggestion by investigation of the cases and submitted to the Kathmandu District Government Attorney Office for necessary action.

**Case I. Victims transported from one place to another within Nepal, cheated**

**Brief summary of the event**: The offenders tempted the victims (Parisar 26 Ma and Parisar 26 Va) going to Turkmenistan for a better employment. They will get a job of equivalent of Rs. 50,000 monthly. One of the offenders bought the bus ticket in Kalanki to Kakarbhitta. The offender told the victims that they go to Kakarbhitta where another person would come with their passports. The victims were brought from Kathmandu to Kakarbhitta telling them that they would fly from New Delhi. In Kakarbhitta, the victims were intercepted by Tinny Hands suspecting that they were being trafficked. They victims were handed to their parents. But later, the offenders again lured the victims that the offenders would send the victims anyway to Turkistan. This time, the victims were transported from Kathmandu to Butawal and from Butawal again to Pokhara telling them that they would be flying from Pokhara. But the victims were left in a hotel in Addhikhola, Syanja and the offenders did not show up for 4 months. Chhatra Bahadur took Rs. 100,000 and passport from Parisar 26 Ma and Rs. 70,000 and passport from Parisar 26 Va. The victim complained that they were tempted, deceived and transported from one place to another, intending to sell them.The offender – Chhatra confessed in custody that he received money and passport from the victim.

**Case 2: The victim trafficked to Syria, sexual exploitation**

**Brief summary of the event**: The offender tempted the victim (a young woman of Rukum district) that she will have good employment in medical sector in Syria. The offenders sent them (the victim and one of the offender's wives) from Kathmandu to Biratanagar by air and from Biratanagar; they were transported to Kakarbhitta by a private car. In the following day, the victims and the agents crossed the border and reached to Kolkata by a train. From Kolkata, the victims including other three women were transported to Dubai. From Dubai, they reached to Syria. In Syria, an agent received the victims in an airport and brought them to a local agent. The agent said that he had bought the victims. The victims denied engaging with the agent. So, she was sent in a house as a domestic servant. In the house, the employer did not give adequate food to the victim. She was forced to work long hours and she was also the victim of sexual offences daily. Due to this, the victim became sick for a long time and she employer sent her to the agent. The agent's wife allowed her to contact with the family in Nepal and the victim reported that she was at trouble situation and would need immediate rescue.

The family members and her neighbor made pressure to the agent and his office to bring immediately the victim otherwise they would file the case of human trafficking against him. As a result of the pressure, the agent in Nepal sent Rs. 170,000 to the agent in Syria for return ticket. Then, she was sent back to India and to Nepalgunj. The victim stayed in Maiti Nepal shelter in Nepalgunj for six months and she made complaints against the offenders charging them as committing the human trafficking.

**Case 3: Victim trafficked to Macau, and sexually exploited**

**Brief summary of the event**: The agent tempted to the victim for going to Macau where his father has a hotel. The agent took Rs. 263,000 from the victim and also sent her by establishing 'setting' in TIA. She traveled from Hong Kong to Macau. In Macau, the two offenders forced her engage in dance but Parisar 5 (Na) did not agree on it. She was forced to work as a domestic work in a Chinese house. One offender used to call her in his hotel and raped her. One day, two offenders were planning to sell her nearby a China border; the victim ran away and met Nepali people in a park. The Nepali helped her contact to Metropolitan Police Parisar in Kathmandu through 1177 telephone number and also contacted to NRN Macau. The victim was able to return from Macau and came in Nepal and took shelter in Maiti Nepal. The victim complained in CIB that she was trafficked to Macau and was frequently

**Case 4: Victim trafficked to Turkmenistan**

**Brief summary of the event**: The offenders tempted Parisar Ka (28) and another victim (26 Parisar Ka 31) that they would search a good employment in Turkmenistan. The victims were called on in Kathmandu from their home village of Gosaikunda, Rasuwa. The offenders assisted to receive the labor permit to Dubai. The victims paid Rs. 80,000 each to Samden. The victims were sent to Tribhuvan International Airport (TIA) by giving the visa of Dubai. In TIA one of the offenders established a 'setting'with the Immigration Staff. The victim reached to New Delhi. In New Delhi, an Indian citizen met her and he sent to Turkmenistan. In Turkmenistan, she was brought to an agent. The Agent attempted her to sexually abuse but she denied. After four days staying the Almin's office, she was sent in a house as a domestic worker. The victim had to work very long hours and also faced physical and mental torture. She was not paid. The victim wanted to return to Nepal but the owner told her that she was bought by him on US Dollar 13,000. She spent 9 months like this. After nine months, she requested the owner to bring mobile set. Though mobile set she browsed the link and found that the journalist – Face book where she posted her story of exploitation and trafficking.

With this effort, the offender in Dubai (the indian citizen) called to the victim's owner first. Then the he called her that they were going to help her to go back to Nepal if she would not make any complaint to anybody. The victim agreed on it fearing that she cannot be rescued. She came to Nepal and took a shelter. Now, the victim made complaint against the offenders (four persons) that they committed crime of human trafficking, for which they must be punished and also her compensation.

**Case 5: The victim Rita sold by a woman of 'trafficked victim' herself**

**Brief summary of the event**: The offender B and the victim Dina (name changed), 16 were residing in the Shelter of Rachhaya Nepal – an NGO based in Kathmandu. Rachhaya Nepal runs a shelter for the HIV affected women and including the trafficking victim. On December 11, 2017, they ran away from the Shelter. On December 19, 2017, offender B was found, but Dina could not be traced. When enquired about Dina to the offender B, shesaid that that she sold to victim to a man in Kathmandu (Offender A). Offender B confessed that they spent one night in offender A room, drink and took meat and meal. In the second day, she and Offender A came out of the room by lucking Rita in the room. Offender A bought for Offender B one set of mobile and one bag, and then Offender B went to her sister's room in Lalitapur. The Offender B herself was the HIV affected person and was taking medicine residing in the Rachhaya Nepal Shelter. Rita was referred by the *Bal Balika Khoj Talash Kendra* for her treatment. According to the statement given by a witness in Police, the Offender B claimed that she was sold in Mumbai and was affected by HIV. The Police arrested both Offender B and Offender A. They are charged on trafficking case.

**Case 6: Network of the human smugglers from Nepal to Mexico**

**Brief summary of the event**: On August 21, 2016, the victim was going to New Delhi via TIA, Kathmandu. He was enquired, arrested with US $ 40,000. He was brought in the Inland Office, Lalitapur. It was known that he was being smuggled by the offenders to USA. The victim wanted to go USA. An offender lured him that they could send him to USA via India, Bangkok, France, and Mexico and to USA. Under influence of the smugglers, the victim paid Rs. one million to Sagar and promised to pay another 1.5 million once he reaches to USA. It is known that there is a network of smugglers. In Nepal, to offenders make temptation to the potential migrant workers (MWs) going to USA. The staff of Immigration in TIA assists the smugglers. In New Delhi, one person of Hetauda –receives the MWs and he makes arrangement for sending them to Bangkok or Singapore. In Bangkok, an Indian citizen receives the MWs and makes arrangement sending them either via Japan or France to Mexico. In Singapore, Jetendra of Kavre receives the MWs and arranges sending them via Japan to Mexico. In Mexico, two Nepalese of Rukum district – Dhan and Lalreceive the MWs and arrange for sending to USA with legal advice of Janise – a Mexican woman of Indian origin.

The offender in custody confessed that they have already sent 15 or 16 persons to USA through this network and 10 persons have already reached to USA and other in route to USA. He claimed they charge of Rs. 2.5 million per potential MW to go USA. They first take advance of Rs. 1 million in Nepal and receives rest Rs. 1.5 million from the family member of the MW when he/she reaches to USA. The money received is spent in buying of air ticket, accommodation in route and sharing among the network members. The offender makes profit of around Rs. 300,000 per MW sending to USA while he gives some money to another offender as commission. The offender also confessed that he used to give Rs. 10,000 to Rs. 15,000 per MW flying from TIA to

the staff in Immigration office and he has already given him of Rs. 60,000.

In this case, the victim has filed the case demanding the return of his money and crime committed of human trafficking and transportation.

### 2.6 Trafficking of Human Organs

The *Human Trafficking and Transportation Act 2064* defines that the illegal extraction of human organs is an act of human trafficking and transportation. The previous National Report of OSRT-NHRC on Trafficking in Persons, Especially Women and Children revealed that there were evidences of trafficking of kidney from Kavre district. In 2014, People's Forum Nepal (PPR Nepal) carried out a study on kidney trafficking victims (36 victims). Although nearly 150 people from Hokse of Kavre district are reported to be the victim of kidney removal, only three cases have been registered in Kavre District Police Office in 2013 (Box 2.4). There were no other cases registered in the Kavre District Police Office as of December 2017.

### Box 2.4 The District Police Office Kavre has maintained records of the cases of trafficking of kidney as follow:

| | Date of case file | Brief summary of event | Court order |
|---|---|---|---|
| 1 | March 15, 2013 | The offender brought the victim to a hospital, called MMM, of Madras, India and the victim right kidney was removed | On April 25, 2013 the Kavre District Court sentenced one offender for three years and other two offenders were being searched |
| 2 | March 15, 2013 | The offenders lured the victim from and promised her good money. The victim was brought to a hospital in India (name is not known) and removed the victim's left kidney | On May 26, 2015, the District Court Kavre sentenced two offenders for three years each and other three offenders were acquitted |
| 3 | January 28, 2013 | The offenders lured the victim by deception, fraud and promises and the victim was brought to Kolkata to extract the victim's one kidney.<br><br>However, the victim was able to run away and came in Nepal | On May 8, 2013, the District court Kavre released two persons on bail of Rs. 35,000. One offender was already in imprisonment for three-years; other 4 offenders were acquitted; and one offender was escaped |

Source: District Police Office, Kavre, May 29, 2018.

## 2.7 Entertainment Sector, Sexual Exploitation and Trafficking

Entertainment business in Nepal has emerged especially after Nepal entered into the liberal economic policy and increase in the urbanization especially after 1990s. Entertainment business includes: Cabin restaurants, massage parlors, dance bars, *khaja ghar*, and the *dohori* (Nepali folk song and music) restaurants. The growth of entertainment sectors is mainly reported to be in Kathmandu valley, Pokhara, Narayanghat and Itahari including other highway heads. It is widely reported that that young girls from impoverished families are now being lured into working in the entertainment sectors.

Data are not available to map the magnitude of the girls/women working in the entertainment sectors in Nepal. It was reported that by 2000, hundreds of thousands of girls ended in the entertainment business when there was mass influx from the rural areas to escape the armed conflict between the Maoist Insurgent and the state security forces. As a result, the Supreme Court issued the *Guidelines to Control Sexual Harassment towards Working in Workplace such as Dance Restaurants, Dance Bars 2065*. In 2010, Terres des homes Foundation (TDH) provided an estimate of 11,000 to 15,000 girls and women in the entertainment business. Of them, there were 6,000-7,000 in cabin restaurants, 3,000-4,000 in the dance bars, about 900 in the *dohori* restaurants and an equal number in the massage. Other studies such as Maiti Nepal (2010), Chhori (2015) and Women Forum for Women in Nepal (2015) provide how female workers in the entertainment sectors have been exploited and how they are leading a stigmatized life. But these studies also do not provide the magnitude of the problems in terms of number of entertainment sectors and number of women and girls working over there.

The contemporary situation of female workers in entertainment sectors has been discussed here on the basis of the findings of the workshop organized by AATWIN. The workshop was organized in May 28 and 29, 2018 in Dhulikhel, Kavre to understand the working condition of female workers in entertainment sectors and promote the rights of the workers over there. A total of 30 female workers participated in the workshop[7]. All of them were working in different entertainment sectors in Kathmandu valley. Several tools were employed to open up with the workers including songs, drama, group discussion, presentation and sharing of the feeling and experiences of childhood. OSRT-NHRC team was invited in the workshop to understand the situation. The OSRT-NHRC administered a semi-structured questionnaire to the workshop participants. The questionnaire included information about i) background information, ii) recruitment process, iii) working condition, iv) behaviors by the customers, owners and police and v) level of job satisfaction. Major findings of the survey is presented in Annex 2.3 and Annex 2.4 and summarized as follow:

- The recruitment process in the entertainment sectors is unfair, abusive, unfree and not competitive. This is because almost all 30 females interviewed initiated the job in their childhood (< 18 years) and are more likely to be less bargaining and negotiation skills with the customers as well as the owners. More than 60 percent of the female workers engaged in the entertainment sectors initially did not know the types of work they have

7 *Majority was Janajati (60%) – Tamang, Gurung and Newar and rest were Chhetri (40%). In the sample, 70 percent were unmarried, 10 percent were married and rest 20 percent were divorced. Majority has at least secondary level of education and they all originated from the surrounding districts of Kathmandu valley. Nearly 40 percent respondents were living either alone in the rooms – with higher risk of sexual exploitation.*

to do. This is because there is no contract letter signed between the employers and the employees in which the nature of work and salary and other working conditions and benefits are maintained. Majority of respondents (55%) perceived that girls are employed in the entertainment sectors not because of their education qualification and vocational skills, but rather on the basis of the age and beauty and unmarried girls are preferred or girls not having a child are preferred.

- Entertainment sector has become both the destination as well as the transit place of trafficking of girls. It is the source for those who are recruited through involvement of agents, relatives and co-workers. Once the girls engage in the sector, the working conditions is reported to be very harsh, low paid, exploitative and abusive one. It is also the place for luring of girls for cross-border trafficking in the name of cultural programs, dance to India and abroad. Sixty percent out of 30 female workers interviewed reported that they were approached by the middle persons for luring them to dance programs in India and overseas.

- Cases of sexual abuse, touching of private body by the customers, humiliation have been reported. Of the 24 girls interviewed, 70 percent reported that they feel such abuse and humiliation like touching of the private body, spitting in the body, using the erotic words, teasing and offering to have sex.

- The mode of payment system in the entertainment sector appears to be exploitative. The waiters are, for example, are paid on the basis of they sell the volume of beverage, food and alcohol to the customers. The lower the sell to the customers, the higher the changes that the female workers are scolded and not paid on time. Thus, the female workers are forced to sell the beverage, alcohol and food as much as possible even by sharing of alcohol with the customers. The salary amount varies according to the types of work and skills the female workers have. Yet majority received not more Rs. 8000 monthly. In addition, the female workers are also sometimes given tips by the customers. But if the owner finds it, the owner himself takes the money or scolds the girls that they should not receive the tips from the customers.

- Many of the female workers find entertainment sectors not safe, orderly and conducive working environment. The female workers are always constant fear of their own male co-workers, male customers, and owners and even by the Police. Of the 24 cases, 30 percent reported that they are sexually abused by the co-male workers; of the 30 cases, 70 to 80 were even been sexually abused by the customers.Employers or owners of the entertainment business are only concerned with the sale of their products/business; the protection of the female workers from any types of abuse has less priority.

- Many of the female workers to which the interaction was conducted reported that they feel socially stigmatized while working in the entertainment sectors. The society does not have positive lens to see the workers in entertainment. Because of this, there is need to hide the identity of the workers in entertainment sectors. As they cannot share with the society, they are more likely to be sexually abused, exploited and are greater risk of trafficking.

Sanu (name changed), who has been working in a resultant for the last 2 years, said, 'when going to see the room, the owner did not want to give the room for us blaming that we work at night'. In another case, Sarada (name changed, 23, has been working in a dance bar for the last 5 years shared her unpleasant experiences that they are socially stigmatized, humiliated, and not easily find the room for living. She said, 'we working in the dance bar are not respected, no dignity to us. The house owner also does not give us room for rent. They ask about the work, and from where we come at night'. She also reported that she has been sexually abused while working in the dance restaurant.

- Majority of female workers do not wish to go to justice sector for legal treatment. When enquired about reasons for not going to the legal treatment, the female workers reported that justice is delayed and they did not have believed in justice system that they will be. They perceived that the Government has not yet publicly announced that working in the entertainment sector is not sex work, but rather they are the laborers.

- Cases of forced and unwanted pregnancy were also reported among the girls working in the restaurants.

The case of Sindhu (name changed) in Bus Park of Gongabu is this: She was unmarried but she became pregnant. She was sent to a shelter. She was frequently inquired about her pregnancy and it was found that she was told that she would be given Rs. 200,000 after the birth of the child. On June 2, 2017, she had a birth in the shelter. She was sent back to her house.

- Another story is this: According to the field Nurse of Change Nepal, she found a girl having recently delivery. The nurse examined the health conditions of the girls working in the hotels, restaurants and *Khajaghar*. According to the Nurse, the girl was hardly reached to 16 years of age. She used to work in a restaurant in Kalanki. She said that one organization has taken her during her pregnancy and when she had birth, the organization has taken the baby. She does not know about the name of that organization.

In addition, a number of cases of sexual abuse and exploitation have been reported by media in FY 2016/17 in the entertainment sector:

**Case 1. Two women forced to involve in sex work were rescued from Hetauda Guest House by the Police Raid[8].**

Makwanpur Police has rescued two girls who were forcefully involved in sex work from Hetauda Guest House. The victims were of 23 and 25 year of age. Police also arrested the owner of the hotel. She is accused of sending the clients to the guest house by taking the commission. Police also raid some hotels in Dhading from where two girls were rescued who were forcefully involved in the prostitution.

*8 http://setopati.com/samaj/68542/#sthash.UeCucEWL.dpuf downloaded 2017/05/04 gate.*

The Mahilakhar.com[9] writes (December 6, 2017) about how children are forced to engage in sex work in different hotels, restaurants, tea-shops in Kathmandu valley. Children in the age group of 14-18 are mostly reported to have been sexually exploited. The following are the cases:

- Kamana, 16 (name changed) - has been working in a Restaurant in Kathmandu for the last three years. When enquired about the nature of work, she replied that she has to involve in *naramro kam* (bad work). There are different types of clients: some stay with one or two hours and other the whole night. There are more clients of married men than that of unmarried. Many of her clients are of the age of 35-40 years. In the begging she involved in cleaning of hotels and pots.
- Prerana, 21 (name changed), is from Nuwakot district. Some four year ago, she appeared the SLC exam. Her mother became sick and she has to earn for family survival. She came to her aunt house in Balagu, Kathmandu. Her aunt helped her engage in hotel. She initially thought that it was cleaning work, but the hotel owner said that she had to work for respecting the client. After that she engaged in 'work'. Then, she ran away from the hotel and involved in a Message Parlor in Thamel. In Message Parlor, 'there is one-to-one service for the client'.
- Prapti, 18 (name changed) - worked in Kalasha Guest house in Kathmandu. When asked about her work in the Guest house, she frankly said, 'living with the clients'. Now, it has been three years that she has become the professional sex worker. When she involved in the work, she was just 15 year old.
- Bedana, 18 (name changed) - It is somewhat four years ago that she was working in a cabin restaurant in Thankot area. One day, the hotel owner told her to serve food to a client. When she brought the food to the client, the client caught her hands for favor of sex. She was brought to Kathmandu by her neighbor telling her that she would be employed in monthly Rs. 4000-5000. The agent said that she would be working in reception of a hotel. Bedana says, 'if one lives with the client, there was no physical tiredness and hotel owner also become happy and gives leave if required'.
- Manu, 17 (name changed)- is from Ramechhap district. She has been working in a dance bar in Teku, Kathmandu when she was 13 years old. She has the pathetic story how she ended in the dance bar that when her father married with another woman, her mother came to Kathmandu along with Rama's (name changed) two siblings. Her mother was involved in vegetable selling in the street but her mother became sick for a long time. So, they need money for the survival of the family. She was recruited in a dance bar in Teku. She said, 'costumers come in the dance bar for entertainment, they have to be satisfied. I also did the same thing for three years'.

**Vulnerability of Trafficking, Drug Users**- According to a study by the Government, there are many women in the valley who exchange drugs with their sex. A study was carried out by the National Center for AIDS and STD Control, Ministry of Health (2016) to examine the biological

*9 http://mahilakhabar.com/news/2017/12/06/34795.html downloaded December 17, 2017.*

and behavioral surveillance among female injecting drug users in Kathmandu valley. A total of 160 female injecting drug users were interviewed in the study. Of them, 17 percent reported that they exchanged sex with drugs or money while they have had also regular sexual partners. Another crucial finding of the study is that among the drug users who exchanged of money or drugs with sex, only 58 percent used condom while the rest 42 percent did not use it. The survey found that 30 percent had first sex before they reached to 15 years of age. The case of exchange of money or drugs for sex is also published in online news in August 2017[10]. Rasmi (name changed), 24, living in a rented house in Jadibutti, Kathmandu has been using drugs for the last five-years. Initially, she used to use drugs when she was in the street. When she was grown up, she was addicted with smoking and now she is taking the drugs using Injection. As she is addicted with the drugs, she keeps the sexual relation to those who provide her drugs. Many of her sexual partners are drug users. Rasmi said that when she was in the street and she was around 14 years of age, she was forced to have sex with a man of about 28/30 years of old.

The cases of Rasmi and Arati are the only two examples of many cases in Kathmandu valley. These girls are also at risk of trafficking.

## 2.8 Nepali Migration to Korea and Nexus of Trafficking

Nepali migration to Korea is for the purpose of i) employment and ii) marriage.

Migration for work is managed and regulated by the EPS system by the Government of Nepal and Korean Government. According to the Nepali Ambassador to Korea[11] – Arjun Jang Karki, there are more than 40,000 Nepali workers in Korea. They are working even in remote area in Korea and it is difficult to visits all the places by the Embassy and heard about their grievances. The number of Nepalese citizens illegally staying in Korea has reached around 1,200 as informed by the immigration office of Korea.

In relation to the nexus of employment and trafficking to Korea, there are a few studies that deal with the nexus of trafficking and employment of Nepali workers. Yet a proxy indication of nexus of trafficking and employment may be inferred from the Report of the National Human Rights Commission of Korea (2014). The Report identified 23 indicators out of 36 indicators of trafficking identified by UNODC to be relevant in case of Korea. Some indicators include: be unable to leave their work environment, show signs that their movements are being controlled; feel that they cannot leave and show fear or anxiety. An online media in June, 2017 by referring to the Korea NHRC reported[12] that many of the women migrant workers (WMWs) become the victims of sexual abuse and violence in Korea. Of the total 385 WMWs interviewed, 12 percent were sexually abused by the male co-workers. The sexual offences like using the vulgar words or telling the vulgar stories, forcing WMWs to serve the alcohol to males during the party, touching of the private organs, proposing to have sexual intercourse and forcing to have sex. It is reported that without permission of the owner of the Company, the workers cannot change the Company and thus, women are forced to stay in the same Company where there are abused repeatedly. Similarly, the Report also

*10 http://saptahik.ekantipur.com/news/2017-08-03/20170802152840.html*

*11 Interview was conducted by Kisan Gautam for Setopati in Seoul (June 11, 2017)*

*12 http://setopati.com/global/korea/50822 (July 6, 2017).*

indicated that 69 percent of the MWWs earned less than 10 Korean Win monthly and there is also wide wages gaps between the WMWs and male migrant workers – being women migrant workers less paid.

**Trafficking for the Purpose of Marriage** - An estimated 1,797,000 non-Korean nationals were residing in Korea as of 2014, according the NHRC Korea. Among them, 151,000 were marriage migrants (85% female marriage migrants). Under the Nationality Act, marriage migrants have to extend their period of stay every year until they acquire Korean citizenship. When they get divorced before acquiring Korean citizenship or when they leave their husband due to torture or any other reasons, they become illegal residents.

There is no recent data on the number of marriage female migrants to Korea. The previous National Report (2015/16) reported that there were more than 1200 Nepali young girls migrated to Korea due to marriage with the Korean men. But there are cases of fraud, deception in marrying the Nepali girls with the Korean men. Mismatch marriage, marriage with the disabled and old men, marrying in a remote area have been reported. Till FY 2014/15, marriage registration of a woman with a foreigner man was done only from Kathmandu District Administration Office and marriage visa was granted. This system, however, resulted to widespread irregularities on marriage registration due to the involvement of multi-layered agents including marriage bureaus and agents. To eliminate such irregularities, the Government of Nepal has made the provision of marriage registration from the same district from which citizenship certificate is issued.

## 2.9 Human Smuggling to USA

Human smuggling to USA from Nepal is widely reported in media although there is no study to map the magnitude, processes and impact of smuggling to the victims themselves and the economy of smuggling. Data can be patchy and are mostly based on media reporting and Police reports. For Nepalese, USA has become a dream for many Nepalese in the absence of good employment opportunities in Nepal.

On November 6, 2017, the Government of USA through the Nepali Embassy informed to Nepal Government that the Nepali minors are in Minor Centers (Child correction homes) in USA. It is also reported that there were Nepali minors in Jail or in Correction Centers even in the route to USA such as in Costa Rica and Panama. The Government of USA made this concern given the context that even the adolescents studying in grade 8, 9 or 10 are also being lured to enter into USA. According to Nepali Embassy to USA, in December 2017, there were 16 adolescents in minor centers in USA. When enquired to Ambassador of USA by a journalist, the Ambassador argued that it was difficult to combat human smuggling alone by the Government of Nepal without the combined efforts from the countries in route including USA.

The following case extracted from online[13]news published in January 4, 2018provides an opportunity to understand how human smuggling to USA is taking place in Nepal: victims, route of human smuggling, and exploitation in route to USA.

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*13 http://www.enayapatrika.com/2018/01/04/11752/(accessed on July 6, 2017).*

Case goes on: Hima (name changed) of Taplejung, Chanda (name changed) of Dang and Suspa (name changed) of Dolakha returned to Nepal without reaching to USA after two years. According to Hima, Sagar of Baglung promised her to bring to USA. She had already paid about Rs. 2 million for this. Hima was first transported to Malaysia; then, she was brought to Singapore where she stayed 17 days. Again, she was sent to Bangkok where spent two months. From there, Hima along with other two Nepali men was brought to New Delhi where they stayed 9 months. They had to spend own money in hotel in New Delhi.

Her passport and citizenship certificate were taken by the agent. The agent finally ran away and the victims had to return to Nepal from New Delhi. Hima says, 'the agent promised us that he would bring us to USA in exchange of Rs. 3.2 million. We also agreed on it unknowingly and follow him'. The agent told them that he would bring them to USA via Malaysia, Bang Kong, Singapore, Nigeria, and Mexico. The victims spent about two years in different countries, but failed to reach USA.

### 2.10 Education Consultancies and Human Smuggling

According to the Ministry of Education, there were about 2,500 education consultancies across the country. One thirds of these consultancies are running illegally[14]. The officials of Ministry of Education (MoE) claimed that they have received complaints about cheating and human smuggling. They reported that Consultancies prepare fake documents for study abroad so that they can receive and sell foreign currency. According to the Police source at Metropolitan Crime Division, there is massive misuse of No Objection Certificate (NOC) by the Consultancy Agencies/agents for money laundering. The MoE officials reported that more than 32,000 students received NOC annually and students planning to study language, hospitality and hotel management are more likely to become victims of human trafficking.

### 2.11 Nepal as a Transit Country

Evidences suggest that Nepal is not only the country of origin of human smuggling and trafficking, but it has also become the country to transit for the human smugglers. This was evident when news about the rescue of two Sri Lankan women from Thamel Kathmandu came on September 10, 2017[15]. The women were rescued by the collective efforts of Central Investigation Bureau, IOM and Shakti Samuha. After rescue, they stayed some days in the Rehab Center of Shakti Samuha and flew back to Sri Lanka. NHRC-OSRT Nepal flowup and close monitoring rescue process on this case.

A 24 year old woman and 34 year old womanof Sri Lanka used to run a beauty parlor in Sri Lanka. They were lured by the human smugglers that they would be sent to Canada. For that, they paid Sri Lanka Rs. of 500,000 each to the smugglers. By telling the family that they would be settling in Canada, the young women flew from Colombo to Indonesia. The smugglers kept them in the Jakarta Airport for five days and then they were again

14 *On 14 February, 2017 Vishnu Prasad Aryal in Replica online writes about it.*

15 *https://www.onlinekhabar.com/2017/09/624938 downloaded September 10, 2017.*

flown to Malaysia. From Malaysia, they were told that they were flying to Canada, but they unfortunately landed in Kathmandu Airport. The agent of Sri Lanka and Nepali agent told them that they would be staying 3 or 4 days in Kathmandu. The agents left the young women in a hotel in Thamel but they never returned. The rescued women said, 'our passport and ticket were taken by the hotel owner. The hotel owner did not allow us to come out of his hotel because of the money to be paid in the hotel'.

Chapter 3

# Migration for Foreign Employment and Nexus of Trafficking in Persons

Foreign employment has become critically important not only for the survival of the households in Nepal, but it is also one of the 6 priority areas[16]for achieving the country's prosperity, according to World Bank (2018). It says, 'ensuring safe and remunerative international migration and remittance is also important for welfare in the immediate term'. But the World Bank Report also identifies two key constraints to achieve it: i) lack of information, language, skills on the part of migrants and ii) diversification of countries of destination countries. From 2006-2015, there has been large scale labor migration in Nepal. One recent study estimated that 2.5 million Nepali workers living aboard today. They remit USD 38 billion to Nepal –equivalent to over 30 percent of GDP. Two thirds of the labor migrants are young people (<30 years) and 27 percent of the aspirant short-term migrants are female against the current 4 percent (IOM and IASCI, 2017).

## 3.1 Magnitude of Migration for Foreign Employment

Table 3.1 shows the total number of migrant workers (institutional and individuals) by sex who took labor permits from the Department of Foreign Employment (DoFE) during the FY 2008/07-2016/17. Data reveal that migration for foreign employment has constantly increased from FY 2008/09 to FY 2013/14 and it declined for the subsequent three years. For example, a total of 219,965 persons took labor permit in FY 2008/09 which increased to 521,849 in FY 2013/14. Then it declined to nearly 500,000 in FY 2014/15, to 404,000 in FY 2015/16 and again down to 383,000. Although there are no studies about the reason for decline after the FY2013/14 looking at the both the demand and supply aspect of the labor, it may be surely inferred that the decline is not because of the increase of employment in domestic labor market, but it is because of the decline in the demand of Nepali laborers in Gulf countries.

Table 3.1 Number of MWs how took labor permits, FY 2008/07-2016/17

| FY | Male | Female | Total | Annual increase or decrease | % of annual increase or decrease |
|---|---|---|---|---|---|
| 2008/09 | 211,371 | 8,594 | 219,965 | - | - |
| 2009/10 | 284,038 | 10,056 | 294,094 | 74,129 | 33.7 |

16 *The six priority areas identified by the World Bank are: inclusiveness in political affairs, ii) investment by the private sector, iii) development of human resources, iv) proper use of natural resources, v) minimization of environmental risk and vi) use of the migrant workers' remittances and skills.*

| | | | | | |
|---|---|---|---|---|---|
| 2010/11 | 344,300 | 10,416 | 354,716 | 60,622 | 20.6 |
| 2011/12 | 361,707 | 22,958 | 384,665 | 29,949 | 8.4 |
| 2012/13 | 423,482 | 27,767 | 451,249 | 66,584 | 17.3 |
| 2013/14 | 492,650 | 29,199 | 521,849 | 70,600 | 15.6 |
| 2014/15 | 477,691 | 21,411 | 499,102 | -22,747 | -4.4 |
| 2015/16 | 385,227 | 18,460 | 403,687 | -95,415 | -19.1 |
| 2016/17 | 362,826 | 20,120 | 382,946 | -20,741 | -5.1 |
| Total | 3,343,292 | 168,981 | 3,512,273 | | |

Source: summarized from MoLESS (2018).

### 3.1.1Origin of Migrant Workers for Foreign Employment

A total of 2.23 million MWs in the past 5-years (FY 2012/13-2016/17) took labor permit from the DoFE through institutional as well as individual basis.

Among the ecological belts of Nepal, the highest proportion of MWs for foreign employment is found to be from Terai (51%), followed by hills (41%), mountains (6%) and Kathmandu valley (2%). The share of MWs among the ecological belts almost tallies with the population share of these ecological belts of Nepal. According to the Population Census 2011 (the recent most one), the share of Terai, hills and mountains were 50 percent, 43 percent and 6.7 percent, respectively. This pattern of migration almost holds in case of male migrant workers. In case of WMWs, the pattern almost reverses. The highest proportion of WMWs originates from hills (45%), followed by Terai (34%), mountains (14%) and Kathmandu valley (7%).

**Table 3.2 Distribution of MW for foreign employment from FY 2012/13-2016/17 by origin of ecological belts and Provinces of Nepal (Stock of migrant workers)**

| | Number | | | Percent | | | Population share (Population Census 2011) |
|---|---|---|---|---|---|---|---|
| | Male | Female | Total | Male | Female | Total | |
| **Ecological Belts** | | | | | | | |
| Mountains | 109,889 | 16,812 | 126,701 | 5.2 | 14.4 | 5.7 | 6.7 |
| Hills | 856,648 | 52,658 | 909,306 | 40.5 | 45.1 | 40.7 | 43.0 |
| Terai | 1,107,930 | 39,398 | 1,147,328 | 52.4 | 33.7 | 51.4 | 50.3 |
| Kathmandu valley | 41,744 | 8,004 | 49,748 | 2.0 | 6.8 | 2.2 | - |
| **Province** | | | | | | | |
| Province 1 | 479,763 | 39,456 | 519,219 | 22.7 | 33.8 | 23.3 | 17.1 |
| Province 2 | 529,494 | 4,843 | 534,337 | 25.0 | 4.1 | 23.9 | 20.4 |
| Province 3 | 322,981 | 46,330 | 369,311 | 15.3 | 39.6 | 16.5 | 20.9 |
| Province 4 | 242,503 | 9,831 | 252,334 | 11.5 | 8.4 | 11.3 | 7.9 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Province 5 | 412,534 | 13,307 | 425,841 | 19.5 | 11.4 | 19.1 | 18.7 |
| Karnali | 68,376 | 1,825 | 70,201 | 3.2 | 1.6 | 3.1 | 5.3 |
| Province 7 | 60,560 | 1,280 | 61,840 | 2.9 | 1.1 | 2.8 | 9.6 |
| Total | 2,116,211 | 116,872 | 2,233,083 | 100.0 | 100.0 | 100.0 | 100.0 |

Source: summarized from MoLESS (2018).

The highest proportion of MWs originated from Province 2 (24%), followed by Province 1 (23%), Province 5 (19%), Province 3 (16.5%) and Province 4 (11%). The share of the MWs in Province 7 and Province 6 (Karnali) is very low. Considering the population share of each of the Provinces of Nepal, MWs are relatively overrepresented from Province 1, Province 2, Province 4 and Province 5. On the other hand, MWs are underrepresented in Province 3, Karnali Province and Province 7.

**Top Ten Districts-** Table 3.3 shows the top-10 districts origin of MWs for foreign employment for the 5-year period (FY 2012/13-2016/17). These 10 districts alone accounted for 36 percent of the total MWs of Nepal during the 5-year period. All the top-ten districts are Terai districts. Or, there are no hills or Kathmandu valley districts within the top-ten districts of having MWs. Among the top-ten districts, Jhapa, Morang and Sunsari are in Province 1; Nawalparasi and Rupandehi are in Province 5 while the rest 5 districts, namely, Dhanusa, Siraha, Mahottari, Sarlahi, and Saptari are in the Province 2. At the individual district, it is Dhanusa that has the highest proportion of MWs (5.2%). This is followed by Jhapa (4%), Morang (4) and Siraha (4%).

### Table 3.3 Top 10 districts having the large number of MWs(males and females) for foreign employment, FY 2012/13-2016/17, Nepal (stock of migrant workers)

| | Districts | Total | % of total |
|---|---|---|---|
| 1 | Dhanusa | 115,865 | 5.2 |
| 2 | Jhapa | 97,883 | 4.4 |
| 3 | Morang | 91,383 | 4.1 |
| 4 | Siraha | 88,343 | 4.0 |
| 5 | Mahottari | 84,034 | 3.8 |
| 6 | Sarlahi | 70,069 | 3.1 |
| 7 | Sunsari | 67,691 | 3.0 |
| 8 | Nawalparasi | 67,575 | 3.0 |
| 9 | Rupandehi | 64,117 | 2.9 |
| 10 | Saptari | 58,008 | 2.6 |
| | Total | 804,968 | 36.0 |

Source: summarized from MoLESS (2018).

In case of WMWs, the top-10 origin districts differ from the top-10 districts for all the MWs as discussed in Table 3.4. Among these 10 districts, 6 are from hills (Sindhupalchok, Makwanpur, Kathmandu, Kavre, Nuwakot and Illam) and rest 5 districts are from Terai (Jhapa, Morang, Sunsari and Chitwan). These 10 districts alone accounted for nearly half (48%) the total WMWs for foreign employment going through legal channels. While there are no caste/ethnic group data of the WMWs, one cannot precisely discern the caste/ethnic composition of WMWs. Yet looking roughly the settlement patters of these districts where majority of people are hill community and Janajati, it can be discerned that majority of WMWs are of hill community women.

**Table 3.4 Top 10 districts having the large number of WMWs for foreign employment, FY 2012/13-2016/17, Nepal (stock of migrant workers)**

| | District | Total | % of female total |
|---|---|---|---|
| 1 | Jhapa | 10,204 | 8.7 |
| 2 | Sindhupalchok | 8,710 | 7.5 |
| 3 | Morang | 6,633 | 5.7 |
| 4 | Makwanpur | 5,655 | 4.8 |
| 5 | Kathmandu | 5,257 | 4.5 |
| 6 | Kavre | 4,626 | 4.0 |
| 7 | Nuwakot | 4,180 | 3.6 |
| 8 | Sunsari | 3,971 | 3.4 |
| 9 | Illam | 3,524 | 3.0 |
| 10 | Chitwan | 3,407 | 2.9 |
| | Total | 56,167 | 48.1 |

Source: summarized from MoLESS (2018).

### 3.1.2 Destination Countries

As the Government of Nepal has opened 110 countries for Nepali people for foreign employment, Nepali going abroad for work across the Continents in which men are settled, namely Middle East, South East and Far-East Asia, Central and West Asia, Europe, South Asia and Africa. Despite this, there is high concentration of Nepali MWs for foreign employment. As summarized in Table 3.5, there are only four major destination countries: three from the Middle East, namely, Qatar (26%), Saudi Arabia (22.6%), UAE (12%) and one from South East Asia, namely, Malaysia (35%). These four countries alone accounted for nearly 96 percent of the total Nepali MWs during the last 10 years (FY 2006/07-2015/16). The high concentration in these four countries is much pronounced among the male MWs against female migrant workers. Female migration is relatively diversified and there are remarkable numbers of female migrants in Macau, Hong Kong, Japan, Turkey, Jordan, Lebanon, Cyprus, Afghanistan, Maldives and Mauritius.

**Table 3.5 Distribution of foreign labor migrants by country of destination and sex, FY 2006/07-2015/16, Nepal**

| Countries | Male | Female | Total | % of total |
|---|---|---|---|---|
| **GCC Countries** | 1,232,449 | 45,995 | 1,278,444 | |
| UAE | 203,293 | 29,889 | 233,182 | 11.6 |
| Qatar | 516,873 | 8,458 | 525,331 | 26.2 |
| Saudi Arabia | 450,247 | 3,702 | 453,949 | 22.6 |
| Kuwait | 43,462 | 1,747 | 45,209 | 2.3 |
| Bahrain | 11,022 | 910 | 11,932 | 0.6 |
| Oman | 7,552 | 1,289 | 8,841 | 0.4 |
| Sub-total | (63.9) | (57.7) | (63.7) | (63.7) |
| **South East and Far-east** | | | | |
| Malaysia | 687,626 | 22,433 | 710,059 | (35.4) |
| | (35.7) | (28.1) | (35.4) | |
| **East Asia** | **2,928** | **443** | **3,371** | **0.2** |
| Japan | 399 | 248 | 647 | 0.0 |
| Hong Kong, China | 714 | 94 | 808 | 0.0 |
| Macau, China | 1,708 | 101 | 1,809 | 0.1 |
| Lao People's Democratic Republic | 107 | 0 | 107 | 0.0 |
| Singapore | 0 | 0 | 0 | 0.0 |
| Sub-total | (0.2) | (0.6) | (0.2) | (0.0) |
| **Central and West Asia** | **2,265** | **5,067** | **7,332** | **0.4** |
| Turkey | 287 | 520 | 807 | 0.0 |
| Uzbekistan | 420 | 0 | 420 | 0.0 |
| Kazakhstan | 11 | 0 | 11 | 0.0 |
| Lebanon | 241 | 575 | 816 | 0.0 |
| Jordan | 1,306 | 3,972 | 5,278 | 0.3 |
| Israel | 0 | 0 | 0 | 0.0 |
| Sub-total | (0.1) | (6.4) | (0.4) | (0.0) |
| **Europe** | **1072** | **5,569** | **6,641** | **0.3** |
| Romania | 93 | 103 | 196 | 0.0 |
| Poland | 109 | 0 | 109 | 0.0 |
| United Kingdom | 68 | 0 | 68 | 0.0 |
| Finland | 0 | 1 | 1 | 0.0 |
| Czech Republic | 86 | 31 | 117 | 0.0 |
| Russian Federation | 13 | 0 | 13 | 0.0 |
| Portugal | 343 | 0 | 343 | 0.0 |
| Cyprus | 280 | 5,434 | 5714 | 0.3 |
| Sub-total | (0.1) | (7.0) | (0.3) | (0.0) |
| **South Asia** | **1,425** | **190** | **1615** | **0.1** |

| | | | | |
|---|---|---|---|---|
| Afghanistan | 1,292 | 0 | 1292 | 0.1 |
| Maldives | 133 | 190 | 323 | 0.0 |
| Sub-total | 0.1 | 0.2 | 0.1 | 0.0 |
| **African Countries** | **954** | **0** | **954** | **0.0** |
| Algeria | 124 | 0 | 124 | 0.0 |
| Egypt | 147 | 0 | 147 | 0.0 |
| Libya | 0 | 0 | 0 | 0.0 |
| Democratic Republic of Congo | 170 | 0 | 170 | 0.0 |
| Zambia | 10 | 0 | 10 | 0.0 |
| Seychelles | 80 | 0 | 80 | 0.0 |
| Mauritius | 503 | 0 | 503 | 0.0 |
| Sub-total | (0.0) | (0.0) | (0.0) | (0.0) |
| Total | 1,928,719 | 79,697 | 2,008,416 | 100.0 |

Note: Migration to South Korea has not been included in this Table, and it is believed that there are about 40,000 Nepali workers in South Korea.

Source: summarized from MoLESS (2018).

## 3.2 Process of Migration for Foreign Employment

### 3.2.1Mode of Migration

There are two ways from which an aspirant migrant goes for foreign employment: one is through the institutional channels and another through the individual basis. The former refers to going through the recruitment agencies while the later refers to going through the individual networks and channels. For both, the DoFE provides the labor permit. The authorities of DOFE reported that the MWs going through individual basis has increased after the GoN took the decision about free visa and free ticket for the MWs in Gulf countries. A MW going via the institutional basis is much secured against the MW going through the individual basis. Under the sending of working via institutional basis, the recruiting agencies cannot legally collect more than Rs. 10,000 per MW. The responsibility of rescue, repartition becomes for the recruiting agencies and the Government. If the MWs do not get the said salary and the work promised according to the contract letter, the recruiting agency shall be responsible for it and the worker may also be entitled to compensation for his loss of money and time as well. On the other hand, if the worker falls into crisis situation, the Government and recruiting agencies shall not be liable to rescue and repatriate the worker and if the worker goes in visit visa, the records of the MW shall not be maintained in the Government database as MW at abroad.

Table 3.6 summarizes the number of MWs going either through the institutional or individual channels over the last 10 years (FY 2008/09-2016/17). Data reveal that the proportion of the MWs going through institutional channels has increased over the years. For example, it increased from 75 percent in FY 2008/09 to 92 percent in FY 2016/17. This pattern of increase is basically holds for male MWs. In case of WMWs, although the share of WMWs going through the institutional channels has increased, this increase is not substantial as of the male MWs increase. For example, still 17 percent to 20 percent of the WMWs go abroad for work though the individual channels.

**Table 3.6 Total labor migrants by ways to going abroad and sex, FY 2008/09-2016/17**

| Year | | | | Males | | | Females | | |
|---|---|---|---|---|---|---|---|---|---|
| | Institutional | Individual | Total | Institutional | Individual | Total | Institutional | Individual | Institutional |
| 2008/09 | 74.7 | 25.3 | 100.0 | 77.0 | 23.0 | 100.0 | 16.3 | 83.7 | 100.0 |
| 2009/10 | 76.6 | 23.4 | 100.0 | 78.1 | 21.9 | 100.0 | 34.2 | 65.8 | 100.0 |
| 2010/11 | 67.9 | 32.1 | 100.0 | 69.1 | 30.9 | 100.0 | 29.1 | 70.9 | 100.0 |
| 2011/12 | 67.6 | 32.4 | 100.0 | 70.1 | 29.9 | 100.0 | 28.3 | 71.7 | 100.0 |
| 2012/13 | 87.8 | 12.2 | 100.0 | 89.5 | 10.5 | 100.0 | 61.9 | 38.1 | 100.0 |
| 2013/14 | 85.0 | 15.0 | 100.0 | 87.0 | 13.0 | 100.0 | 50.6 | 49.4 | 100.0 |
| 2014/15 | 89.9 | 10.1 | 100.0 | 90.4 | 9.6 | 100.0 | 77.8 | 22.2 | 100.0 |
| 2015/16 | 90.9 | 9.1 | 100.0 | 91.5 | 8.5 | 100.0 | 78.3 | 21.7 | 100.0 |
| 2016/17 | 92.4 | 7.6 | 100.0 | 93.0 | 7.0 | 100.0 | 82.7 | 17.3 | 100.0 |

Source: DoFE (2016) Annual Progress Report of FY 2016/17.

There has been gender dimension of those going to abroad for work via illegal and informal channels. The case of Kailali district suggests that an overwhelmingly majority of WMWs use informal, insure route to go abroad for work. During the five-year period (FY 2012/13-FY 2016/17), a total of 41,457 males and 5,086 females received passports from Kailali district administration office. Of the males who received the passports, nearly 86 percent received labor permit from Department of Foreign Employment to go to abroad while in case of females, it is only 15 percent (Table3.7). The staff of SaMi project of Kailali district – Laxmi Chaudhari- claimed that only one in 10 women who received the passports are in the village while rest went abroad. Given this situation, it is assumed that nearly 8 in 10 women who received passports from Kailali district might have used *chora bato* to go abroad for work. Conversely, they did not take labor permit from the DoFE and did not fly from Nepal, but rather, they might have transported from illegal channels, using routes of India.

**Table 3.7 Number of potential MWs receiving passports from Kailali district, FY 2012/13-2016/18**

| | Number of passports received | Number of labor permit taken from the DoFE | % took labor permit taken |
|---|---|---|---|
| Males | 41,457 | 35,561 | 85.8 |
| Females | 5,086 | 777 | 15.3 |

Source: the Kantipur Daily, April 21, 2018.

**Destination Countries for those going through individual basis** - A total of 250,057 persons took labor permits from the DoFE through individual applications during the last five-years (FY 2012/13 -2016/17). The five-yearly average number of MWs was more than 50,000 (42,600 for males and 7,450 for females). Data reveal that a total of 154 countries were the destination countries for these MWs. The countries comprised across the globe covering all the Continents, namely, the Asia, Africa, North America, South America, Australia and Caribbean, Atlantic

and Indian Ocean countries (Table 3.8). Despite the diversification of the countries for labor migration from Nepal, an overwhelmingly majority (80%) took labor permits for GCC countries. This is followed by countries of East Asia (5.6%), South East Asia (5.1%), South Asia (3%) and West and Central Asia (1.6%).

Of the total MWs, women migrant workers shares 15 percent and their presence was across all the countries where male migration has occurred. Numerically, it is the GCC countries (29,972) that have the highest number of WMWs among regions discussed in Table 3.8. Further, the share of WMWs is incomparable higher Western Europe (76%) and West and Central Asian countries (63%) compared to countries of s Southern Europe (22%), North Africa (26%), GCC countries (15%), North Europe (19%) and America and Australia (18%), Latin America (11%) and South Asia (11%) and Eastern Europe (7.5%).

**Table 3.8 Number MWs by sex and country of destination (those who went through individual channels) FY 2012/13-2016/17**

| Countries of: | Male | Female | Total | % of total | % share of females |
|---|---|---|---|---|---|
| GCC Countries | 169,168 | 29,972 | 199,140 | 79.6 | 15.1 |
| South Asia | 6,620 | 856 | 7,476 | 3.0 | 11.4 |
| West and Central Asia | 1,503 | 2,525 | 4,028 | 1.6 | 62.7 |
| South East Asia | 12,319 | 331 | 12,650 | 5.1 | 2.6 |
| East Asia | 13,573 | 452 | 14,025 | 5.6 | 3.2 |
| North Africa | 229 | 66 | 295 | 0.1 | 22.4 |
| Eastern Africa | 682 | 8 | 690 | 0.3 | 1.2 |
| Central African | 251 | 11 | 262 | 0.1 | 4.2 |
| Western Africa | 161 | 3 | 164 | 0.1 | 1.8 |
| Southern Africa | 331 | 7 | 338 | 0.1 | 2.1 |
| Eastern Europe | 653 | 53 | 706 | 0.3 | 7.5 |
| Northern Europe | 1,619 | 370 | 1,989 | 0.8 | 18.6 |
| Southern Europe | 571 | 200 | 771 | 0.3 | 25.9 |
| Western Europe | 497 | 1,590 | 2,087 | 0.8 | 76.2 |
| America and Australia | 2,986 | 637 | 3,623 | 1.4 | 17.6 |
| Latin America | 115 | 14 | 129 | 0.1 | 10.9 |
| Caribbean, Atlantic and Indian Ocean Countries | 1,519 | 165 | 1,684 | 0.7 | 9.8 |
| Total | 212,797 | 37,260 | 250,057 | 100.0 | 14.9 |
| Five yearly average number MWs (FY 2012/13-2016/17) | 42,559 | 7,452 | 50,011 | | |

Source: MoLESS, 2018.

### 3.2.2 Migration Planning among Prospective Female Migrants

One of the key to understand to what extent the aspirant migrants/or migrants know about the information on safe migration and how they plan to migrate. A recent study conducted by Amramsky et al., (2018) highlights the existing pre-departure knowledge and safe migration information among the prospective first time and prospective repeat female migrants. A total 161 prospective first time migrants and 106 prospective repeat migrants were sampled from 6 VDCs of Morang, Rupandehi and Chitwan districts. These are the districts in which ILO Nepal has the safe migration intervention programs ('safe migration practice' and migrant workers' rights' (SWfT). They interviewed women of 15-49 years of age. Among the prospective repeat migrants(106), 40 percent reported having migrated outside of Nepal in the past and majority destined to Kuwait (54%), Saudi Arabia (44%) including in other GCC countries. A large majority were involved in domestic work at abroad (81%), while there were a few in cleaning, care industry, garment factory, restaurant and beauty industry. One third of the prospective repeat migrant have planned to go in the same country and 42 percent in the same job. Half of the prospective repeat migrants migrated once, 38 percent twice and 12 percent three times. In their sample, 11 percent prospective first time migrants and 19 percent prospective repeat migrant were planning to migrate within one month of the survey while majority within 3 to 6 months.

Data reveal that pre-departure knowledge and information for going abroad for work was very low among the prospective female migrants in the sample areas (Table 3.9). This holds for both the prospective first time migrants and prospective repeat migrants. Among the prospective first time migrants, only 35 knew about 'need of visa', 27 percent about 'medical clearance' and 16 percent knew about the pre-departure orientation training (which is compulsory). Unfortunately, majority of the prospective repeat migrants also did not know these basis requirements: need work visa (50%), medical clearance (58%) and pre-departure orientation (20%).

Their findings suggested that more than 7 in 10 prospective female migrants (whether it is first time or repeat one) planned to go abroad for work using agents/brokers/recruiting agencies. However, a few know about whether they are holding licensed or not (26% for prospective first time migrants and 21% for prospective repeat migrants know about it). More than half of the prospective migrants knew about the agents/brokers/recruiting agencies through referral or recommended by someone, not through their family members. Majority of the prospective female migrants do not know any agents/brokers (58% for prospective first time migrant and 53% for prospective repeat migrants). The main source of migration for job was the broker/ agent/recruiting agencies among the prospective repeat migrants (70%), and it is migrant family/friends (47%) and broker/agent/recruiting agencies (35% for prospective first time migrants). Similarly, the main persons to be asked about the types of documents needed is also the agents/brokers or recruiting agencies. Given these findings, the study suggested the following measures for the benefits migrants:

Encourage accountability and professionalism among agents - register agents, holding recruiting agencies accountable for the use of unregistered agents

Help migrants acquire migration related information and scrutinize brokers and recruiting agencies;

- Reduce the need for agents by decentralizing labor migration services and expanding the role of local government agencies in handling pre-departure steps, and strengthening migrant resource centres.

## Table 3.9 Pre-departure knowledge and information (in %)

| | Prospective first time migrants (n=161) | Prospective repeat migrants (n=106) |
|---|---|---|
| **Knowledge on basic requirements** | | |
| Need work visa | 35.0 | 50.0 |
| Medical clearance | 27.0 | 58.0 |
| Know about two-day pre-departure orientation training (compulsory) | 16.0 | 20.0 |
| **Use of agents/brokers/recruiting agencies** | | |
| Contacted/planned to contact | 73.0 | 77.0 |
| Whether licensed | 26.0 | 21.0 |
| **How they know the agent/broker/recruiting agency** | | |
| Referral/recommended | 56.0 | 51.0 |
| Friends/family | 20.0 | 18.0 |
| They approached to me | 3.0 | 4.0 |
| **Number of agents/brokers known** | | |
| None | 58.0 | 53.0 |
| One | 16.0 | 20.0 |
| More than one | 25.0 | 27.0 |
| % ever visited a Migrant Information Center | 12.0 | 8.0 |
| **Main person to be asked how to find a job outside of Nepal** | | |
| Migrant family/friends | 47.0 | 22.0 |
| Broker/agent/recruiting agency | 35.0 | 70.0 |
| Non-migrant family members | 10.0 | 1.0 |
| Others | 8.0 | 8.0 |
| **Main person to be asked to the documents needed** | | |
| Migrant family/friends | 35.0 | 16.0 |
| Broker/agent/recruiting agency | 48.0 | 75.0 |
| Non-migrant family members | 8.0 | 2.0 |
| Others | 14.0 | 7.0 |

Source: summarized from Abramsky, T. et al. (2018).

### 3.2.3 Ban on Sending Domestic Workers and Its Adverse Impact

The Government of Nepal has taken several measures to protect the WMWs. One of such measures taken is the ban on women's migration or imposing the terms for migration (Box 3.1). The ban was done especially looking at widespread abuse and exploitation of female workers in the destination countries, especially in Gulf regions and in Malaysia. Currently, Nepali women aged 24 and above will be able to take up domestic jobs in the Gulf and Malaysia. In March 2017, the Parliament's International and Labor Relations Committee instructed the Government to implement a ban on Nepali women to go for Gulf countries for foreign employment as housemaids (the Himalayan, April 02, 2017) (the detail discussion is given in Section 3.7.4).

## Box 3.1 Bans on women's migration in a timeline

| Conditions imposed on women's migration for work | Date |
|---|---|
| Requirement for female migrants to get re-approval from the government for continuation of foreign employment after returning home for the holidays or other reasons | March 2003 |
| Requirement that women obtain prior approval to migrate from both their local government and their family | May 2003 |
| Ban imposed on embarking to Gulf countries and Malaysia | September 2008 |
| Ban imposed on migration to Lebanon | November 2009 |
| Lifting of ban on migration to Gulf countries for all women, and new protection measures put in place | December 2010 |
| Ban lifted for Nepali women to migrate for work to any country in the world as per Foreign Employment Regulation 2008 | May 2011 |
| Ban imposed on women less than 30 years of age from migrating as domestic workers to the Arab States | August 2012 |
| Ban on all women migrating as domestic workers (worldwide) except for those who have already obtained a visa | April 2014 |
| Total ban on women migrating as domestic workers | September 2014 |
| Lifting of total ban on migration of women for domestic work; new age ban of 24 years of age and new protection measures put in place | April 2015 |
| Lifted temporary ban after the earthquake of 2015 to work abroad as housemaids | May, 2016 |

Source: ILO (2015).

However study conducted by ILO (2015) indicated that the bans have had the adverse consequences on women migrants and is also the violation of the principle of non-discrimination set out in the Foreign Employment Act and numerous International. This is due to the fact that women domestic workers must be 24 years of age or older to travel to eight destination countries while male domestic workers may travel at 18 years of age. Further, the study concluded the following:

- The age ban has not discouraged younger women from migrating. For example, of the 25 potential migrants interviewed, none said the ban would change their mind about leaving. Push factors such as economic necessity, family violence or broken homes, pressure from relatives all motivated women to leave.

- The age ban has no effect on treatment of women workers by their employers – whether a woman is under 30 years of age or over of it. Many women experienced violation of labor rights like breach of contract, long hours, and non-payment of wages and denial of holidays including verbal, physical and sexual abuse.
- The age ban may have increased irregular migration, and a risk of trafficking. This is because the migration through India has likely increased and the potential migrants may opt to leave from India if they could not be allowed from Kathmandu.
- The age ban also has resulted in undermining the economic opportunities for women, social opportunities. But it increased harassment of women travelers by immigration officials and Police.

Similarly, the staff working in the foreign ministry such as Paudyal (nepalforeignaffairs.com) argued that the ban increased the cross-border trafficking and illegal recruitment. He claimed that the number of those leaving the country for the Gulf region via different routes reached to 140,000 by 2010. They come through insecure routes of Delhi, Kolkata and Sri Lanka to UAE. The women who entered to UAE illegal route and those who wished to come to UAE for domestic workers were the main sources of income for the human smugglers and traffickers. In the reference period of this Report (FY 2016/17), a number of media also reported that the bans have not been effectively implemented, but rather it had adverse consequences on those who have already in the Gulf regions as domestic workers such as the following cases[17].

- Priya (name changed) who has been working in Dubai for four years. She says that it has been four years, I could not return to Nepal. The Government has stopped the labor permit. If I go to Nepal and for coming to her, I need to come to Dubai via New Delhi, Mumbai.
- Asmita (name changed) paid Rs. 50,000 to the agent. When she attempted going to Dubai, she went the DoFE for taking the labor permit. Department of Foreign Employment (DoFE) rejected her providing the re-permit for domestic work in UAE. She was working in a house as domestic work and she was satisfied with it. She said that she paid Rs. 50,000 as the gift to make the travel documents and labor permit to the agent. He did it and he worked more than the Government. She believes that the Government is forcing people to pay bribery.

## 3.3 Violence against Migrant Workers and Linkage to Trafficking

### 3.3.1 Media Coverage on Deportation of Migrant Workers

Examining the media report, it is revealed that the vast majority of Nepali MWs especially of women migrant workers are deceived, tempted during the migration process, once they end in the work; they are exploited as well. One proxy indicator of how migrant workers are largely deceived may be the scale of deportation of the MWs from different countries. The followings are some extract from different media published in the FY 2016/17.

- On May 3, 2017, enayapatrika[18] writes that the Dubai Immigration Office arrested 35 Nepali women in charge of not having visa of Kuwait. Of them, 12 returned while

*17 jhttps://www.onlinekhabar.com/2017/11/637853.*

*18 http://www.enayapatrika.com/ downloaded 2017/5/3.*

the rest 23 did not have ticket to return to Nepal. The victims were in the age range of 20 to 30 years. They were being transferred to Kuwait via Dubai. They were from Kavre, Morang, Rautahat and Banke districts. These women were brought by land to New Delhi from Nepal and from New Delhi to Dubai. The returnees had developed psychosocial problems while the traffickers were still escaped.

- On May 6, 2017 ekantipur[19] writes that 44 Nepali women were not allowed to fly from New Delhi to Kenya. The human smugglers with the support of the travel agencies produced tickets from New Delhi-Dubai- Kenya. The Kenya Government permits online visa for Nepali and thus the human smugglers use the route of Kenya for human smuggling. All of these women were sent to Kuwait. When the Delhi Police strictly inquired the Nepali flying from Delhi Airport, the human smugglers took ticket of Delhi-Dubai-Kenya. The Smugglers have already cancelled the ticket from Dubai-Kenya before reaching these women to Dubai. These women were stagnant in Dubai Airport and for going to Kuwait they need original visa, the photocopy and scanning were not recognized by the authorities. The suppliers of housemaids of Bengali, Indian and Nepali attempted several time to receive the visa for Kuwait, but they could not success in giving these women visa on. The Dubai Immigration Officials sent back to New Delhi from the Air India Airline in which they were landed. One Nepali authority in Dubai suspected that the Dubai Immigration might claim the fine to the Indian Airline because the Dubai Immigration Office has the rule to fine for the Airline if the visitors become stagnant in the Airport. Some women who were deported to Nepal were sick. These women were from Jhapa, Morang, Kavre, Sindhupalchok, Rautahat, Banke and other districts. Those women who were deported to Nepal did not report about the human smugglers and they claimed that they themselves reached to New Delhi and they claimed that the Government of Nepal has banned going to Gulf countries for domestic work and it is their compulsion to go via India. They had stayed about three months in New Delhi before they flew to Dubai. They said that they stayed four days in Dubai Airport and they were deported to Nepal as they did not get visa for Kuwait. According to the Immigration Official in Nepal, with the evidence of the passports and visa status, these women have frequently gone to Gulf countries before as well.
- May 19, 2017, Kantipur publishes news[20] that '7 Nepali were deported from America'. These 7 Nepali were brought to USA by the human smugglers from the months of journey. They were deported by the US Department of Homeland Security. They were brought to USA via Nepal-India, Colombia, Turkey, Panama, Costa Rica, El Salvador, and Guatemala, Mexico to USA. The human smugglers charged them Rs. 3 to 4 million/per person. They were cheated by the smugglers in each country in their route many times. They reached to USA from Mexico by overcoming the wall in between Mexico and USA. It took five months to reach USA for some and for others, it took seven months. The deported Nepali is in the age range of 22 to 42 years of old.First, they were reached to New Deli from Nepal by road. Then they were brought to Colombia without travel documents and visa by making the 'setting' with the Immigration Officials in New Delhi. Tarak of Rukum travelled three months to reach USA. He travelled from India to Thailand to Indonesia to Bolivia. He was handed over by agent in each country. He traveled by

19 *http://kantipur.ekantipur.com/news/2017-05-06/20170506080915.html downloaded 2017/5/8.*

20 *http://kantipur.ekantipur.com/news/2017-06-08/20170608075525.html.*

road from Bolivia to Peru and from Peru, he travelled to Ecuador, Panama, Costa Rica, Nicaragua, Honduras, Guatemala to Mexico. He reported that he met several Nepali on route to USA who was brought by the smugglers. He spent Rs. 3 million to reach to USA. He had to jump the 20 feet wall in between USA and Mexico. After that he was arrested by the USA border Security and he was detained for seven months. Similarly, Dhani Ram of Rukum lost Rs. 3 million by dreaming to reach to USA. He was brought from India to Turkey, Colombia, Panama, Costa Rica, Nicaragua, El Salvador, and Guatemala to Mexico. He shared his difficulty that he had to walk days and nights with a small biscuit. He only drank the water from the forest. He reported that there were seven Nepali and some African citizens. When he attempted to enter into USA from the wall of the Mexico border, he was injured. He had to be hospitalized for 28 days after he was arrested. They were returned to Nepal by sending from Ship and they came from USA to Thailand by Ship. There were 15 American Security forces in the Ship.

### 3.3.2 Rescue from Abroad

No consolidated data is available to estimate the number of rescue and repatriation of the MWs in Nepal. The is because Metropolitan Police Crime Division, Interpol, the Department of Counselor Services (DoCS), Ministry of Foreign Affairs including NGOs maintain some information about rescue of MWs from the destination countries. Yet the major responsible Government agency to maintain the rescue operation and collect information from all the Embassies and Missions at abroad is the DoCS. The DoCS initiated online application for the rescue request since FY 2016/17 (Table 3.10). Accordingly, it received a total of 227 rescue requests during the year through this medium (online application). The highest proportion of rescue request was field from MWs in Saudi Arabia (32%), followed by Malaysia (29%), Kuwait (8%), Qatar (5%) and Oman (5%). Data reveal that the recue requests were also obtained from rich countries like USA, Canada and Australia including China and countries of Europe and African countries. Note that there is no information about how many of these rescue requests have been successfully repatriated to Nepal.

**Table 3.10 Distribution of rescue requests recorded in the Department of Counselor Service, MoFA, FY 2016/17**

| Country | N | % |
|---|---|---|
| Saudi Arabia | 72 | 31.7 |
| Malaysia | 65 | 28.6 |
| Kuwait | 25 | 11.0 |
| UAE | 19 | 8.4 |
| Qatar | 12 | 5.3 |
| Oman | 12 | 5.3 |
| Lebanon | 4 | 1.8 |
| Afghanistan | 4 | 1.8 |
| China | 3 | 1.3 |
| USA | 2 | 0.9 |

| | | |
|---|---|---|
| Cyprus | 2 | 0.9 |
| Uganda | 1 | 0.4 |
| Turkey | 1 | 0.4 |
| Republic of Korea | 1 | 0.4 |
| Mauritius | 1 | 0.4 |
| Indonesia | 1 | 0.4 |
| Egypt | 1 | 0.4 |
| Australia | 1 | 0.4 |
| Total | | 100.0 |

Source: MoLESS, 2018.

The following are some of the examples how rescue operation was done:

- April 13, 2017, the Nepali Embassy to Saudi Arabiya rescued 10 housemaids and returned to them in Nepal. According to Nepali Embassy, they were Lamjung, Bardiya and Ramechhap district. Similarly, Taplejung, Jhapa were rescued. The rescued women were staying in the Shelter of Saudi Arabia for 5 months. There were still 10 women waiting to be rescued.
- On July, 2017, Rita (name changed) was rescued from the Dubai airport[21]. She was sold on Rs. 300,000. She was kept in a room for seven days. When she was in airport of Dubai from where she was being sold to Kuwait, she Deepika. Muna told Deepika that she was being sold to Kuwait. Knowing this, Deepa (name changed) complained it to the airport Police. The Chairperson of the Non-Residence Nepali (NRN) Kuwait Chapter supported to contact to the Nepali Embassy and Ministry of Foreign Affairs.
- On January 4, 2018, online[22] news by referring to Times of India reported that 7 Nepali and 3 Indians whowere captive for more than two weeks were rescued from Kenya. The Minster of External Affair of India, - Mrs. Suhsma Swaraj in her Twit thanked the Kenya Police and Indian Diplomatic mission for their efforts of rescuing. She twitted on January 4, 2018 that 'we have rescued three Indian girls from Kenya. The girls were victims of an organized crime syndicate that indulged in trafficking of girls. Seven Nepalese girls were also rescued. Their passports and phones were taken and they are held captive in Mombasa'.

### 3.3.3 Nepali Migrant Workers in Imprisonment

The Annual Report of MoLESS does not provide information about the number of Nepali MWs in jail in different countries of destination. Yet the Kantipur Daily (July 3, 2018) referring to the Ministry of Foreign Affairs (MoFA) stated that there were 458 Nepali MWs in jail in different 12 countries. Nearly half of the Nepali MWs in jail is in Saudi Arabia (48%) and there are remarkable proportions in Kuwait (15%), UAE (14%), Qatar (10%) and Thailand (8.5%) (Table 3.11).

21 *http://www.iads.com.np/prachar/www/delivery/*

22 *http://www.deshparadesh.com/index.php/news/10605-nepalese-women-rescude-from-kenya.*

**Table 3.11 Distribution of Nepali MWs in Jail of different destination countries, 2018**

| Country | Number | Percent |
|---|---|---|
| Saudi Arabia | 219 | 47.8 |
| Kuwait | 70 | 15.3 |
| UAE | 63 | 13.8 |
| Qatar | 45 | 9.8 |
| Thailand | 39 | 8.5 |
| Bahrain | 9 | 2.0 |
| Singapore | 4 | 0.9 |
| China | 3 | 0.7 |
| Israel | 2 | 0.4 |
| Oman | 2 | 0.4 |
| Lebanon | 1 | 0.2 |
| Cambodia | 1 | 0.2 |
| Total | 458 | 100.0 |

Source: Kantipur Daily, July 3, 2018.

The Cabinet meeting held on July 2, 2018 approved 'the Guideline for Legal Protection of Nepali Workers in Foreign Employment 2075'. The Guideline has the provision that GoN may incur up to Rs. 1.5 million per worker for legal protection. However, this provision may not be applicable in case the MWs i) charged in criminal cases and whose contact period ended, ii) those who go without taking the labor permit from Nepal.

### 3.3.4 Exploitative and Forced Labor Situation

There are very few studies about the forced labor situation among the MWs in Nepal. Among them, Mak, J. et al., (2017) is the most recent one and is also methodologically robust. It is a cross-sectional study among the 140 returnee men of Dolakha district. Forced labor situation was assessed among those returnee migrants within the past 10 years using International Labor Organization (ILO) definition of forced labor and its operational definition, which includes i) unfree recruitment, ii) work and life under duress and iii) impossibility to leave employer. Within each dimension, indicators are defined (Box 3.2) Forced labor is positive if any of the dimensions is positive.

## Box 3.2 Dimensions and indicators of forced labor

| Dimensions | | Indicators |
|---|---|---|
| Unfree recruitment | Involuntariness | • Recruitment linked of debt<br>• Deception about the nature of work<br>• Deceptive recruitment |
| | Penalty | • Denunciation of authorities<br>• Confiscation of identity or travel documents<br>• Sexual or physical violence<br>• Withholding of assets<br>• Threats against family members<br>• Exclusion from community and social life<br>• Financial penalties |
| Work and life under duress | Involuntariness | • Forced overtime<br>• Limited freedom of movement and communication<br>• Degrading living conditions<br>• Multiple dependency on employer (housing) |
| | Penalty | • Denunciation of authorities<br>• Confiscation of identity or travel documents<br>• Confiscation of mobile phone<br>• Isolation, locked in workplace<br>• Sexual/Physical violence<br>• Withholding assets<br>• Threats against family members<br>• Dismissal, financial penalties |
| Impossibility of leaving employer | Involuntariness | • No freedom of regain<br>• Forced to stay longer than agreed<br>• Forced to work for intermediate period |
| | Penalty | • Denunciation of authorities<br>• Confiscation of identity or travel documents<br>• Confiscation of mobile phone<br>• Isolation, locked in workplace<br>• Sexual/Physical violence, withholding assets<br>• Threats against family members<br>• Dismissal and financial penalties |

Source: Mak, Joelle et al., (2017).

Their findings of their study suggested that 73 percent of men experienced forced labor during their most recent migration (Table 3.12). Among the dimensions of forced labor, work/life duress contributes a lot in forced labor experiences (71%), followed by unfree recruitment (44%) and lowest 14 percent for impossibility to leave the employers. There is no distinct pattern of experiences of forced labor situation by age group, caste/ethnic groups, even destination countries of migrant workers. However, workers in construction work (69%) experienced lower level of forced labor situation against other nature of work such as factory workers, general labor and security guards.

**Table 3.12 Prevalence of forced labor among men MWs from Dolakha district (in %)**

| Characteristics | Unfree recruitment | Work/life duress | Impossibility to leave | Forced labor |
|---|---|---|---|---|
| **Age group (departure)** | | | | |
| <25 | 41.4 | 67.2 | 15.5 | 69.0 |
| 25-34 | 47.4 | 77.2 | 12.3 | 79.0 |
| >=35 | 35.0 | 55.0 | 19.0 | 60.0 |
| **Caste/ethnic groups** | | | | |
| Brahman/Chhetri | 46.3 | 71.6 | 10.5 | 73.1 |
| Newar | 46.2 | 69.2 | 7.7 | 73.1 |
| Janajati | 34.2 | 68.3 | 22.0 | 70.7 |
| **Migration destination** | | | | |
| Malaysia | 49.2 | 73.0 | 11.1 | 74.5 |
| GCC countries | 51.9 | 76.9 | 15.4 | 78.9 |
| **Migrant's Work** | | | | |
| Construction worker | 61.5 | 69.2 | 23.1 | 69.2 |
| Factory worker | 50.0 | 77.8 | 14.8 | 77.8 |
| Kitchen/food related work | 27.3 | 72.7 | 0 | 72.7 |
| Security | 50.0 | 75.0 | 37.5 | 75.0 |
| General labor | 30.8 | 61.5 | 7.7 | 76.9 |
| Skilled, professional | 36.8 | 79.0 | 5.3 | 79.0 |
| **Total** | **44.3** | **70.7** | **13.6** | **72.9** |

Source: Mak, Joelle et al., (2017) 'What is the Prevalence of and associations with forced labor experiences among male migrants from Dolakha, Nepal? Findings from a cross-sectional study of returnee migrants', *BMJ Open doi: 10.1136/bmjopen-2017-015835*.

There are other many testimonies that the working conditions in the destination countries are not conducive one the migrant workers. Physical, mental and sexual violence against the workers is widely reported not only the media but also by the civil society, the parliamentarians and stakeholders like NGOs working in safe migration issues. The following are some of the cases extracted:

- B1 (name changed)[23] (the Case is being handled by OSRT-NHRC team).B1 was sent to Kuwait via Kathmandu to Delhi to Kuwait by Mina. Mina is now the ward member of Mechi Municipaity-9, Jhapa.B1 reached to Kuwait some nine months ago and she frequently called her relatives and the elected representatives for her rescue. Her father

*23 https://www.onlinekhabar.com/2017/09/625499 downloaded 2074/5/27.*

registered the complaint in Mechi Nanagr Municipality for her rescue. B1 said that she was not offered food for several days. The owner physically and mentally tortured her for several days. She said, 'I cannot live if I am not immediately rescue from Kuwait'. This information was known to OSRT-NHRC and OSRT-NHRC asked the Nepal Police for her rescue. She was rescued and went to the village. OSRT-NHRC team also approached to her house to know about her condition, but she did not wish to share her painful narratives and she became hostile. Her husband, father and other relatives also made pressure her not to complain about trafficking.

- Dhana (name changed), 32, of Birtamod, Jhapa district[24] went Jordan one and half year ago with a high hope of earning. She used to work in a carpet factory. One night when she was coming back from the company to her room, an Indian co-worker raped her. Fearing that this case would not be well heard by anyone in Jordan, she did not inform anybody initially. But, when she found that she was pregnant, she was forced to inform it to the Company's Manager. The Manager sent her back to Nepal. When she landed in Nepal, it has already 8 months pregnancy. Thinking that her family and husband would accept the incident and excuse her, she informed it to her husband but her husband and the family did not allow her to stay in the house and taken away from the house. She said, 'neither she could not abort the pregnancy nor she could die in Jordan. I remembered my two daughtersand the son of 4 years and my husband in Nepal. So, I could not die'. Now, Dhana went to get support from Single Women Association of Jhapa district.

### 3.3.5 Deaths

Table 3.13 summarizes the reported number of deaths of the MWs the last nine fiscal years (2008/09 - 2016/17) in different countries of destination. Note that the number of deaths only includes here to that deaths which have been reported to the Foreign Employment Promotion Board (FEPB) for their compensation. The death compensation is given only for the documented migrants, that is, those who go by taking labor permit from the DoFE. The deaths of the undocumented migrants, that is, those going abroad without taking labor permit either from Nepal or India are not included here. Thus, the number of deaths may considerably increase if all the MWs are included.

*24 Rajdhani Daily, April 11, 2018.*

**Table 3.13 Number of deaths of the migrant workers reported in FEPB, Nepal, and FY 2008/09-2016/17**

| Year | Male | Female | Total |
|---|---|---|---|
| 2008/09 | 87 | 3 | 90 |
| 2009/10 | 399 | 19 | 418 |
| 2010/11 | 541 | 8 | 549 |
| 2011/12 | 632 | 14 | 646 |
| 2012/13 | 716 | 11 | 727 |
| 2013/14 | 864 | 24 | 888 |
| 2014/15 | 1000 | 6 | 1006 |
| 2015/16 | 789 | 24 | 813 |
| 2016/17 | 737 | 18 | 755 |
| Total | 5765 | 127 | 5892 |
| Total MWs (FY 2008/09-2016/17) | 3,343,292 | 168,981 | 3,512,273 |
| Death Rates per 1000 MWs | 1.72 | 0.75 | 1.68 |
| Age Specific Death Rates of General Population Death Rates (Population Census, 2011)* | | | |
| 20-24 | 1.90 | 1.11 | 1.46 |
| 25-29 | 2.20 | 1.12 | 1.60 |
| 30-34 | 2.51 | 1.18 | 1.77 |
| 35-39 | 3.35 | 1.69 | 2.46 |

Source: for deaths of the MWs, MoLESS (2018) and for Age Specific Death rates of the general population, CBS (2014).

During the nine fiscal years, a total of 5,765 number of MW deaths has been recorded in FEPB. Of which, 127 were females and 5,892 were males. Considering the all 9 fiscal year data, the death rates among the MWs is estimated to be 1.68 per 1,000 (1.72 per 1,000 for males and 0.75 per 1,000 for females). Comparing the death rates of the MWs with the age-specific death rates of the general population of Nepal, the death rates of MWs do not appear to be higher one. For instance, the age-specific death rate of 25-29 year and 30-34 year populations are 1.60 and 1.77 per 1,000 populations, respectively. These figures are closer to the death rates of MWs. However, as the MWs are expected to be healthy, have much information exposure, their death rates must have been much lowered than that of the general population.

Hom Karki (Kathmandu) in eKantipur.com[25] writes news that Anita of Kathmandu died when she attempted to run away from a hostel. She was kept in building in Kuwait. The human smuggler sent her to Kuwait via India. After 14 days of her arrival in Kuwait, she tried to run away from the place where she had been in captive situation. Police said it is suicide.

*25 http://kantipur.ekantipur.com/news/2017-11-08/20171108141601.html.*

### 3.4 Skills of Migrants Workers

Examining the data of MWs who destined in different GCC countries and Malaysia in FY 2016/17, it can be inferred that a large majority of Nepali MWs for foreign employment are unskilled workers, that is, 3 in 4 MWs are unskilled workers (Table 3.14). The share of unskilled workers is very high among WMWs compared to male ones. While 90 percent of WMWs in the GCC countries and Malaysia are the unskilled workers, the comparable figure for the male MWs is 75 percent. It is unfortunate that almost all WMWs going to Saudi Arabia, Malaysia, Oman, Qatar and UAE are unskilled workers; and 70 percent in Kuwait and 48 percent WMWs in Bahrain are unskilled workers. The shares of unskilled male workers are relatively higher in countries like Malaysia (86%), Oman (73%), Saudi Arabia (76%), UAE (71%) and Qatar (67%) compared to Bahrain (46.5%) and Kuwait (48%).

**Table 3.14 Percentage distribution of migrant workers by skills and country of destination (GCC Countries and Malaysia), FY 2016/17**

| Country | Professional categories | Skilled technicians | Semi-skilled | Unskilled | Number of workers |
|---|---|---|---|---|---|
| Malaysia | | | | | |
| Male | 0.0 | 13.7 | 0.0 | 86.3 | 90,186 |
| Female | 0.0 | 0.6 | 0.0 | 99.0 | 2,000 |
| Total | 0.0 | 13.5 | 0.0 | 84.1 | 92,186 |
| Qatar | | | | | |
| Male | 0.0 | 32.9 | 0.0 | 67.1 | 91,666 |
| Female | 0.0 | 4.9 | 0.0 | 95.1 | 1,716 |
| Total | 0.0 | 32.3 | 0.0 | 67.7 | 93,382 |
| Saudi Arabia | | | | | |
| Male | 0.0 | 24.3 | 0.0 | 75.7 | 55,293 |
| Female | 0.0 | 0.1 | 0.0 | 99.9 | 1,052 |
| Total | 0.0 | 23.9 | 0.0 | 76.1 | 56,345 |
| UAE | | | | | |
| Male | 0.0 | 20.4 | 8.5 | 71.1 | 35,199 |
| Female | 0.0 | 0.1 | 0.1 | 99.0 | 5,545 |
| Total | 0.0 | 19.0 | 8.0 | 73.0 | 40,744 |
| Kuwait | | | | | |
| Male | 0.0 | 41.7 | 10.5 | 47.8 | 8,478 |
| Female | 0.0 | 29.9 | 0.0 | 70.1 | 395 |
| Total | 0.0 | 41.2 | 10.0 | 48.8 | 8,873 |
| Bahrain | | | | | |
| Male | 10.2 | 46.5 | 0.0 | 46.5 | 2,436 |
| Female | 0.0 | 40.8 | 0.0 | 40.8 | 76 |

| | | | | | |
|---|---|---|---|---|---|
| Total | 9.9 | 46.3 | 0.0 | 46.3 | 2,512 |
| Oman | | | | | |
| Male | 0.0 | 19.2 | 7.4 | 73.3 | 1,477 |
| Female | 0.0 | 4.9 | 0.0 | 95.1 | 267 |
| Total | 0.0 | 0.2 | 0.1 | 0.8 | 1,744 |
| All countries (CGS and Malaysia) | | | | | |
| Male | 0.1 | 23.9 | 1.4 | 74.6 | 284,735 |
| Female | 0.0 | 7.2 | 2.5 | 90.2 | 11,051 |
| Total | 0.1 | 23.3 | 1.4 | 75.2 | 295,786 |

Source: summarized from MoLESS (2018).

### 3.5 Complaints

Department of Foreign Employment (DoFE) is responsible for handling the complaints related to foreign employment according the Foreign Employment Regulation 2065. Two types of complaints are made: one against individuals (agents, middle persons) and another institutional (recruiting agencies). Table 3.15 summarizes the number of complaints registered in DoFE during the last 5-years (FY 2012/13-2016/17). The five-yearly average number of complaints was 2418 during with much higher against institutional (1493) than that of individuals (925). The share of individual complaints declined from 54 percent in FY 2012/13 to 32 percent in FY 2015/16 and it again increased to 39 percent in 2016/17. Despite the fall in the proportion of individual complaints registering in the DoFE has been declining over the year, it is still cannot be said satisfactory situation in the sense that still a large chuck of foreign employment business is done from the informal, individual channels.

**Table 3.15 Number of complaints related to foreign employment registered in DoFE, 2012/13-2016/17**

| Year | Individual | Institutional | Total | Individual | Institutional | Total |
|---|---|---|---|---|---|---|
| 2012/13 | 1245 | 1060 | 2305 | 54.0 | 46.0 | 100.0 |
| 2013/14 | 974 | 1577 | 2551 | 38.2 | 61.8 | 100.0 |
| 2014/15 | 773 | 1906 | 2679 | 28.9 | 71.1 | 100.0 |
| 2015/16 | 704 | 1468 | 2172 | 32.4 | 67.6 | 100.0 |
| 2016/17 | 931 | 1452 | 2383 | 39.1 | 60.9 | 100.0 |
| Five-yearly average (2012/13-2016/17) | 925 | 1493 | 2418 | 38.3 | 61.7 | 100.0 |

Source: Ministry of Labor and Employment (2018).

Table 3.16 shows the number of complaints, number of settled complaints and number of cases forwarded to the court by the DoFE in the FY 2015/16 and FY 2016/17. Data reveal that relatively higher proportion of complaints against the recruiting agencies compared to the complaints against individuals have been settled by DoFE. For example, in FY 2016/17, 47 percent complaints against the recruiting agency and 17 percent complaints against the individuals have been resolved by DoFE. The comparable figures were 29 and 13 percent in FY 2015/16, respectively. As a result, a few cases against the recruiting agencies have been filed in the court (4% in FY 2016/17) while the comparable figure for the cases against individual cases is 28.5 percent.

**Table 3.16 Number of complaints and settlements, 2012/13-2016/17**

| | 2015/16 | | 2016/17 | |
|---|---|---|---|---|
| | **Individual** | **Institutional** | **Individual** | **Institutional** |
| No. of complaints | 704 | 1468 | 931 | 1452 |
| No. of complaints resolved at DoFE | 94 | 426 | 159 | 687 |
| % of complaints resolved at DoFE | 13.4 | 29.0 | 17.1 | 47.3 |
| | | | | |
| No. of cases filed in the court | 222 | 4 | 265 | 52 |
| % of cases filed in the court | 31.5 | 0.3 | 28.5 | 3.6 |

Source: Ministry of Labor and Employment (2018).

**Case Disposal Ratio of Foreign Employment Tribunal (FET)** – Section 64 of Foreign Employment Act (FEA) 2007 makes provisions relating to formation of a three-member Foreign Employment Tribunal under the Chairperson of Jude of Appellate Court. The Tribunal is mandated to 'trying and settling the cases other than those punishable by the Department as mentioned in this Act' (Section 64). The DoFE cannot take decisions about the individual cases and it must refer such cases to the Tribunal. Note that an individual worker cannot file the case to the Tribunal, the case must be forwarded by the DoFE to the Tribunal and thus the cases before the Tribunal are 'state cases' (Section 63). Therefore, the investigation authority in the DoFE obtains the advice of the Government Attorney before filing the case in the Tribunal.

The Foreign Employment Tribunal initiated its work since FY 2009/10 (Table 3.17). Over the last eight years (FY 2009/10-2016/17), a total of 3,026 cases were registered in FET and among them, 1134 were settled (Table 3.16). The eight-yearly average (FY 2009/10-2016/17) numbers of cases registered and decided in the Tribunal come out to be 378 and 142, respectively. Data reveal that the cases registered in the Tribunal have increased over the years. It increased from 158 in FY 2009/10 to 560 in FY 2016/17 – more than three and half times increase during the last 8 years. On the other hand, the case disposal ratio of the Tribunal has been low over the years: it was just 10 percent in FY 2009/10; 51 percent in FY 2014/15 and again 36 percent in FY 2016/17.

**Table 3.17 Case disposal ratio of Foreign Employment Tribunal, Nepal, FY 2009/10-2016/17**

| FY | Total cases (new and carried over) | Total cases decided | % of cases decided |
|---|---|---|---|
| 2009/10 | 158 | 16 | 10.1 |
| 2010/11 | 262 | 78 | 29.8 |
| 2011/12 | 370 | 124 | 33.5 |
| 2012/13 | 424 | 163 | 38.4 |
| 2013/14 | 395 | 151 | 38.2 |
| 2014/15 | 419 | 213 | 50.8 |
| 2015/16 | 436 | 185 | 42.4 |
| 2016/17 | 562 | 204 | 36.3 |
| Total | 3026 | 1134 | 37.5 |
| Eight-yearly average (2009/10-2016/17) | 378 | 142 | |

Source: Ministry of Labor and Employment (2018).

**Nature of Complaints** – According to the records maintained in DoFE, a total of 34 natures of complaints were recorded but the most frequently cited complaints were the following:

- Prosecute the accused, reimburse and compensate
- Prosecute, reimburse, compensate and repatriation
- Compensation
- Prosecute and compensate
- Repatriation

These five nature of complaints accounted for 75 percent of the complaints[26] handled by DoFE during the FY 2014/15-2016/17 (See Annex 3.1).

## 3.6 Remittances

Remittance inflows from the foreign employment are presented in Table 3.18 over the last nine fiscal years (FY 2008/09 -2016/17). Data reveal that the remittance amount increased from Rs. 209 billion in FY 2008/09 to Rs. 699 billion in FY 2016/17. The share of the remittance in the

*26 Although a total of 2408 individual complaints and 4826 complaints against the recruiting agencies were maintained by the DoFE in the FY 2014/15 to 2016/17, information on nature of complaints was maintained for 1227 for individual complaints and 4257 for the recruiting agencies.*

GDP has also increased from 21 percent in FY 2008/09 to about 30 percent in FY 2015/16 and declined somewhat in FY 2016/17 (27%). This remittance income is the major source of foreign currency given the fact that the other sources of foreign currency such as tourism sector and foreign loans and grants do not exceed 10 percent of GDP over the years.

**Table 3.18 Remittances inflows in Nepal from foreign employment**

| FY | Remittance as share of GDP | Remittance income in (Rs. Billions) |
|---|---|---|
| 2008/09 | 21.2 | 209.7 |
| 2009/10 | 19.4 | 231.7 |
| 2010/11 | 18.5 | 253.7 |
| 2011/12 | 23.5 | 259.6 |
| 2012/13 | 25.6 | 434.6 |
| 2013/14 | 27.7 | 543.3 |
| 2014/15 | 29.0 | 617.3 |
| 2015/16 | 29.6 | 655.1 |
| 2016/17 | 26.9 | 699.0 |

Source: Ministry of Labor and Employment (2018).

Remittances are also crucially important for household's survival as well as income as suggested by the study of Center for the Study of Labor and Mobility, CSLM, (2017)[27]. The annual average amount of remittance is the highest in Kaski district (Rs. 215,246), followed by Kailali (Rs. 182,248), Dhanusa (133,036), Panchthar (122,098) and lowest was in Nawalparasi (Rs. 102,155) district. Among the caste/ethnic groups, it is the mountain/hill Janajati that has highest amount of remittances (Rs. 189,009) while the lowest is among the hill Dalit (Rs. 123,048). The average annual remittance is relatively much higher to those who destined to western countries and South Korea compared to Gulf countries/Malaysia. The average amount of remittance is the lowest from India (Table 3.19).

Data also reveal that remittances are coming to Nepal across the all economic strata of households. Yet the amount of remittances generally increases as the household shift from lower quartile to higher one – reflecting that the richer the household is, the more the remittance the household receives and vice versa.

27 *They study was carried out in Panchthar, Dhanusa, Nawalparasi, Kaski and Kailali and 126 non-migrants and 275 migrant households were sampled.*

## Table 3.19 Average annual remittance per migrantworker

| Characteristics | Average annual remittances (in Rs.) |
|---|---|
| **District** | |
| Kaski | 215,246 |
| Kailali | 182,248 |
| Dhanusa | 133,036 |
| Nawalparasi | 102,155 |
| Panchthar | 122,098 |
| **Caste/Ethnic groups** | |
| Mountain and hill Janajati | 189,009 |
| Terai Janajati | 129,563 |
| Hill caste | 173,690 |
| Terai caste | 134,450 |
| Hill Dalit | 123,048 |
| Terai Dalit | 133,528 |
| Muslim | 142,500 |
| **Destination countries** | |
| India | 113,837 |
| Gulf | 186,792 |
| Malaysia | 181,310 |
| South Korea | 350,746 |
| Western countries | 458,442 |
| Other | 390,837 |
| **Class Quartile** | |
| Lowest | 182,733 |
| Second | 330,609 |
| Third | 210,759 |
| Highest | 500,000 |

Source: Center for the Study of Labor and Mobility (CSLM), 2017.

**Sources of Finance** - The CSLM (2017) study showed that only a tiny fraction of Nepalese households are able to self- financed (2%) for migration for foreign employment and another one-third migrants' main source of financing comes from another migrant. Conversely, for more than half (nearly 53%) of MWs sources of financing still constitute the direct loans including loan from traditional money lenders, loan from bank/financial institution, and loan from non-

traditional money lenders and loan from relatives. Data reveal that nearly 8 percent migrants' source of finance was selling of land. This scenario indicates that migration to foreign labor from Nepal incurs a major loan or financial burden to the household and individual if they could not adequately earn the money or if their movement has not been safe and orderly.

## 3.7 Responses

### 3.7.1 Laws and Policies

The Constitution explicitly mentions the foreign employment under its Directive Principle. It says,

> *'to regulate and manage the sector in order to make foreign employment free from exploitation, safe and systematic and to guarantee employment and rights of the labors' (Part 4, i5);*
>
> *'to encourage mobilizing the capital, skills, technology and experience gained from foreign employment in productive sectors in the country' (Part 4, i6).*

Foreign Employment Act, 2007 (first amendment 2015) and The Foreign Employment Rules (First Amendment, 2011) regulate the foreign employment business as well as ensure the rights of the migrants workers.

The Government of Nepal has continually placed importance of foreign employment in its Periodic Plans. In 2012, the Government announced the Foreign Employment Policy aiming to make foreign employment safe, orderly, organized, respectable and beneficial to all involved. The GoN has also provided a separate Chapter in its Periodic Plans like 13$^{th}$ (2012/13-2014/15) and 14$^{th}$ (2015/16-2018/19). Both Periodic Plans aimed at contributing to reduce the poverty and increase sustainable economic and social development through the utilizing the economic and non-economic benefits of foreign employment.

### 3.7.2 Institutional Mechanisms

The Government of Nepal's institutional mechanism to regulate the foreign employment business is conducted through i) Ministry of Labor, Employment, Social Security (MoLESS), ii) Foreign Employment Promotion Board (FEPB), iii) Department of Foreign Employment (DoFE), iv) Foreign Employment Tribunal (FET) and v) Labor Attaché appointed in the destination countries. Box 3.3 summarizes the role of each of these agencies, and their activities carried out by the end of 2017.

**Box 3.3 Summary of institutional mechanism to regulate the foreign employment and activities, FY 2016/17 and FY 2017/18**

| | Key responsibility | Key activities |
|---|---|---|
| MoLESS | Formulation, implementation, coordination, monitoring, and evaluation of policies, plans and programs related to labor and employment | • Developed a detailed Five Year National Strategic Action Plan (2015-2020)<br>• Initiated 'Free Visa, Free Ticket' policy for seven destination countries: Bahrain, Kuwait, Malaysia, Oman, Qatar, Saudi Arabia and UAE on July 2015<br>• Collaborated with UNs and other INGOs to launch i) Safer Migration Project, 2013-2018 and ii) Partnership program on fair recruitment and decent work for WMWs in South Asia and the Middle East (2013-18)<br>• Nepal becomes the Chair of the Colombo Process (2017)<br>• Elected as the Deputy Chair of ILO Governing Body<br>• Carried out First Amendment of FEA 2007 (2015)<br>• Monitoring of 127 recruiting agencies<br>• Conducted Bilateral Agreement with Jordan in 2017 and talks are being done with Malaysia, Saudi Arabia, Kuwait and Oman |
| FEPB | Promotional activities for foreign employment, ensure social protection and welfare of MWs | • Established in 2008<br>• Established Welfare Fund as the contributory of MWs (Rs, 1500/worker for three-year labor permit and Rs. 2500/worker for 5-year labor permit) including interests, grants and fees collected from renewal or registration of recruiting agencies and other institutions<br>• Welfare Fund utilized for conduction of skills training; compensation to the decreased families and injuries; repatriation of death body; rescue of the MWs including scholarship for the MWs children<br>• In FY 2016/17, provided monetary support to 755 decreased families, 206 injured MWs; 251 repatriation of dead body; 51 rescue of MWs; 1250 children provided scholarship and released fund to 107 institutions to provide skills training to 10,000 individual across the country |
| DoFE | Facilitating and regulating foreign employment | • Established in 2008<br>• Registered complaints and grievances of MWs<br>• Maintained database of those who takes the labor permits<br>• Established Labor Village in Kathmandu valley in 2013 to provide quality, and timely services –Kathmandu office, Malaysia section, Qatar Section, Saudi Arabia Section and DoFE including Resource Center are located in the Labor Village |
| FET | Provide justice for the MWs | • Established in 2010 as semi-judicial body<br>• Operates as per the provision in the Summary Procedures Act, 1972 and also receives cases forwarded by DoFE<br><u>Jurisdiction according to the FEA and its Regulation</u><br>• Prohibition on operating foreign employment business without permission<br>• Sending a MW without obtaining the labor permit<br>• Prohibition on sending minor for foreign employment<br>• Prohibition on sending workers to countries not specified by the Government<br>• Takes action against misuse of necessary documents or reports |
| Labor Attaché | Study the conditions of workers and protection of MWs in destination countries | • Require appointment of a Labor Attaché in destination countries where 5,000 or more MWs are based as per the FEA 2007<br>• Appointed Labor Attaché in eight countries: Bahrain, Kuwait, Malaysia, Oman, the Republic of Korea, Saudi Arabia and the UAE<br>• Responsibility: i) provide information to the Government about the labor condition; ii) assist in resolving the dispute between the workers and the employers/companies; iii) make arrangement of recuse and manage repatriation of dead bodies; iv) maintain bilateral agreement and v) provide welfare protection information to the MWs. |

Source: summarized from MoLESS (2018).

**Efforts Made by the Nepali Embassies at Abroad –** Examining the Web Site of the Nepal Embassy to Saudi Arabia (http://sa.nepalembassy.gov.np/), following information is known:

- No information about the number of complaints handled
- Number of deaths of MWs is posted but there is no up-date information
- Number of MWs in jail is posted but there is no information about the date of imprisonment and duration of imprisonment
- Status of housemaids is posted but not up-dated information after 2013.
- There is no information posted about the number of rescued made, repatriation of death bodies, number of Nepali workers in imprisonment.

Media reported that Saudi Government has brought a law that punishes the human trafficker for 15 years in imprisonment and fine of Rs. 275 million. According to the Labor and Social Development Ministry of Saudi Arabia, trafficking of domestic workers has brought the adverse consequences on security, economic development and social prestige. The Ministry is also studying the situation of trafficking of domestic workers in collaboration with the Social Security Department. Similarly, the Government is also committed to punish the recruiting agencies and individuals who fraudulently recruit the domestic workers in Saudi Arabia. The domestic worker recruiting agency, called Asian Manager is reported to have appointed the domestic workers in hourly basis which is against the law. The Consumer Protection Association of Saudi Arabia has discussed about the domestic workers situation with the representative of different Embassies.

**Embassy of Nepal, Muscat, Oman -** On the date posted on March 6, 2018, the Embassy of Nepal, Muscat posted a press release that it assisted to rescue 20 Nepali workers in Oman. The workers were sent by Honesty Overseas Pvt. Ltd – a license holder recruitment agency in Kathmandu to Muwarad Wadi Hibi Modern Trade (Astd.), Sohar, Oman. Of the 20 Nepali workers, 11 workers were kept in about 165 Kilometers far from Muscat – which was against the agreement. The Embassy also monitored their situation and as per the demand of the workers, they were successfully repatriated to Nepal. The Embassy also recommended for the legal treatment to the concerned recruitment agency that sent the workers. The Embassy also returned other rest 8 workers some two weeks letter.

**Maximum Cost for Foreign Employment** – The Government of Nepal has fixed the maximum cost for foreign employment[28] and the amount of the maximum cost varies by the country of destination. One is not entitled to charge more than the amount prescribed by the Government. Accordingly, Rs. 10,000 for countries of Malaysia, Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and UAE; Rs. 50,000 for Japan; Rs. 70,000 for Lebanon, Rs. 19,000 for Mauritius and Rs. 90,400 for Poland and Russia each. Note that in case of Gulf countries and Malaysia the 'Free Visa and Free Ticket' has been implemented and the more than Rs. 10,000 cannot be charged.

### 3.7.3 Private Actors

Section 11 of the Foreign Employment Act 2007 makes the provision that the private sector may involve in the foreign employment business by taking license from the Foreign Employment Department. Accordingly, as of the end of 2017, a total of 1130 recruiting agencies have been

*28 http://fepb.gov.np/content.php?id=1010 (Accessed on July 21, 2018).*

registered in DoFE and of them, 932 were operating (Table 3.20). Majority of these recruiting agencies are located in Kathmandu valley but there are 47 branch offices outside of Kathmandu valley. In addition, 733 individual agents were provided license. There were 15 orientation institutions providing training for the domestic workers.

**Table 3.20 Private Institutions Providing Services to MWs**

| Details | Total number |
|---|---|
| Recruiting agencies registered to operate | 1130 |
| Recruiting agencies currently operating | 932 |
| Branch office of registered recruiting agencies | 47 |
| Registered agents of recruitment agencies | 733 |
| Orientation institutions registered to operate | 118 |
| Orientation institutions currently operating | 118 |
| Institutions approved to operate under JITCO agreement | 222 |
| Registered institutions providing training for domestic worker job | 18 |
| Currently operating institutions providing training for domestic worker jobs | 15 |

Source: MoLESS, 2018.

According to the Foreign Employment Act 2007, the Department of Foreign Employment (DoFE) is responsible for the monitoring of the foreign employment business. It is responsible to monitor the recruiting agencies, orientation centers, medical institutions that provide health check-up certificates. On March 13, 2018, media (the Nagarik Daily) reported that there has been gross lacking of monitoring of foreign employment business due to the lack of human resources in the Department. The DG of the DoFE also confessed that due to the shortage of staff, the activities of monitoring, timely complaint handlings, relief and rescue activities have been affected. The Government has sanctioned 50 posts for the Department but only 26 were working. Of the eight section officer, only 5 were working; of the 4 Government advocate, only one was working, of nine *nayab subba* (non-graduate officer), only one was working and there were none of the computer engineers. It is claimed that due to the restructuring of the administration, the staff were deployed in different levels of Government which resulted shortage in the Department.

**Bilateral Agreement and Memorandum of Understanding (MoU) –** Nepal has signed bilateral agreement, MoU with seven countries as of 2017 (Box 3.4). While the each of the agreement differ, the common commitments include the following: i) pre-departure responsibilities to Government Nepal to medical test, acquiring passport, travel permits, adequate information on condition of work; ii) provisions pertaining to payment of a worker's travel and recruitment costs; iii) provisions relating to the contest and forms of contacts; iv) methods for resolving disputes and monitoring mechanisms and framework and v) validity of agreements.

## Box 3.4 Bilateral agreements and MoU between Nepal and different destination countries

| Destination country | Year of agreement | Nature of agreement |
|---|---|---|
| Qatar | 2005 | General Agreement |
| UAE | 2007 | Memorandum of Understanding |
| Republic of Korea | 2007 | Memorandum of Understanding |
| Bahrain | 2008 | Memorandum of Understanding |
| Japan | 2009 | Directive |
| Israel | 2015 | Joint Pilot Program |
| Jordan | 2017 | General Agreement |

Source: MoLESS, 2018.

### 3.7.4 Report of the Sub-Committee of International and Labor Relations of Parliament 2017

The Sub-Committee visited four major destination countries of Nepali MWs: Saudi Arabia, Kuwait, Qatar and UAE in between March 18-26, 2016. The Sub-Committee was led by Prabhu Sha. The main objective of the study was to identify the working condition of the Nepali MWs in the said countries and suggest the appropriate measures to improve the working situation. During its study, the Sub-Committee observed and monitored the Departure Section of Tribhuvan International Airport, Kathmandu; had conducted interaction with Nepali Missions in these four countries, met the Government authorizes of these countries including the Nepali MWs and visited and monitored the working place in the destination countries (Box 3.5).

Note that National Human Rights Commission (NHRC) also invited the Sub-Committee to the Office of the NHRC in Kathmandu to discuss about the human rights situation of the migrant workers on August 21, 2017. In the discussion, there were also representatives from Department of Counselor Service, MoFA, MoWCSC and Nepal Police. As noted in Section 3.2.3, the Sub-Committee instructed the Government to implement a ban on Nepali women going for domestic work in Gulf countries.

## Box 3.5 Summary of the key findings by place of observation and monitoring

| Visited Place | Main findings |
|---|---|
| Observation of Departure Section of TIA, Kathmandu | Established CCTV, the footage of the CCTV can be read for 72 days<br>'Setting' established among Immigration Official, Airline Staff and Human Smugglers<br>Prepare fake travel documents for visit visa -return ticket, fake hotel booking |
| Observation and Monitoring of Nepali Embassy to Saudi Arabia and Safe House | Congested room of the Embassy, mess of papers<br>The capacity of the Safe-House is 5 to 7 but 24 female victims residing<br>30 male MWs were also residing in small room of the Embassy |

| | |
|---|---|
| Supervision of Companies in Riyadh | High discrimination in salary for the same work and same time between the Nepali workers and workers from India, Bangladesh and Pakistan – Nepali working being lowest paid<br>Failure of free visa and free ticket provision – more than 50 workers reported that they paid more than Rs. 70,000 to come to Saudi Arabia |
| Visit of Labor Ministry of Saudi Arabia | Saudi Arabia Government established call center for listening of the MWs complaints across the country<br>Saudi Government intending to simplify the Exit Visa process |
| Observation and Monitoring of Nepali Embassy to Kuwait | The rent of the Embassy Office and the staff salary was paid by Kuwait Government via Kuwait Fund (equivalent to Rs. 70 million annually) |
| Observation of Safe House funded by Kuwait Government | 25 women at Safe House at the time of study. 60% went via TIA by developing 'setting' and 40% went via India.<br>Ran away from the owner's house because of not able to resist the physical, mental and sexual violence<br>Mostly sent by own relatives and person known<br>Most knew name of the agents<br>Each day one or two WMWs come to the Safe House<br>Victims must stay at least 3 months before sending back to house in the shelter |
| Observation in a Hospital in Doha | Mostly Nepali parents due to traffic accident<br>The Hospital wanted to send the Nepali parents in Intensive Care Unit |
| Monitoring of Nepali Embassy at Abu Dhabi and Safe House | Many of the women in Safe House were found that they reached their via TIA<br>Many women come due to not able to resist the physical, mental and sexual violence by the owners |

Source: summarized from the Report of the Sub-Committee of the Sub-Committee of International Relations and Labor, the Legislature-Parliament, 2017.

The Parliamentarian Sub-Committee identified the following problems in relation to employment in Saudi Arabia, Qatar, Kuwait and UAE.

**Organized human smuggling and trafficking** – There was high demand of Nepali women in domestic work in Saudi Arabia as the African countries stopped supplying of domestic workers to Saudi Arabia. The human smugglers earn at least Rs. 400,000 by supplying of a domestic worker. Nepali human smugglers have established offices for supplying Nepali domestic workers in Ajman of UAE and Kuwait city and are selling Nepali women as goats are sold. Although there is no exact number of data of domestic workers in Gulf countries, it is found that 60% of Nepali domestic workers come via Tribhuvan International Airport (TIA) by creating 'setting' among staff of Immigration, security forces and staff of Airline Company in the TIA. The Committee concluded that acts of human smuggling and trafficking cannot be effectively eliminated without a greater political and Government official commitment.

**Carelessness of sate mechanism in control of human smuggling and trafficking** – The staff and Ambassadors of the Nepali Missions complained that they forward the suggestions to MoFA, MoLESS and concerned organizations in Nepal but they do not take suggestion seriously. The GoN has prepared to adopt Guideline for sending domestic workers 2072 and trying to send the

workers without labor agreement. The Nepali Embassies in Gulf countries reportedly suggested the MoFA not to adopt the Guideline without singing the Labor Agreement between countries. Domestic workers should not be sent to Gulf countries without bilateral Labor Agreement.

**Widespread deception and fraud in foreign employment business** – The decision to send the workers at minimum cost taken by the GoN has totally failed. The workers have paid at least Rs. 50,000 to Rs. 900,000 to reach a Gulf country for work. When enquired to the employer companies, they said that they have paid money for visa and ticket to the Manpower agencies. Due to the unhealthy competition among the Manpower agencies, it is claimed, there are increasingly practices of bribery to be paid to the Human Resource Manager of Employer Company. The Report also claimed that the Government decision to send the workers at the minimum cost has completely failed. After the decision of the minimum cost decision, workers have spent Rs. 50,000 to Rs. 300,000 to go for employment but they did not get employment even for three months. Many of the abandoned workers do not know from which recruiting agency they have been sent. The Report claimed that unless the recruiting agencies in Nepal are made much responsible, discipline, capable professional, 50% problems related to foreign employment cannot be solved.

**Exploitation due to the dual Labor Agreement** – Ninety percent of the domestic workers is reported to force sign in two Labor Agreements: one in Nepal and another in the destination country. The Labor Agreement done in Nepal does not carry legal status while the Labor Agreement done in the destination country has the legal status. It is reported that there is widespread difference in the Labor Agreement signed in Nepal and in the country of destination in terms of amount of salary, nature of work, working hours, contact period, leave and benefits. Further, insurance is done for 2 years in Nepal but the workers are forced to work for 3 years-resulting to no insurance in the extra one-year. Thus, without elimination of the dual agreement system, there is less chance of reduction in exploitation of workers.

**Problem created due to sponsorship system (Kafla) in Gulf countries** – According to the system, the workers who have been sponsored come under the control of the employer. Without his/her permission, the worker cannot leave the country. The Kafla system is actually a protection system, but with having the unlimited power of the Kafala, the system has become modern type of slavery. The employer has to issue 'resident permit' to the worker in the give period. But, employers have not willing to issue the resident permit for the worker, for they could easily exploit the MWs who do not have the residence permit. That is why; it is difficult to come back from Saudi Arabia than to go there. How exploitation happens? The workers have to receive a residence permit in Saudi Arabia. The permit has to be issued by the sponsor. If the sponsor does not issue the permit within the three months of the workers residing in Saudi Arabia, the worker becomes illegal. The Parliamentary committee claimed that it is easy to exploit an illegal worker than the legal one, so the sponsor is less likely to issue the residence permit timely to the workers. Because of the *Kafala* system, it is claimed that the workers are physically and mentally are punished, no payment, and overtime works. Unless the Kafala does not provide the return permit, workers remain in the bonded situation. The Committee also highlighted that the workers even have to pay the gift to the Police to come back to Nepal. One of the ridiculous things is that if a MW wishes to leave the country, he/she has to pay the bribery to the Police to get the Exit Visa. While Nepal has presumably eliminated the modern slavery system like Haliya and Kamaiya, but Nepal is adopting the same slavery type by sending Nepali workers abroad.

**Fraud involved in 'orientation training'** – Majority of the MWs in Gulf countries were found that they came without receiving the orientation training in Nepal. Even many did not know whether the orientation training has to be taken. There was also evidence of fake certificates of orientation training. As a result, the MWs miss opportunity to learn the local language, rituals, traffic rules and complaints handling mechanism of the destination country. MWs die due to not having adequate knowledge of basic things like need of drinking of adequate water, not to run the air-conditioned fully immediately coming back to the room from the hot, place and adoption of the minimum protection measures during work. Similarly, the MWs who come with the fake driving licenses or other fake skills certificates are also reported to have died.

**Inadequate and Inappropriate food and accommodation** – Many MWs are deprived of minimum needs for their survival. Rooms are congested with no air-conditioned. Workers are not provided the full meal, if provided full meal, much high charge is imposed. Further, there is no proper kitchen management, no adequate rest time, heavy penalty even in a small fault. The MWs who take care of the sheep and camels in desert are even hard hit.

**Miserable condition of domestic workers** – No adequate food provided; no adequate food left when the family members go abroad; provided a room for sleeping that does not have air condition or no padlock, spitting in the meal by the children of the owner, bite in the name of crying, no permission to contact the family members in Nepal, salary not provided or only partially provided. Further, majority of the domestic workers do not know the name of the place that they are working. As a result, it is difficult to rescue them. As there is no permission of women walking alone in the road in Saudi Arabia, if the Police found a woman walking in the road alone, she is arrested and handed to the employer house. Many employers have not paid the workers and they also delete their contact address from the mobile of the worker to escape from any legal treatment. In some cases, human smugglers force the WMWs engage in prostitution after rescue of the worker from the employer's house. If a worker becomes sick or unable to work, the employer brings her to the surrounding area of Nepali Embassy and leaves them outside of the Embassy.

**Weak and ineffective intervention of Nepali Diplomatic Mission** – Although thousands of Nepali are working in the Gulf countries, there were no Ambassadors appointed in Saudi Arabia, Qatar, and UAE and there is no Labor Attaché in Kuwait either. In countries were Labor Attaches were appointed, they were grossly inadequate according to the volume of the Nepali MWs. There is no human resource in Nepali Missions who knows the Arabian language, labor laws and others. No safe house in all the Gulf countries established due to lack of budget. One worst thing is that the Embassy has to request the Manpower agency for the return ticket of the victim. This means that Embassy cannot enforce the Manpower agencies even if they are found guilty.

**Women are trafficked to Lebanon by making false promises of America** – The human smugglers brought Nepali women to Lebanon by giving them false dream of America. The Kantipur Daily on March 13, 2018 writes by referring to the Ambassador of Egypt – Mr. Jhapendra Aryal - who is also responsible to see Lebanon – that human smugglers have increasingly tempted young women telling them that it is easier to go America from Lebanon. This is because Lebanon is pro-American country and also there is Nepali Army as the Peace Mission[29]. Many women are also deceived that they will also be transported from Lebanon to Europe. According to the

*29 There are 827 Nepali Army in Peace Mission in Lebanon.*

Ambassador, in the first three months of 2018, 17 women have been rescued and repatriated to Nepal. On the other hand, the illegal WMWs are at greater risk of sexual exploitation and also risk of extreme form of torture. It is difficult to get the exit visa for those illegal MWs.

### 3.8 Emerging Challenges

Drawing on the analysis of this Chapter and challenges forwarded by MoLESS (2018) in its Labor Migration for Employment Status Report 2015/16-2016/17, the following challenges may be enumerated:

- Regulatory challenges
- Increasing access to justice
- Protection of migrant workers in destination countries
- Procedural challenges
- Implementation of Laws, Plans and Policies

# Chapter 4

# Monitoring of Anti-Trafficking Polices, Programs and Activities

This Chapter critically reviews the anti-trafficking efforts being conducted in Nepal. The Chapter begins by mapping of Nepal vis-à-vis the SAARC countries in efforts to prevent and combat TIP. It goes on revising the policy initiatives, programs and activities run both by the Government of Nepal and NGOs. Note that NGOs that provides information to NHRC only included in this Report. The final Section draws the compliance level of the Government of Nepal on the implementation status recommendations forwarded by NHRC.

## 4.1 Nepal's Position in US TIP Report

The United States' (US) Trafficking in Persons (TIP) Reports provide an indication that to what extent Nepal has been compliance with the US Government minimum standards of *Trafficking Victims Protection Act* in relation to combating trafficking. The US Government has been publishing *Trafficking in Persons Report* annually since 2001. It places countries around the global in monitoring of trafficking in four categories: Tire 1, Tire 2, Tire 2 WL and Tire 3. **Tire 1** countries are those whose governments fully comply with the Trafficking Victims Protection Act's (TVPA) minimum standards. **Tire 2** countries are those whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards. **Tire 2 WL**countries are those whose governments do not fully comply with the TVPA's minimum standards, but i) the absolute number of victims of severe forms of trafficking is very significant; ii) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year. **Tire 3** countries are those whose governments do not fully comply with the minimum standards and are not making significant efforts to do so.

Box 4.1 presents the US TIP Report placing of countries in South Asia for the last 5-years (2013-2018). Nepal has been placed in Tire 2 over the last 5 years. Nepal's situation appears to be satisfactory compared to other South Asian countries like Afghanistan, Bangladesh, Maldives and Pakistan.

**Box 4.1 Nepal's position in US TIPs Report compared to other South Asian countries, 2013-2018**

| Countries | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
|---|---|---|---|---|---|---|
| Nepal | Tire 2 | Tire 2 | Tire 2 | Tire 2 | Tire 2 | Tire 2 |
| Afghanistan | Tire 2 WL | Tire 2 | Tire 2 | Tire 2 WL | Tire 2 | Tire 2 |
| Bangladesh | Tire 2 | Tire 2 | Tire 2 | Tire 2 | Tire 2 WL | Tire 2 WL |
| India | Tire 2 | Tire 2 | Tire 2 | Tire 2 | Tire 2 | Tire 2 |
| Maldives | Tire 2 | Tire 2 | Tire 2 WL | Tire 2 WL | Tire 2 | Tire 2 |
| Pakistan | Tire 2 | Tire 2 WL | Tire 2 WL | Tire 2 WL | Tire 2 WL | Tire 2 |
| Sri Lanka | Tire 2 WL | Tire 2 WL | Tire 2 WL | Tire 2 WL | Tire 2 | Tire 2 |

Source: TIP Reports from 2013 to 2018 (Country Narratives).

According to the US TIP Report 2018, the GoN during the reference period, increase the trafficking investigations and identification of the victims, and it revoked the licenses of more than 400 foreign employment agents in 2018. Despite these efforts, the Government of Nepal did not meet the minimum standards in several areas:

- The laws do not prohibit all forms of forced labor and sex trafficking and it continued to lack standard operating procedures (SOPs) on victim identification and referral to rehabilitation services.
- The Government does not have any serious protection efforts for the male MWs despite a large number of male migrant workers experienced abuse overseas. The Government protection measures are disproportionally centralized on women migrant workers.
- Official involvement in trafficking offenses is frequently reported and is a serious problem due to their direct involvement in trafficking crimes and their negligence on the part of monitoring.
- Still a large number of cases related to trafficking in the course of foreign employment are registered under the Foreign Employment Act (FEA) rather than under the trafficking law.
- The government adopted several measures to prevent female migration, but such measures led women to use illegal methods to migrate, which subsequently increased their vulnerability to trafficking.

## 4.2 Legal and Policy Initiatives

**Periodic Development Plans** – The anti-trafficking programs are surfaced in Development Periodic Plans of Nepal especially from the 8$^{th}$Periodic Plan (1992-1997). The subsequent Periodic Plans have explicitly addressed the need of prevention and combating the trafficking in persons, especially women and children. The current 14$^{th}$ Plan (2016/17-2018/19) provides a separate Chapter for the prevention and combating TIP especially of women and children and hence places one of the prime works of the Government of Nepal. The Plan identified several challenges to effectively prevent and combat TIP such as i) unable to stop TIP taking places because of the new routes and use of different new modus operandi; ii) lack of effective

coordination among organizations; iii) lack of integrated data and reporting system; and iv) lack of employment opportunities in the country. At the same time, the Plan outlines the opportunities to control the TIP as i) implementation of the Human Trafficking and Transportation Act 2007 and Regulation 2008; ii) establishment of Information and Counseling Centers in some districts; iii) formation and mobilization of local committees against TIP; iv) establishment of the temporary rehabilitation centers for providing rescue and rehab services to the victims and v) initiation of the coordinated efforts among organizations working against TIP.

The Plan has adopted four strategies and several activities corresponding to implement each of the strategies.

1. Introduce the targeted programs for the vulnerable groups/ communities of TIP
2. Strengthen the capacity of mechanisms and structure established to combat TIP
3. Provide the integrated services to the trafficked victims ensuring their human rights
4. Increase access to justice to the trafficked victims by elimination of impunity

**National Plan of Action (NPA) against TIP 2068 (2012) –** It is 10 years plan (2012-2022). The NPA has identified five priority areas: prevention, protection, prosecution, capacity building and coordination, collaboration and cooperation.

**Implementation Plan for the NPA Action against TIP 2071 (2014) -** The Implementation Plan outlines the activities, results, indicators, time frame, main responsible organizations and supporting organizations and also provides the budget for carrying out each of the activities of the NPA.

**Guidelines/Standards –** The GoN has adopted different Guidelines/Standards especially after 2007. These Guidelines/Standards provide uniformity among organizations in providing services to the trafficked victims, access to justice and formation and mobilization of local committees. Key Guidelines/Standards are the following:

- Guideline for Operation of the Child Helpline 2064 (2007)
- Guideline for Elimination of *Chhupadi* System 2064 (2007)
- National Minimum Standard for the Care and Protection of the Victims of Human Trafficking and Transportation 2068 (2011)
- Guideline for the Operation of Rehabilitation Center 2068 (2011)
- Guideline for the Operation of the Rehabilitation Fund 2068 (2011)
- Guideline for Local Committee and Municipality Committee against Human Trafficking (Formation and Mobilization) 2070 (2013)
- Guideline Prosecution and Court Procedure of the Cases of Human Trafficking and Transportation 2068 (2011)
- Guideline for the Investigation and Prosecution of Fraud Cases on Foreign Employment 2067 (2010)
- Supreme Court Guideline the Control of Sexual Abuse and Violence to the Women Workers in the Dance Restaurant, Dance Bar and other Entertainment Sector 2065 (2008)
- Terms and Conditions of International Adoption of Nepali Children 2065 (2008)
- Guideline for the Maintaining the Privacy on the Special Types of Cases 2064 (2007)

### 4.3 Institutional Mechanism

**Ministry of Women, Children and Senior Citizens (MoWCSC)** –The Ministry is responsible for formulation, implementation, coordination, collaboration, monitoring of the policies and programs in the country. Under the Ministry, the Government created 'Human Trafficking and Transportation Section' in August, 2013 as the focal unit. It establishes coordination, cooperation and collaboration with the different Ministries, Departments and Committees and with the International NGOs in dealing with the TIP situation in Nepal. This Section also works as the Secretariat of the National Committee on Combating Human Trafficking (NCCHT).

**National Committee on Combating Human Trafficking (NCCHT)** – the Committee is formed under the Section 23 of Human Trafficking and Transportation Act (Control) 2007 and Rules 3 of the Regulation 2008. It is an interagency committee chaired by the Secretary of the MoWCSC and the members representing from different Ministries including the representatives of NGOs and victims. The Committee is responsible for formulation of plans, policies and programs and submitting them to the MoWCSC for approval. It facilitates for the implementation of the Government's approved plans, policies and programs from the national to the district levels.

Examining the Minutes of the NCCHT and the interview withRosani Devi Karki, the Under Secretary and Purnima Upadhaya, the Section Officer, the NCCHT carried out the following activities in FY 2016/17:

- Five times meeting held in FY 2016/17 and the key agendas for the meeting were related to approval of budget for the rehab centers; monitoring of rehab centers; repatriation of trafficking victims from abroad and development of guidelines for maintaining the minimum standards of rehabilitation centers.
- Through the Ministry, an interaction program was held with the Deputy Chair/Mayor of Local Levels on human trafficking in Kailali, Parsa and Jhapa.
- Conduced Mid-Term Evaluation of the National Plan of Action (NPA) against TIP Especially Women and Children 2012.
- Discussion being held informally about the institutional mechanism in the new changing context.

The Minister of MoWCSC, Mrs. Thama Maya Thapa, made several commitments after she assumed the Ministry in February 2018[30]. Among others, the following commitments are relevant for prevention and combating TIP:

- Draft the sample laws related to women for the Province and the Local Levels.
- Formulate a National Plan of Action to effectively implement the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Beijing Platform for Action, Convention on Rights of Children (CRC) and Convention on the Rights of Persons with Disabilities (CRPD).
- Establish Help Desk to hear the complaints of the victims of violence (but there is no information where the Desk is being established).
- EstablishRapid Response Team (RRT) in each Local Level to provide emergency rescue and relief to the victims of violence against women (VAW), street children, including of

*30 http://mowcsw.gov.np//public/uploads/1581273480-latest%20Minister's%20Action%20Plan%202075-2.pdf (Accessed on July 21, 2018).*

disabled persons. The RRT will comprise of elected representatives of the Local Levels, security personnel, civil society, teachers and journalists.

- Conduct the public awareness program across the country to end the VAW, Gender-based Violence (GBV),Witchcraft, rape, dowry and child marriage.
- Strengthen the *Bal Balika Khoja Talas Kendra* and expand the free telephone no. of 104.
- Monitor effectively the Child Care Homesand ensure the effective implementation of the Minimum Standards of the Child Care Homes for the protection of children.
- Construct a building to run Integrated Rehab Center in each Province for the protection of victims of VAW, GBV and TIP. The victims in the Center shall be provided skills, capacity development training before their re-integration with the family and community.
- Restructure the Social Welfare Council according to the Federal Structure of the Country.
- Develop and generate the disaggregated data of women, children and senior citizens.

**District Committee on Combating Human Trafficking (DCCHT)** – The Committee is established pursuant to the Human Trafficking and Transportation Act (Control) 2007 and Rules 3 of the Regulation 2008. The Committee is chaired by the Chief-District Officer and Women Development Officer as the member secretary. Other members include Chief of the District Police Office, Government Attorney including 3 members representing from organizations working against TIP, representative of the Federation of Journalist Organization. The District Committee is responsible for formulation, implementation, and coordination and monitoring of the policies and programs related to combating TIP in the district. In addition, the District Committee is expected to collect information about the trafficking vulnerable groups/community, form local level committees, rescue the victims and manage the rehabilitation services to the victims. By the FY 2016/17, all 75 districts have the District Committee formed.

**Local Committees on Combating Human Trafficking (LCCHT)** – The Committee is created pursuant to the Rule 7 (1) of the *Human Trafficking and Transportation (Control) 2065* (2008) and as per the NPA against TIP 2012. LCCHT includes VDCs and Municipality committees. These Committees acts as surveillance groups, information collectors, informants and support groups for the victims for increased access to justice. The *Local Committees against Human Trafficking (formation and mobilization) Guideline 2070* (2014) provisions a 13-member LCCHT chaired by Chief of the Municipality.

The institutional mechanism reviewed here was set up when the country had the unitary government system. Now, *the Constitution of Nepal* restructured the country into three levels: i) the Federal, ii) the State and iii) the Local Levels (Article 56.1). The Constitution envisions that three levels of the Governments shall exercise the power of the State according to the Constitution and the Federal Laws. Box 4.2 quotes some of provisions in the Constitution relevant to combat and prevent TIP for each level of Government. This warrants the restructuring of the institutional mechanism for combating TIP in Nepal.

**Box 4.2 An overview of the list of power vested in the different levels of Governments (relevant to addressing TIP issues)**

| **Federal** (Schedule 5) | **State** (Schedule 6) | Concurrent power of **Federal and State** (Schedule 7) | **Local Levels** (Schedule 8) |
|---|---|---|---|
| Criminal and civil laws making<br>Social security and poverty alleviation<br>Citizenship, passport, visa and immigration | Police administration<br>State statistics<br>State education<br>State Health | Civil and criminal procedure<br>Laws related to the family including marriage and divorced<br>Social security and<br>poverty alleviation<br>Employment and unemployment | Municipal/Metro Police<br>Collection of local statistics and records<br>Local development plans and projects<br>Basic education and secondary education basic<br>Health and sanitation |

Source: The Constitution of Nepal, 2015.

The current NCCHT needs restructuring given the changing context of Nepal. According to the Under Secretary of the MoWCSC, 'restructuring of the National Committee is needed and there should be representatives from Ministry of Health and Population (MoHP), Ministry of Education (MoE) and Ministry of Youth at the federal Government level'. At the Province level, 'trafficking section should be established under the Ministry of Social Development'. Similarly, the current DCCHTs have become almost non-functional, mainly because of the restructuring of the administration system in Nepal. There will be only the District Administration and District Police Office at the district level while all other district level line agencies are being removed and shifted to the Local Levels. The district Women and Children Office, which is acting as the Secretariat of the DCCHT, has been removed and shifted to each Local Level as a unit. In the same way, the LCCHTs have also become non-functional mainly because of the changes in the geographical boundaries of the Local Levels, and partly because of the changes in the structure of Local Levels as such. The number of the Local Levels has been downed to 753 from about 4,000 before 2015. Now, there is mandatory provision of election of women, Dalit, and excluded groups in the Local Levels. Thus, it requires establishing the LCCHTs even at the Ward and Sub-Ward Levels. If the structure of the LCCHTs are fundamentally changed and include the more elected Local Levels representatives in the Committees, the LCCHTs shall be expected to be more effective in prevention and combating TIP.

**Women and Children Service Directorate (WCSD) and Women and Children Service Centers (WCSCs)** – WCWD is under the Crime Investigation Department (CID) of Nepal Police. Established as the pilot project in 1996 in Kathmandu, Lalitapur, Kaski and Morang, WCSCs has already extended in all districts across the country. As of March 2018, there were 243 WCSCs extending down to the sub-Police Office, Area Police Office; border Police Office including in the Kathmandu metropolitan Police circles (Table 4.1 and Annex 4.1). They have been established in 10 strategic locations along the East-West Highway where the risk of external and internal trafficking for the women and children is high. These locations include: Birtamod, Itahari, Butwal, Attariya, Bardibas, Mirchaiya, Pathalaiya, Muglin, Lamahi and Kohalpur. They have also been extended to 20 different border points between Nepal-India such as in Pasupati Nagar, Bhadrapur, Kakarbhitta, Thadi Dhanusa, Malangawa, Gaur, Inaruwa, Tribeni, Maheshapur,

Krishna Nagar, Belahiya, Gulariya, Dhanghadi, Belauri, Gadda Chauki, Vittamod, Barahabise, Jamuniya, Rani and Birgunj. The *Operation Guideline for Border Surveillance Centers 2073* has been issued for effective surveillance.

According to the letter received to OSRT-NHRC from WCSD, there were 1,359 police posts sanctioned in these WCSD/WCSCs as of early 2018 (Table 4.1). The distribution of the police posts sanctioned by the ranking shows a very flat bottom with 59 percent Police Constable, 14 percent Police Head Constable to 19 percent Assistant Sub-Inspector to a very narrow peak from the Police Inspector rank and above. Further, only 47 percent of the total sanctioned posts were reported to be working in these WCSD/WCSCs. These problems – not having the adequate sanctioned police posts from officers and above rank (Police Inspector and above) and the low ratio of working to the sanctioned posts – may deter the effectiveness of WCSCs in combating crime against women and children.

**Table 4.1Comparing the sanctioned posts of Police with the Police working in WCSD and WCSCs**

| Rank | Number of sanctioned posts | % to the total sanctioned posts | Number of police working as of March 2018 | % working to the total sanctioned posts |
|---|---|---|---|---|
| Deputy Inspector General (DIG) | 1 | 0.1 | 0 | 0.0 |
| Senior Superintendent of Police (SSP) | 0 | 0.0 | 0 | |
| Superintendent of Police (SP) | 1 | 0.1 | 1 | 100.0 |
| Deputy Superintendent of Police (DSP) | 3 | 0.2 | 1 | 33.3 |
| Police Inspector | 13 | 1.0 | 17 | 130.8 |
| Sub-Inspector of Police | 84 | 6.2 | 57 | 67.9 |
| Assistant Sub-Inspector of Police | 262 | 19.3 | 137 | 52.3 |
| Police Head Constable | 195 | 14.3 | 82 | 42.1 |
| Police Constable | 799 | 58.8 | 338 | 42.3 |
| Police Office Assistant | 1 | 0.1 | 1 | 100.0 |
| Total | 1359 | 100.0 | 636 | 46.8 |

Source: Letter of WCSD to NHRC, 2018.

However, when it comes to the gender distribution of Police working in the WCSD/WCSCs, representation of Women Police is of satisfactory given the fact that 65.5 percent of the working Police in WCSCs constituted women Police and the rest one-third men Police. The share of working women police however varies by Police Units. The share of women police was particularly low in Province I (55%), Province 2 (57%) and even Province 4 (60%) while for other Provinces and Police HQ, the share of women Police can be said satisfactory (Table 4.2).

## Table 4.2 Number of Police working in WCSD and WCSC, 2018

| Working Police staff | Total | Female | Male | % of the total | % share of females |
|---|---|---|---|---|---|
| WCSD, Nepal Police HQ | 24 | 16 | 8 | 3.8 | 66.7 |
| WCSC, Rani Pokhari | 76 | 67 | 9 | 11.9 | 88.2 |
| Province 1 Police Office Biratanagar | 92 | 51 | 41 | 14.5 | 55.4 |
| Province 2 Police Office Janakpur | 93 | 53 | 40 | 14.6 | 57.0 |
| Province 3 Police Office Hetauda | 70 | 46 | 24 | 11.0 | 65.7 |
| Province 4 Police Office Pokhara | 78 | 47 | 31 | 12.3 | 60.3 |
| Province 5 Police Office Dang | 105 | 75 | 30 | 16.5 | 71.4 |
| Province 6 Police Office Surkhet | 36 | 26 | 10 | 5.7 | 72.2 |
| Province 7 Police Office Dipayal | 62 | 42 | 20 | 9.7 | 67.7 |
| Total | 636 | 423 | 213 | 100.0 | 66.5 |

Source: Letter of WCSD to NHRC, 2018.

Box 4.3 summarizes the types of capacity development training conducted by WCSD in the FY 2016/17 and FY 2017/18 and number of participants in each of the training. Participants are the Police working in WCSCs. The training contents include gender, violence against women, child justice, and psychosocial counseling skills. The training programs were supported by Asian Development Bank (ADB) and United Nations Children's Fund (UNICEF).

## Box 4.3 Type of capacity development training conducted by WCSD, FY 2016/17 and FY 2017/18

| Training programs | Year (Nepali Calendar) | Number of participants | Supported by |
|---|---|---|---|
| Capacity development training for GBV Control Network | 2074/4/8-2074/4/10 | 30 | ADB |
| Capacity development training for GBV Control Network | 2074/4/15-2074/4/17 | 30 | ADB |
| GBV, Child Justice and Psychosocial Counseling | 2074/4/9-2074/4/7 | 32 | UNICEF |
| Psychosocial Counseling Supporters Training for Police Personnel | 2074/4/17-2074/4/26 | 26 | ADB |
| Capacity Development Training for Police Personnel | 2074/4/27-2074/4/30 | 26 | ADB |
| GBV, Child Justice and Psychosocial Counseling | 2074/4/31-2074/5/6 | 32 | UNICEF |
| Psychosocial Counseling Supporters Training for Police Personnel | 074/4/32-2074/5/9 | 25 | ADB |
| Capacity Development Training for Police Personnel | 074/5/10-2074/5/13 | 25 | ADB |

| | | | |
|---|---|---|---|
| Psychosocial Counseling Supporters Training for GBV Control Network | 074/5/18-2074/5/20 | 30 | ADB |
| GBV, Child Justice and Psychosocial Counseling | 074/5/20-2074/5/26 | 32 | UNICEF |
| GBV, Child Justice and Psychosocial Counseling | 074/7/26-2074/7/23 | 32 | UNICEF |
| Capacity Development | 074/9/11-2074/9/23 | 180 | ADB |

Source:https://cid.nepalpolice.gov.np/index.php/cid-wings/women-children-service-directorate (accessed on July 19, 2018).

Physical facility for the WCSCs is being expanded in the Police Offices with the support of ADB in different districts such as the following:

- Strengthening WCSD and WCSC (UNICEF) – ongoing program
- ADB Grant for establishing WCSCs project in the following 20 districts: Saptari, Siraha, Bara, Rautahat, Mahottari, Dhanusa, Sindhuli, Dolakha, Dhading, Rasuwa, Gorkha, Tanahu, Surkhet, Banke, Pyuthan, Rolpa, Jumla, Doti, Achham and Bajhang (ongoing program)
- Established of 24 separate building for WCSCs in the following districts: Kathmandu, Lalitapur, Kavre, Nuwakot, Makwanpur, Chitwan, Morang, Sarlahi, Jhapa, Nawalparasi, Sunsari, Kapilbastu, Udaipur, Rupandehi, Kailali, Parsa, Sindhupalchok, Kaski, Dang, Jumla, Doti, Dhanusa, Bara and Rautahat.
- Under construction of separate buildings in the following 12 districts: Saptari, Siraha, Rasuwa, Dhading, Tanahu, Gorkha, Mahottari, Rolpa, Pyuthan, Banke, Surkhet and Bajhang.
- Established the Child Friendly Room at 21 district/locations: Banke, Chitwan, Kalimati-Kathmandu, Balaju-Kathmandu, Jawalakhel-Lalitapur, Chapagaun-Lalitapur, Bhaktapur, Thimi-Bhaktapur, Boudha-Kathmandu, Kavre, Makwanpur, Rupandehi, Syanja, Kaski, Palpa, Nawalparasi, Illam, Morang, Sunsari, Dang and Kailali.

## 4.4 Anti-Trafficking Programs and Activities

### 4.4.1 Government Programs

The Government of Nepal (Work Division) Rules 2012 envisioned the division of work among the Ministries. Many of the responsibilities of the Ministries/Departments are directly or indirectly relevant to prevent and combat human trafficking. Here, the activities and programs conducted by different Ministries and Departments have been discussed by reference to the *Economic Survey Fiscal Year 2016/17* (MoF, 2017), annual progress reports of the concerned Ministries and Departments. Note that although the country has entered into the federal structure and Local Governments and Province Governments[31] have already been formed, their activities and programs have yet to be reflected in the national accounting system such as by the Economic Survey of Ministry of Finance and hence it was not possible to assess any anti-trafficking initiatives being carried out by the Local Governments and Province Governments of Nepal in this National Report.

*31 The Local Governments were formed in May 2017, June 2017 and September and the Province Governments were formed in March 2018.*

**Education Programs to the Targeted Population** - Under the Ministry of Education, the scholarship provisions to the children of disadvantaged families such as Dalit, Janajati and children from Karnali zone are directly relevant for the prevention of trafficking of children from the disadvantaged communities. A total of Rs. 2.05 billion has been distributed as scholarship in the first eight months of FY 2016/17 to school children of Martyrs, conflict victims, Dalit, marginalized and endangered ethnic people. The aim of the scholarship provision is to expand equitable access to education and broadening meaningful teaching opportunities of students for all children.

**Integrated Services to the Victims of the GBV Including Medical Treatment** - Under the MoHP, One-stop Crisis Management Centers (OCMCs) have been constituted in 29 hospitals across the country aiming to provide the integrated services to the victims of the GBV. The specific mandates of the OCMC are to i) treat survivors' physical and mental health needs; ii) provide psycho-social counseling to survivors; iii) provide legal advice and support through district attorneys and legal counselors; iv) provide survivors to safe shelter homes; v) work with the police and district administration offices to provide security to survivors and vi) help rehabilitate survivors by providing further counseling.

From these 29 OCMCs, 8,664 GBV victims received the integrated services during the last 6 years ((FY 2011/12 -FY 2016/17). Of them, the majority were victims of physical/domestic violence (37%), followed by mental torture (29%) and sexual assaults/rape (29%). Unfortunately, it is not known how many these GBV victims were the victims of human trafficking (Table 4.3).

### Table 4.3 Distribution of the reported GBV survivors at OCMCs, FY 2011/12-2016/17

| | N | % |
|---|---|---|
| **Sex** | | |
| Male | 634 | 7.3 |
| Female | 8056 | 93.0 |
| **Nature of violence** | | |
| Rape/sexual assault | 2520 | 29.1 |
| Physical/domestic violence | 3240 | 37.4 |
| Mental torture | 2552 | 29.5 |
| Others | 352 | 4.1 |
| Total | 8664 | 100.0 |

Source: MoWCSC, 2017.

**Women Empowerment Related Programs** – Under the Ministry of MoWCSC, the following programs were conducted in the FY 2016/17:

- The Government of Nepal has become more aware on the Gender Responsive Budget principal. The share of the gender responsive budget increased from 11.3 percent

to total budget in the FY 2007/08 to 23.1 percent in FY 2016/17.The share of budget indirectly allocated to women sector is 48 percent of total budget.

- A total of 104 community service centers are in operation in various 17 districts in order to rescue, protect and rehabilitate the women suffered from domestic violence. The Centers operate under the Department of Women and Children (DWC) and District Women and Children Office (DWCO). During the first eight months of the FY 2016/17, 1,355 victims of domestic violence have been provided services while the number was 777 in the FY 2015/16.
- In addition to the financial support of 10 rehab centers by the Ministry, Mangala-Sahana Long-term Rehabilitation Center is in operation in Kathmandu.
- Under the Women Development Program of Department of Women and Children, about 1.1 million women have been organized as self-help groups across the country. This accounts one-fifth of the total 5.2 million estimated deprived women population of Nepal, according to the Population Census of Nepal, 2011). The share of Dalit and Janajati are encouraging (15% Dalit and 36% Janajati) in the program. The saving mobilization of the group is more than Rs. 4,590 million.
- The women collectivities have remained active in monitoring and assisting the victims of gender violence in the society. These committees have been helpful in raising demand side awareness on women reproductive health. With program being operated in integrated manner from women institutions targeting children at critical situation, girls outside school and free bonded people, this has helped in empowerment.

**Poverty Alleviation Related Program -** Poverty Alleviation Fund (PAF) has been established under the Prime Minister Office.

- Through the PAF's program, the Government in FY 2016/17 initiated launching of 'poor household identification program' though the application of proxy means test (PMT) method of poverty measuring indicator. It has completed in 25 districts. It identified 356,418 poor households out of total 1.2 million households in these 25 districts. 356,418 have been identified as poor through the.
- Through the Ministry of Land Reform – By the end of FY 2016/17, 26,532 families of freed bonded laborers of the total 27,570 have been resettled.

**The Ministry of Youths and Sports** – Developed National Youth Policy, 2015 and Youth Vision, 2025. These instruments aimed at encouraging youths to become self-employed and entrepreneur by identifying their skills and enhancing their capacity. Youth target programs are being implemented by establishing District Youth Office in all districts.

**Child Related Program** – Under the MoWCSC, a number of child rights protection and promotion programs have been in operation. The programs are being implemented from the Women and Children Department and Center Child Welfare Board (CCWB) at the central level. The most relevant child related programs for prevention and combating of trafficking are programs related to formation and mobilization of child clubs, operation of child help lines and operation of the Child Care Homes.

- *Child Clubs* –CCWB developed *Child Participation Guideline 2005* to manage child clubs. Accordingly, the District Child Welfare Board (DCWB) gives affiliation to child clubs.

There were 23,000 child clubs in 75 districts by the end of 2017 (CCWB, 2017). Child clubs are based on both schools and communities. There are about 438,000 children (206,000 girls and 232,000 boys) as the active members in these Clubs. Further, the formation of child clubs has been increasing over the years. More child clubs were added in districts like Dolakha, Kavre, Kaski, Dhading, Ramechhap, Gorkha, Lalitpur, Kathmandu, Sindhuli, Nuwakot, Kanchanpur, Bhaktapur and Chitwan in FY 2016/017 compared to earlier year. Child clubs have become key agents for the prevention of child trafficking. They carry out awareness raising programs on birth registration, school enrollment, reduction in child labor, child participation, and awareness against child marriage.

- *Bal Balika Khoja Talas Kendra (104)*–The Kendra is located in Kathmandu and was established in 2010 in collaboration with the MoWCSC, Nepal Police and CCWB. It has been operated for the rescue, protection, search and family reunion, reunification and rehabilitation of those missing, found after missing and found unattended children. Free telephone operated by that center has been installed in 29 districts.
- *Child help line (1098)* - The MoWCSC has enacted *Child Helpline Operation Procedures, 2007* and made available free telephone line 1098. Different NGOs like CWIN Nepal, NESPEC, Diyalo Nepal, and Aawaj have been running Child Help Lines in 11 districts, namely, Kathmandu, Makwanpur, Chitwan, Kaski, Morang, Udayapur, Lamjung, Rupandehi, Banke, Surkhet, Kailali and Sunsari. The Helpline conducts emergency rescue, relief, psychological counseling, family reunion, reunification and rehabilitation. In FY 2016/17, a total of 2,410 children (1125 boys and 1285 girls) were rescued and provided relief and psychological counseling. The Child Help Line has been receiving support from Nepal Police, hospitals, child clubs, and different agencies working in this field.
- *Child marriage prevention and minimization campaign* - has been in operation in various 40 districts where prevalence of child marriage is relatively high. South Asia Initiative to End Violence against Children (SAIEVAC) has been implementing a 'Regional Plan of Action to end Child Marriage (2015- 2018) in SAARC countries including Nepal (CCWB, 2017). An effective role has been expected from different Ministries including National Planning Commission, Office of the Attorney General and civil societies in order to implement the 'National Strategy to End Child Marriage, 2015 by the year 2030. The strategy has put forward a campaign of 'Child Marriage Free Local Bodies (local governments)'. Accordingly, initiation of declaring child marriage free local body has also been initiated.
- *Child Care Homes (CCH)* – In the 2016, a total of 566 CCH were reported in 45 districts out of 77 districts in Nepal (Annex 4.2). As of July 2017, there are altogether 567 CCH in 44 different districts, in which 16,536 children are residing. In terms of provincial distribution, Province 3 has the highest number of CCH (415) and the lowest in Province 7 (12 CCHs). The CCWB is in the process of updating information of CHHs. As per the *Standard for Operation and Management of Residential Child Care Homes, 2069*, CCWB monitored 68 residential CCHs and 39 different DCWBs monitored 394 Child Care Homes. The monitoring visits found 12 CCHs not meeting the minimum standard and they were recommended to close down and 114 children staying in those homes were rescued.

**Provision of Social Security –**The government has been providing child targeted social benefits directly or indirectly in cash, kinds or various forms of services. The direct benefits include child nutrition, cash grant, free health services and health insurance, free text book and free education to children, different forms of scholarship to various groups of children. Under the 'Scholarship and Text book for Education' total amount of Rs. 431 million was spent in the FY 2016/17 from which 427,420 children including Dalit and disabled children were benefitted.

**Skill Development Training** - Table 4.4 shows the annual number of persons provided skill development training for domestic employment/self-employed by the Government of Nepal in collaboration with various NGOs and private sectors. Data reveal that the number of persons provided skill and vocational training is far lower compared to the number of young people enter into labor market in Nepal. It is estimated that around 500,000 young people enter into labor market or they require employment annually while the number of persons receiving vocational and technical training was only about 17,500 in FY 2015/16 and 13,100 in FY 2016/17.

## Table 4.4 Number of persons provided skill development training, FY 2005/06-2016/17, Nepal

| Year | Female | Male | Total |
|---|---|---|---|
| 2005/06 | 3,432 | 3,633 | 7,065 |
| 2006/07 | 7,547 | 6,596 | 14,143 |
| 2007/08 | 9,716 | 6,432 | 16,148 |
| 2008/09 | 12,702 | 9,039 | 21,741 |
| 2009/10 | 13,305 | 9,257 | 22,562 |
| 2010/11 | 12,530 | 9,600 | 22,130 |
| 2011/12 | 8,045 | 8,507 | 16,552 |
| 2012/13 | 7,586 | 7,521 | 15,107 |
| 2013/14 | 8,278 | 9,050 | 17,328 |
| 2014/15 | 7,750 | 8,129 | 15,879 |
| 2015/16 | 6,947 | 10,546 | 17,493 |
| 2016/17 | 6,125 | 6,985 | 13,110 |

Source: MoF (2017).

**Foreign Employment Related Training** - The Foreign Employment Promotion Board has developed the *Guideline for the Operation of Foreign Employment Related Training 2074* (2017). The Guideline outlines areas for the regulation and standardization of training like i) identification of types of training and management; ii) training institutions requiring permission to operate the training from the Board; iii) curriculum design and development; iv) selection of the trainers and v) coordination, monitoring and evaluation. The scope and subjects of the training include following:

1. Sector related to construction – mason, scaffolding, aluminum fabricator, wielding, furniture and furnishing, plumbing, electrician, shuttering carpenters, still-fixer, house painting etc.
2. Sector related to hotel management – cook, waiter/waitress, coffee makers, house-keeping, cleaner, front officer.
3. Sectors related to services- security guard, sales persons, foreman, office secretary, Bucher, Sweeper, Painters, Barber, Beauty parlors
4. Agriculture and horticulture
5. Garment and tailoring related
6. Other sectors as recommended by the FEPB

The training shall be of i) short-term (<=1 month); ii) medium-term (1-3 months) and long term (3 months and above). The curriculum comprises of theoretical, practical and evaluation aspects of the training. The minimum qualification for the trainees shall be of Nepali citizens having 16 years to the 50 years of age.

Data reveal that the skill development training to the aspirant migrants was not conducted in FY 2015/16. In FY 2016/17, 9,900 aspirant migrants were provided 160 hour training (Table 4.5). The trainees were from 50 districts covering all 7 Provinces. The training was provided for electrician, mason, house-keeping, steel fixer, shuttering carpenter, cook, waiter/waitress, house-keeping, garment tailoring and security guard. Thus, within two fiscal years only 10,000 aspirant migrants were provided one-month training and only about 75 percent of the targeted budget was spent.

**Table 4.5 Targets and achievement in skill development training of FEPB, FY 2015/16 and 2016/17**

| | Number of aspirant migrants | | | Budget | | |
|---|---|---|---|---|---|---|
| | **Annual Targets** | **Annual achievement** | **% achieved** | **Annual Targets** | **Annual achievement** | **% achieved** |
| 2015/16 | 10,000 | 0 | 00 | 150 million | 0 | 0.0 |
| 2016/17 | 10,000 | 9,900 | 99.0 | 150 million | 112.3 million | 74.9 |

Source: Annual Progress Report of FEPB, FY 2015/16 and FY 2016/17.

Further, examining the Annual Reports of MoLESS and Annual Progress Reports of the FEPB, the disaggregated information about trainees in terms of gender, caste and district/province has not been available although the *Guideline for the Operation of Foreign Employment Related Training 2074* (2017) makes it provision to record the detail profile[32] of the aspirant training participants. Thus, it is not known whether and to what extent the skill development training has been inclusive in terms of gender and caste/ethnic groups.

*32 Name, address, caste/ethnic group, marital status, repeat or first time potential migrant, whether the any skill training received before or not, father's and mother's occupation and monthly income of the trainee families.*

**Migration Resource Center**[33] - was established in 2010 in collaboration with International Organization for Migration (IOM) and it has been in operation under the FEPB. The Center provides correct and reliable information about oversea migration to the aspirant migrants so that they can be protected from any types of deception or fraud related to foreign employment. This includes mandatory pre-departure training to migrants, literacy training to families of migrants and entrepreneurship training to returnees. The Center provides information through i) face-to-face, ii) e-mail and iii) through telephone. Toll free number has also been installed. By FY 2016/17, the Center has been extended to 20 districts including in the Tahachal Kathmandu and central office of FEPB. In the district, the Centers are established in the premises of District/ Area Administration Office from where people come for making passports.

The performance of the Migration Resource Centers can be said as low by looking at the targets and achievement of the Resource Center of budget spending. For example, in FY 2015/16, only 25% of the targeted budget of Rs. 12 million was spent and it was only 8 percent of the targeted budget of Rs. 3 million in FY 2016/17.

**Ministry of Home Affairs (MoHA)** - Under the MoHA, the Department of Immigration is the principal authority to execute and implement the immigration laws of Nepal. It is responsible for monitoring, controlling and regulating entry, exit and stay of foreign nationals in Nepal. The Department of Immigration is guided by legal framework laid down by Immigration Act, 1992; Immigration Regulation, 1994and Immigration Procedure, 2008. The Ministry has yet to revise or amend the Immigration Act and Passport Act, especially in relation to making the acts as trafficked victims' friendly so that the victims shall not be punished in case they are arrested in charge of travelling with the fake travel documents.

**Ministry of Foreign Affairs (MoFA) –** The Ministry is responsible for issuing the passports, maintaining the records of the Nepali working abroad and protection of the Nepali at abroad. The Ministry establishes the coordination and collaboration with the Non-Nepali Residence (NNR), conduct the diplomatic relations and diplomatic dialogue and treaties with the destination countries. Under the Ministry, the Department of Consular of Services (DoCS) has been established as a focal unit for the facilitation of the rescue, repatriation of migrant workers and repatriation of death body from the abroad. Recent data from the MoFA reveal that access to receive the passports by the Nepali citizens have been even extended to the district level. In the first three months of 2016, 181,658 passports[34]and travel documents were issued. Of them, 61 percent issued from the concerned District Administration Office, 34.5 percent from the Department of Passport, MoFA and rest 5 percent issued from the Nepali Mission Abroad.

In FY 2016/17, the Ministry decided the following in relation to the protection of the rights of the MWs:

- On June 7, 2017, the then Deputy Prime Minister (DPM) and Foreign Minister Mr. Krishna Bahadur Mahara formed a Task Force to solve the problem of Nepali going aboard for foreign employment[35]. It was his first decision as the Deputy PM and Foreign Minister. With the Chair of Ministry of Foreign Affairs, the other members of the Task Force were representatives from Ministry of Home Affairs, Finance, Labor and Employment. The Task Force was to develop a plan to address the problems related to foreign employment, namely, not getting the said job and benefits, abandoned, losing of the legality of staying in a country, imprisonment, death, injury and long waiting for

33 *http://fepb.gov.np/content.php?id=1009.*

34 *MoFA (2016) MoFA Bulletin, Current Affairs(May-July, 2016) Vol. 1 Issue 1.*

35 *http://www.onlinekhabar.com/2017/06/595309/.*

rescue. Unfortunately, the work of the Task force is not available during the write of this Report.

- On June 8, 2018, the Inter-Ministerial Level meeting was held in Department of Immigration to regulate departure of Nepali MWs from Sri Lanka and India. According to the General Director of Department of Immigration, Ganga Ram Gelal – the inter-ministerial level meeting of Foreign Affairs, Home Affairs, Labor and Employment, Women and Children including the representative of Maiti Nepal decided to initiate the diplomatic attempt to the concerned Ministries in India and Sri Lanka to effectively implement the provision to show 'No Objection Letter' by a Nepali flying from the Airports of these countries. It is also reported that this provision was already in place, but it has not been effectively implemented. This decision was made in the context where a large number of Nepali women were being sent to Gulf countries via India and Sri Lanka by the human smugglers. However, it is not known that whether this decision was implemented or not.

**Ministry of Education (MoE) -** The Ministry as the apex body of all educational organizations is responsible for overall development of education in the country. This Ministry is responsible for formulating educational policies and plans and managing and implementing them across the country through the institutions under it. Among its several regular programs, scholarship schemes to the disadvantaged groups including girls and type of curriculum it departs to the school education are directly relevant to prevention of trafficking in persons. Departing the awareness programs among the adolescent girls and boys through the formal or non-formal education is one of the strategic policies of the NPA against TIP especially women and children 2012.

In addition to the scholarship it provided, the Ministry has revised the school level curriculum and incorporated some contents related to human trafficking, sexual exploitation, prostitution, and migration from class 6 to class 10 especially after 2011 (Box 4.4).

### Box 4.4 Content related to human trafficking in the school curriculum, Nepal

| Subject | Class | Contents | Date Initiated* |
|---|---|---|---|
| Social Studies | 6 | Social Problem and Resolution | 2068 (2011) |
| | 7 | Human Trafficking | 2071 (2014) |
| | 9 | Social Problem and Their Solution (girls trafficking) | 2073 (2016) |
| | 10 | Social Problems- Human Trafficking, Girls trafficking, child trafficking, trafficking of human organs | 2074 (2017) |
| Moral Education | 6 | Positive Fruit | 2070 (2013) |
| Nepal | 9 | Speech Competition | 2073 (2016) |
| Health, Population and Environment Education | 9 | Impact Areas of Migration | 2073 (2016) |
| English | 10 | Reading Passage: Human Trafficking | 2074 (2017) |

Note: *Figures outside the parentheses are the Nepali year, *Bikram Sambat*.

Source: cited in MoWCSC, 2074 (2017) from Curriculum Development Center, MoE.

Inspecting the contents of the Social Studies of class 10, 'human trafficking' has been perceived as one of the social problems of Nepal. The other social problems discussed include: 'women violence, child marriage, conservative tradition, superstition, racial discrimination, corruption, child labor, gender discrimination, bullying, Untouchability, *Jhuma*, *Deuki*, *Chhaupadi*, *Ghumto* and dowry'. Thus, the contents consider human trafficking as the social problems, rather than from the rights perspective where committing a crime of human trafficking is also the violation of the human rights. The contents of Social Studies of class nine include a Chapter on 'Social Problem and Their Solution' and 'girls trafficking' is dealt within it.

In addition, the Ministry has been introducing local language as the medium of teaching in primary schools which will have far reaching consequences in understanding the social issues easily among the children whose mother tongue is not Nepali if the some simple contents of human trafficking and transportation are included in the primary level curriculum. By 2016/17, 29,000 community schools were reported to have been proving primary education through local languages like Maithili, Tamang, Doteli, Awadhi, Bhojpuri, Tharu, Magar, Limbu, and Bajjika. Altogether 21 textbooks were developed by the Curriculum Development Center (CDC) in different languages based on the national curriculum (Department of Education, 2016).

In FY 2016/17, the CDC has framed the new curriculum for class 11 and 12 by removing the faculty system and the new Curriculum for class 11 shall start from the 2018/19 academic year. There will be five compulsory subjects, three optional subjects from six optional categories and one local optional subject - having altogether 32 credit hours (Box 4.5). Local Subject shall be framed by the Province and Local Governments according to the local needs and but it must be a vocational and technical one.

Unlike in classes 8, 9 and 10 in which issues of human trafficking are basically incorporated in Social Studies subject, there will be no Social Studies in class 11 and 12. Among the compulsory subjects offered, there seems little opportunity to include the contents related to human trafficking, migration, smuggling, exploitation, forced labor in Subjects like Nepali, English, Applied Mathematics, and Science and Technology. It is only the **Nepal Study** in which contents related to human trafficking shall be incorporated. Otherwise students miss the opportunity of learning on these matters. Incorporation of these contents is needed even in Optional Subjects especially to students in group 3 (Humanities, Social Studies and Languages) and group 4 (Laws). As the school age for class 11 and 12 is assumed to be 15-16 years by the CDC, majority of students can be expected to be early teenagers and will be experiencing a rapid physical change biologically as well as rapid cognitive development. The issue of human trafficking, forced labor, human rights in class 11 and 12 is, therefore, crucially important to be included.

### Box 4.5 Curriculum of secondary education (class 11 and 12)

| Types | Subject | Credit hours |
|---|---|---|
| Compulsory | | |
| | 1. Nepali | 3 |
| | 2. English | 4 |
| | 3. Nepal Studies | 3 |
| | 4. Applied Mathematics | 3 |
| | 5. Science and Technology | 3 |

| | | |
|---|---|---|
| Optional Subjects<br>Group 1. Science and Technology<br>Group 2. Management<br>Group 3. Humanities, Social Studies and Languages<br>Group 4. Law<br>Group 5. Arts and Culture<br>Group 6. Sanskrit and religious education | Three Subjects (3 * 4 credit hours) from either one group. | 12 |
| Optional Local Subject | | 4 |
| **Total credit hours** | | **32** |

Note: one credit hours equals to 32 annual teaching hours.

Source: summarized from CDC (2018).

**Ministry of Communication and Information Technology** – The Ministry is responsible 'to develop and expand the information and communication sector up to the rural level in the form of infrastructure for social and economic development through widespread participation of private as well with emphasis on the dissemination of information and communication technology'[36]. No information is posted in its website about the number journalist provided training on the human rights, trafficking in persons.

**National Judicial Academy (NJA)–** It is an independent, autonomous and statutory body established in 2004. It aims to promote equitable, just and efficient justice system for Nepal through providing training, increasing the professionalism in justice system. It is also a member of International Organization of Judicial Training. It serves training and research needs of the judges, judicial officers, government attorneys, government legal officers, judicial officers, private law practitioners, and quasi-judicial officers who are directly involved in the administration of justice in Nepal. In FY 2016/17, NJA organized workshop/training to the judges on residential interaction, to the districts judges on the extended scope of the District Courts and their uses, to the new recruits of Government staff on basic learning, hearing and prosecution practices to the Government attorney, Criminology to the staff of the Ministry, management of court to the court staff and legal advice to the staff of the Ministry and leadership development as the mix groups.

Looking closely the contents of the training provided to the training participants, it is found that in the FY2015/16 and 2016/17, the NJA has not provided any training related to human trafficking and transportation crimes. Reviewing the NJA publications, however, it is known that NJA organized a workshop for the effective implementation of trafficking law and about institutional mechanism in 2005. The participants in the workshop were District Court Judges, Government Attorneys and Police Official. The aims of the training were to i) understand the crime of trafficking as an issue of violence against women; ii) discuss on the conceptual framework of trafficking with respect to effective judicial response; iii) share information on the international human rights instruments;iv) understand the mental health impact of trafficking; v) share best practices and vi) initiate national judicial response against trafficking.

*36 https://www.moic.gov.np/en/page/about-the-ministry.html.*

### 4.5 Government of Nepal's Budget on Prevention and Combating Trafficking in Persons

**Children Related Budget** - The UN Child Rights Committee has recommended Nepal increasing budget for child related programs. Table 4.6 summarizes the budget allocated for Seven Ministries[37] and percentage of child responsive budget from FY 2013/14 to 2017/18. Data reveal that the percentage of child centered budget has constantly decline over the last five-years – revealing a less priority imposed in child issues by these Ministries.

**Table 4.6 Budget of Seven Ministries and Child Centered Budget Allocation**

| FY | % allocated budget for seven Ministries out of the total National Budget | % child centered budget |
|---|---|---|
| 2013/14 | 38.8 | 16.9 |
| 2014/15 | 35.5 | 14.2 |
| 2015/16 | 35.5 | 15.1 |
| 2016/17 | 33.0 | 12.6 |
| 2017/18 | 18.8 | 4.9 |

Source: CCWB, 2017.

The Government of Nepal has initiated to allocate the budget for the prevention and combating of TIP programs/activities mainly through the Ministry of Women, Children and Senior Citizen (MoWCSC) and Ministry of Foreign Employment, Labor and Social Security (MoLESS) and Ministry of Foreign Affairs (MoFA). The allocation of budget can be dealt in the following seven headings:

1. Budget allocated to the diplomatic missions at abroad by the Secretariat of NCCHT, MoWCSC;
2. Budget allocated to the diplomatic missions at abroad by the FEPB, MoLESS;
3. Budget allocated in Rehabilitation Fund (mobilized by the NCCHT and DCCHT);
4. Budget allocated for Central Level and District Level Programs of MoWCSC;
5. Budget allocated for the Operation of Rehabilitation Centers run by NGOs;
6. Budget allocated for Gender Based Violence (GBV) Elimination Fund and
7. Budget allocation for the Operation of Service Centers.

**1. MoWCSC Budget to Nepali Diplomatic Missions Abroad** - The Ministry has also initiated to release the money for the Nepali diplomatic missions at abroad since FY 2011/12 for rescue and repatriation of trafficking victims (Table 4.7). The total budget allocated to these Missions

*37 The Government of Nepal considered the following Ministries as requiring the child response budget: Ministry of Education; Health; Federal Affairs and Local Development; Women, Children and Social Welfare; Labor and Employment; Peace and Reconstruction and Ministry of Home Affair.*

through the Ministry was Rs. 3.3 million in FY 2015/16 and it was just 1.8 million in FY 2016/17. Given the magnitude of the problems of the migrant workers in the Gulf countries and across the world as discussed in Chapter three, the money allocated to the Diplomatic Missions at abroad is sharply low and grossly inadequate to effectively rescue and repatriation of the trafficking victims.

### Table 4.7 MoWCSC's budget to the different Nepali Missions, FY 2011/12-2016/17 (in Rs.)

| Nepali Missions to Abroad | 2011/12 | 2012/13 | 2013/14 | 2014/15 | 2015/16 | 2016/17 |
|---|---|---|---|---|---|---|
| Nepali Embassy to New Delhi, India | 500,000 | 500,000 | - | - | 500,000 | 200,000 |
| Kolkata Consulate General, India | - | - | 800,000 | - | 800,000 | 800,000 |
| Nepali Embassy to Thailand | - | - | - | 1,000,000 | 1,000,000 | |
| Nepali Embassy to Aube Dhabi, UAE | - | - | - | - | 1,000,000 | |
| Nepali Embassy Colombo, Sri Lanka | | | | | 32932 | |
| Total | 500,000 | 500,000 | 800,000 | 1,000,000 | 3,332,932 | |

Source: summarized from MoWCSC (2072), MoWCSC (2073) and MoWCSC (2074).

**2. MoLESS Budget to Nepali Diplomatic Missions Abroad –** The FEPB releases the money for the Nepali Embassies for the rescue of MWs, operation of the Safe House at abroad, and money required for bringing the dead body. Looking at the data, it revealed that the FEPB initiated allocation of budget in Saudi Arabia, Malaysia, Qatar, Kuwait and South Korea in FY 2014/15, allocated more than Rs. 170 million. While the FEPB has continued to allocate the budget in this heading but the amount of money allocated decreased in the subsequent fiscal years. For example, the FEPB released 170 million in FY 2014/15 which declined to Rs. 146 in FY 2015/16 and to Rs. 3.5 million in FY 2016/17. On 2073/12/10, the FEPB also decided to release the money to the Embassy for the legal protection of the MWs who are accused of different offences in the destination countries. Accordingly, it decided to release altogether Rs. 5.5 million (one million each in Malaysia, in Saudi Arabia, in Qatar, in Kuwait and Rs. 500,000 in Oman.

### Table 4.8 MoLESS's budget to the different Nepali Missions, FY 2011/12-2016/17 (in Rs.)

| Nepali Embassy | 2014/15 | 2015/16 | 2016/17 (rescue, safe house, repatriation) | 2016/17 (legal support) |
|---|---|---|---|---|
| Saudi Arabia | 2,000,000 | 3,362,171 | 1,500,000 | 1,000,000 |
| Malaysia | 2,000,000 | 2,700,000 | 1,500,000 | 1,000,000 |
| Qatar | 2,000,000 | | 500,000 | 1,000,000 |
| Kuwait | 2,000,000 | | | 1,000,000 |
| UAE | 2,000,000 | | | |

| | | | | |
|---|---|---|---|---|
| South Korea | 7,003,604 | 8,583,300 | | |
| Oman | | | | 500,000 |
| Total | 17,003,604 | 14,645,471 | 3,500,000 | 5,500,000 |

Source: summarized from MoWCSC (2072), MoWCSC (2073) and MoWCSC (2074).

**3. Budget Allocation in the Rehabilitation Fund** - The GoN has established the Rehabilitation Fund. The Fund is created by i) government budget and ii) the half the fine imposed on the convicted traffickers. As early 2018, there was about Rs. 20 million in the Fund. According to the staff of MoWCSC, there was demand of only 9 million from the rehab centers in the FY 2016/17. When enquired about whether the money in the Fund is adequate to provide the support to the victims of trafficking, Rosani Devi Karki – the Under Secretary of the MoWCSC reported that the Ministry of Finance (MoFA) can add the budget in the Fund if it is needed.

**4. Budget Allocation in Central Level and District Level Programs -** The MoWCSC allocated the budget in different anti-trafficking related activities at the central levels, at the district levels and in the Rehabilitation Fund. For the central level program, MoWCSC increased budget from Rs. 2 million in the FY 2012/13 to Rs. 30 million in the FY 2016/17 (Table 4.9). Similarly, for the district level programs, the Ministry allocated budget Rs. 3.75 million in the FY 2012/13 and it increased to Rs. 18.78 million in the FY 2015/16, but there is no allocation of budget in the FY 2016/17. In FY 2012/13, Rs. 10 million was allocated for the operation of Rehabilitation Fund and by FY 2016/17, the Fund has Rs. 17.26. Thus, while the Ministry increased the budget for the central level programs, it cut off budget of all the district levels programs. This is because the district levels program will be implanted through the Local Levels.

## Table 4.9 Budget allocation at the Central Level, District Level Programs, MoWCSC (in Rs.)

| FY | Central Level | District Level | Fund | Balance Amount in the Fund |
|---|---|---|---|---|
| 2012/13 | 2,000,000 | 3,750,000 | 10,000,000 | |
| 2013/14 | 3,168,000 | 19,200,000 | 12,000,000 | |
| 2014/15 | 3,315,000 | 18,782,000 | - | 15,928,550 |
| 2015/16 | 5,615,000 | 18,782,000 | - | 11,395,613 |
| 2016/17 | 30,100,000 | 11,784,000 | | 17,263,970 |

Source: summarized from MoWCSC (2072), MoWCSC (2073) and MoWCSC (2074).

MoWCSC has continued many of the central level programs over the three years while the Ministry dropped the programs like grants to the Rehabilitation Centres that provide rehab services to men and boys. Data reveal that the amount of budget of the central level programs has increased substantially from the merely Rs. 3.41 million in FY 2014/15 to Rs. 30.1 million in FY 2016/17. But when it comes to implementation of the programs, only 70 percent of the budget has been spent in FY 2016/17 (Table 4.10). This implies that the Ministry has failed to meet its target. The Ministry could not carry out the survey on identification of the most risk groups/communities for trafficking and it could not conduct the interaction programs between

GOs and NGOs. Similarly, only 47 percent of the budget allocated in the heading of interaction programs between the NCCHT and DCCHT was spent.

**Table 4.10 Budget allocation on human trafficking related programs of MoWCSC (central level programs), FY 2014/15-2016/17, and Nepal (in Rs.)**

| SN | Headings | 2014/15 | 2015/16 | 2016/17 | | % spent |
|---|---|---|---|---|---|---|
| | | | | Allocated | Spent | |
| 1 | Conduction of meeting of the National Committee and Sub-Committees | 260,000 | 260000 | 360000 | 195000 | 54.2 |
| 2 | Conduction of Sub-Committee meeting | | | 60000 | 55000 | 91.7 |
| 3 | Interaction programs with the GOs and NGOs working against TIP | 125,000 | 125000 | 250000 | 60000 | 24.0 |
| 4 | Interaction programs with the 8 rehab centres and Women and Children Offices | 190,000 | 190000 | 350000 | 250000 | 71.4 |
| 5 | Interaction programs between the NCCHT and DCCHT | | 390000 | 780000 | 365000 | 46.8 |
| 6 | Publication of Annual Report and Profile of the Organizations working in anti-trafficking issues | 250,000 | 150000 | 500000 | 100000 | 20.0 |
| 7 | Production of IEC materials regarding TIPs | | | 100000 | 100000 | 100.0 |
| 8 | Conduction of the survey for the identification of the most risk groups/ communities for trafficking | 1,500,000 | 1500000 | 1500000 | 0 | 0.0 |
| 9 | Additional budget in Rehabilitation Fund for the support of District Rehabilitation Fund (Kathmandu, Sindhupalchok, Kailali, Jhapa, Parsa, Rupandehi, Banke, Chitwan, Kaski and Surkhet | | | 25000000 | 19333164 | 77.3 |
| 10 | Revision of Human Transportation Act, Rules and Rescue and Repatriation Regulation | | | 400000 | 27600 | 6.9 |
| 11 | Celebration of the Anti-Human Trafficking Day (*Bhadra 20*) | 200,000 | 200000 | 400000 | 400000 | 100.0 |
| 12 | Grants for the interaction program for the wives-association of the Government Staff | | | 400000 | 200000 | 50.0 |
| 13 | Grants to the Rehabilitation Centres that provide rehab services to men and boys | 400,000 | 400000 | | | |
| 14 | Preparation of profile of the anti-trafficking organizations and publication | 100000 | | | | |
| | Missing of heading | 390,000 | | | | |
| | **Total** | **3,415,000** | **3,215,000** | **30,100,000** | **21,085,764** | **70.0** |

Source: summarized from MoWCSC (2072), MoWCSC (2073) and MoWCSC (2074).

District Level Programs – The Ministry allocated the budget in 11 headings in FY 2014/15 and the allocation of budget continued in these heading over the three fiscal years, except that in FY2016/17, the Ministry did not allocate budget for management of local committees and conduction of meeting (Table 4.11). Data reveal that the amount of budget allocated to the district levels programs was Rs. 18.78 million in FY 2014/15 which was almost the same in FY 2015/16. The Ministry's budget declined to Rs. 11.6 million in FY 2016/17. Further, the Ministry failed to spend all the money allocated in the anti-trafficking activities in the FY 2016/17 (only 77% of the budget in FY 2016/17 was spent).

**Table 4.11 Budget allocation on human trafficking related activities by the MoWCSC (district level programs), FY 2014/15 -2016/17 (in Rs.)**

| SN | Headings | 2014/15 | 2015/16 | 2016/17 | | % spent |
|---|---|---|---|---|---|---|
| | | | | Allocated | Spent | |
| 1 | Formation of local committees on combating TIP | 2,800,000 | 2800000 | 0 | 0 | - |
| 2 | Orientation of the local committees | 4,200,000 | 4200000 | 4545000 | 2736000 | 60.2 |
| 3 | Management of local committees and conduction of meeting | 4,545,000 | 4545000 | | | |
| 4 | Conduction of community counselling workshop and formulation of Action Plan to end human trafficking (2 days) –Grant to VDC level women's groups program | 1,362,000 | 1362000 | 1364000 | 1232000 | 90.3 |
| 5 | Conduction of activities as identified in Community-Counselling Action Plan and grants to the VDC level Women group/committee | 930,000 | 930000 | 930000 | 750000 | 80.6 |
| 6 | Cooperation promotion activities among security personnel and drivers and helpers of the public transport service (one-day) (Kanchanpur, Kailali, Banke, Kapilbastu, Rupandehi, Chitwan, Morang and Jhapa) | 200,000 | 200000 | 200000 | 175000 | 87.5 |
| 7 | Joint monitoring in dance bar restaurants (Kathmandu, Lalitapur, Bhaktapur, Parsa, Morang, Kaski, Banke, Chitwan and Rupandehi) | 270,000 | 270000 | 270000 | 228000 | 84.4 |
| 8 | Publication of awareness-oriented materials (districts) | 750,000 | 750000 | 750000 | 650000 | 86.7 |
| 9 | Grant to the District Rehabilitation Fund (districts) | 1,275,000 | 1275000 | 1275000 | 1182000 | 92.7 |
| 10 | Meeting of the District Committee | 2,250,000 | 2250000 | 2250000 | 1995000 | 88.7 |
| 11 | Monitoring of the Rehab Centres | 200,000 | 200000 | 20000 | 15000 | 75.0 |
| | Total | 18,782,000 | 18,782,000 | 11,604,000 | 8,963,000 | 77.2 |

Source: summarized from MoWCSC (2072), MoWCSC (2073) and MoWCSC (2074).

**5. Budget Allocation for the Rehabilitation Centers**- The Section 13 of *Human Trafficking and Transportation (Control) Act of 2007* makes it provision for the support of the rehab center for the trafficked victims. Accordingly, MoWCSC initiated financial support to rehab centers run by NGOs since 2010. These rehab centers are located in ten districts: Jhapa, Sindhupalchok, Kathmandu, Parsa, Chitwan, Rupandehi, Banke, Kailali, Kaski and Surkhet. In 2016/17, the Ministry has supported additional two rehab centers: one in Kaski and another in Surkhet. The Government of Nepal established the Rehabilitation Fund in 2008 and it has been running since then. The fund is mobilized for the support of victims of human trafficking for rescue, repatriation and rehabilitation and also providing them food, lodging, clothes, health treatment, psychosocial counselling, legal aids, skill development and seed money. The budget supported to the Rehab Centers ranged from Rs. 9 million in FY 2011/12 to 14.3 million in FY 2016/17 (Table 4.12). However, the amount of budget allocated to the rehab centers has not increased in FY 2016/17 from FY 2015/16.

**Table 4.12 Budget allocated to the Rehab Centers, FY 2011/12-2015/16 (in Rs.)**

| Name of Rehab | 2011/12 | 2012/13 | 2013/14 | 2014/15 | 2015/16 | 2016/17 |
|---|---|---|---|---|---|---|
| ABC Nepal, Kathmandu | 1,027,000 | - | 1,500,000 | 800,000 | 800,000 | 831,643 |
| Srijanshil Samaj, Kailali | 1,791,870 | - | 1,200,000 | - | 2,700,000 | 700,000 |
| Saathi Banke | 1,698,000 | - | 1,500,000 | 1,000,000 | 3,600,000 | 3,600,000 |
| Aadarsha Nari Bikasha Kendra, Chitwan | 500,000 | 1,000,000 | 800,000 | 1,000,000 | 2,000,000 | 2,000,000 |
| Maiti Nepal, Jhapa | 1,000,000 | 1,000,000 | 700,000 | 1,200,000 | 2,200,000 | 2,200,000 |
| Shakti Samuha, Sindhupalchok | 1,325,622 | - | 1,655,000 | 2,000,000 | 1,500,000 | 1,500,000 |
| Maiti Nepal, Parsa | 500,000 | - | - | - | 1,000,000 | 25,000,000 |
| Maiti Nepal, Rupandehi | 1,200,000 | 1,000,000 | 1,200,000 | 500,000 | 1,000,000 | 1,000,000 |
| Awaj, Surkhet | | | | | | 2,000,000 |
| Sri Anjals, Kaski | | | | | | 2,000,000 |
| **Total** | **9,042,492** | **3,000,000** | **8,555,000** | **6,500,000** | **14,800,000** | **14,331,643** |

Source: summarized from MoWCSC (2072), MoWCSC (2073) and MoWCSC (2074).

**6. Gender Based Violence (GBV) Elimination Fund** – The Department of Women and Children has created the GBV Fund under the direct supervision of District Women and Children Office in all 75 districts in the country. The aim of the Fund is to provide the support to the women and children victims of trafficking for their relief, medical treatment, psychosocial counseling, legal advice and family reunion. The budget for the GBV Elimination Fund and its achievement in terms of spending is presented in Table 4.13 for the three fiscal years. The amount of the Fund has increased very substantially in FY 2016/17 (Rs. 292.7 million) from merely Rs. 10 million in FY 2015/16. At the same time, the rate of spending has also substantially increased from merely 15 percent in FY 2015/16 to 87 percent in FY 2016/17.

**Table 4.13 Targeted budget vs. actual spending in GBV Elimination Fund, Nepal**

| FY | Allocated budget (in Rs.) | Actual spending (in Rs.) | % spent |
|---|---|---|---|
| 2014/15 | 16,267,672 | 5932,854 | 36.5 |
| 2015/16 | 10,000,000 | 1544,500 | 15.4 |
| 2016/17 | 292,695,000 | 255,440,000 | 87.3 |
| Total | 318,962,672 | 262,917,354 | 82.4 |

Source: summarized from MoWCSC (2072), MoWCSC (2073) and MoWCSC (2074).

**Budget Allocation for the Operation of Service Centers -** The MoWCSC has allocated budget for the mobilization of Service Centers.

- It allocated Rs. 600,000 per district in mountain districts; Rs. 700,000 per district for hill districts and Rs. 800,000 per district in Terai districts in the FY 2016/17.
- The Ministry allocated Rs. 90,000 per community based service center. In addition it allocated Rs. 67,000 for orientation to the Police Officers at the district level and Rs. 40,000 grants to women groups for raising awareness against TIP.
- Thus, a total of Rs. 1.9907 million was allocated for mobilization of Service Centers established for providing the rehab services for the victims of GBV in 17 out of 75 districts in the country.

## 4.6 Number of Victims Provided Rehabilitation Services by the Government Funded Rehab Centers and Service Centers

Rehabilitation Centres - A total of 7,373 numbers of victims/survivors were provided rehab services from the NGOs-run rehab centers which were financially supported by the MoWCSC during the 7-fiscal years (FY 2010/11-2016/17). Drawing on information from the rehab centers, it is known that victims/survivors in the rehab centres are also the victims of rape, incest, domestic violence and high risk of trafficking. As summarized in Table 4.14, taking together for all years, the highest proportion of victims/survivors provided rehab services was in Jhapa (33%), followed by Rupandehi (19%), Banke (16%), Parsa (14%) and Sindhupalchok (6%). Data reveal that the number of victims/survivors provided rehab services decreased to 785 in FY 2016/17 from 1697 in FY 2015/16. The reason for this decrease is not known but the figure in FY 2016/17 does not include the number of victims provided rehab services from rehab centers in Surkhet and Kaski and from the Kolkata Consulate General Office.

**Table 4.14 Number of victims provided rehab services by the Government supported rehab centers, FY 2010/11-2016/17**

| District | 2010/11 | 2011/12 | 2012/13 | 2013/14 | 2014/15 | 2015/16 | 2016/17 | Total | % |
|---|---|---|---|---|---|---|---|---|---|
| Jhapa | 116 | 412 | 635 | 212 | 244 | 494 | 290 | 2403 | 32.6 |
| Sindhupalchok | 0 | 66 | 19 | 25 | 231 | 33 | 61 | 435 | 5.9 |
| Kathmandu | 25 | 69 | 8 | 14 | 28 | 41 | 46 | 231 | 3.1 |
| Parsa | 28 | 240 | 176 | 68 | 114 | 278 | 121 | 1025 | 13.9 |
| Chitwan | 12 | 43 | 107 | 109 | 13 | 112 | 36 | 432 | 5.9 |
| Rupandehi | 177 | 195 | 233 | 157 | 90 | 411 | 157 | 1420 | 19.3 |
| Banke | 50 | 254 | 254 | 126 | 165 | 253 | 67 | 1169 | 15.9 |
| Kailali | 30 | 32 | 26 | 29 | 18 | 75 | 7 | 217 | 2.9 |
| Kolkata Consulate General | 0 | 0 | 0 | 25 | 16 | 0 | - | 41 | 0.6 |
| Surkhet | | | | | | | | 0 | 0.0 |
| Kaski | | | | | | | | 0 | 0.0 |
| Total | 438 | 1311 | 1458 | 765 | 919 | 1697 | 785 | 7373 | 100.0 |
| Row % | 5.9 | 17.8 | 19.8 | 10.4 | 12.5 | 23.0 | 10.6 | 100.0 | |

Source: MoWCSC (2017) YATRA.

Service Centers – The MoWCSC has established the district and community level service centers to end the violence against women (VAW). In addition to the providing the services to the trafficking victims, these service centers provide services to the women and children victims of domestic violence. These Centers have been operating under the Department of Women and Children and are run by the Women's Cooperatives promoted by the Department of Women and Children. The Service Centers have been established and mobilized in the following 17 districts. In these 17 districts, there are 17 district level service centers and 115 community level service centers. Similarly, from the FY 2016/17, the President Women's Promotion Programs was initiated in 19 districts for ending the VAW. Data reveal that the coverage of these service centers and President Women's Promotion programs is not evenly distributed across the seven Provinces of Nepal (Box 4.6). Coverage is particularly lacking in Province 2 and Karnali Province. Note that there is a large number of MWs from the Province 2 (as discussed in Chapter 2) and there is also a large number of VAW cases related to foreign employment. In Karnali Province, only two districts have been covered by the programs while districts like Jajarkot, Dailekha and Kalikot have also large number of VAW cases.

## Box 4.6 Mapping of the districts and Provinces with service centers and President Women's Promotion program, Nepal

| Provinces | Districts and Community Centers | Total service centers | Districts of President Women's Promotion Programs |
|---|---|---|---|
| Province 1 | Panchthar (6), Sunsari (9), Solukhumbu (5) | 20 | Dhankuta |
| Province 2 | Saptari (9), Sarlahi (9), Rautahat (8) | 26 | - |
| Province 3 | Makwanpur (9), Kavre (7) | 16 | Dhading, Ramechhap, Rasuwa, Dolakha, Nuwakot |
| Gandaki Province | Tanahu (7), Baglung (6) | 13 | Gorkha, Parbat, Lamjung |
| Province 5 | Nawalparasi (9), Pyuthan (7), Dang (11), Bardiya (9) | 9 | Gulmi, Rolpa, Kapilbastu, Palpa, Rukum and Arghakanchi |
| Karnali Province | Jumla (5) | 5 | Salyan |
| Province 7 | Doti (7) and Kanchanpur (9) | 16 | Baitadi, Achham and Bajura |
| | Total | 132 | 19 |

Note: the figures in the parentheses indicate the number of service centers including one District Level service centers.

Source: summarized from MoWCSC (2072), MoWCSC (2073) and MoWCSC (2074).

The 5-yearly average number of domestic violence complaints handled by the 132 service centers (17 districts) has been estimated as 2909 (Table 4.15). The number of complaints, however, handled by the service centers was very high in FY 2014/15 (N=6230). The complaints also significantly increased to 3699 in FY 2016/17 from 1959 in FY 2015/16. The 5-yearly average disposal rate of the complaints by the service centers is 90.5 percent – implying that 9 in 10 complaints are resolved by the service centers annually.

## Table 4.15 Number of domestic violence cases handled by the service centers

| FY | Number of complaints | Number of complaints disposed | % disposed |
|---|---|---|---|
| 2012/13 | 1,088 | 703 | 64.6 |
| 2013/14 | 1,567 | 1,051 | 67.1 |
| 2014/15 | 6,230 | 5,938 | 95.3 |
| 2015/16 | 1,959 | 1,848 | 94.3 |
| 2016/17 | 3,699 | 3,628 | 98.1 |
| 5-yearly average | 2,909 | 2,634 | 90.5 |

Source: summarized from MoWCSC (2072), MoWCSC (2073) and MoWCSC (2074).

**Monitoring and Regulation of Internal Trafficking –**The Monitoring and Advisory Committees have been established 75 districts and there is no information about the formation of committees in the rest newly established two districts (East Nawalparasi and East Rukum). The CDO is the Chair of the Committee and two members are the Chief of the District Police Office and District Women and Children Office. In FY 2015/16, the monitoring was reported to have been done in in dance bars, hotels, restaurants, beauty parlors time and again and reported in Banke, Rupandehi, Myagdi, Kaski, Parsa and Lalitapur. In Kaski, the Monitoring Report was made public. Ten persons in Parsa and 90 in Lalitapur were punished. In FY 2016/17, the monitoring conducted in more than 23 times in dance bars, restaurants, hotels and other entertainment sectors.

**Slogan of the National Anti-Trafficking Days** – The MoWCSC organizes the national day of anti-trafficking in every year of *Bhadra 20* as theNepali month (first week of September). In this day, the Ministry in collaboration with the different NGOs and I/NGOs conducts different awareness programs including marching of the human rights activists. In the past three fiscal years (FY 2014/15-2016/17), the National Day is observed in the Kathmandu valley as well as outside of the valley. In Kathmandu, the Ministry organizes celebration of the National Day while in the outside Kathmandu; it is organized by the District Women and Children Office. In addition to the procession, the Ministry carries out different formal and informal programs including awarding and respecting the institutions/individuals that contribute to outstanding endeavors for prevention and combating of TIP.

In every year, the Ministry formulates a slogan for celebration of the anti-trafficking day and every year the Ministry coins the slogans differently. Changing of the slogans in each year means that the people will forget the slogan of previous year. So, it is important to fix a very common slogan at least for some years, so that people and stakeholders will understand the slogan and will be organized around the theme.

### Box 4.7 Slogan of the National Anti-Trafficking Days

| FY | Slogans |
|---|---|
| FY 2014/15 | *Jagau Jagau Manab Bechabikhan Rokna Sabai Lagau*<br>(Lets Raise, Lets Raise to stop the human trafficking, Lets involve on it) |
| FY 2015/16 | *Hami Sabai Mili Garau Bipatako Samana, Manab Bechabikhan Antya Hamro Kartyaba ra Chahana*<br>(Let us face the disaster collectively, ending of the human trafficking is ours duty and desire) |
| FY 2016/17 | *Aabako Gantabya: Manaba Bechabikhan ko Antya* (Now Destiny: the Ending of Human Trafficking) |

Source: summarized from MoWCSC (2072), MoWCSC (2073) and MoWCSC (2074).

## 4.7Monitoring at the Local Levels: Cases of Jhapa, Kavre, Sindhupalchok and Surkhet

**Khajurgachhi Border of Jhapa** - OSRT-NHRC team visited Khajurgachhi border of Jhapa district in October 26, 2017. The NHRC team reached to the border at about 12 afternoons and stayed over 2 hours. The border point is about 4 KM South of *Hulaki* Road in Gauriganj Section. In both

side of the borders, there are villages and on about 7 or 8 KM, Phulbari Bazar of Bihar is located. There is Gravel (*Kacchi)* road in Nepal site while it is one-line concrete road in India site. In both site of the border, there were the same types of houses, mostly thatched roof and wall bonded by bamboos.

There is no any police check posts either site of the border. Nor any NGOs surveillance centers established. The border surveillance is done by Chhoti Bhansar Ilaka Police Post located somewhat 4 or 5 KM north of the border of Nepal. At the time of the OSRT-NHRC visit in the Area Police Post, there was no Inspector level Police Officer. Sub-Inspector, Shai Jit Bahadur Tamang – was the In-Charge. But he was also just posted some 10 or 15 days ago and he did not know much about the trafficking situation and rescue of the trafficking victims.

**Lasuna, Tagandubba Border of Jhapa** – On October 26, 2017, OSRT-NHRC team reached to Lasuna border point. Lasuna border point is about 30 KM south of Surunga Bazar, a market place along the East-Way Highway located in the bank of the Kankai river and Lasuna is about 3 KM south-east of Jhapa Bazar. This border links Nepal to West Bengal of India. In both sites of the border, border security forces have been posted. In Nepal site, Nepal Armed Police Force was posted but there is no Immigration or Custom Office. Neither there was NGO surveillance.

**Visit of DSP Office, Bhadrapur, Jhapa** – In the DSP Office, the OSRT-NHRC team interviewed SSP Bisnu KC and Kopila Bhujel, Asai who is the In-charge of district WCSC. The district WCSC has a separate building in the premises of the DSP office and there are four Police Staff under the Command of Junior Police Officer (*Asai*). In the wall of the WSCS office, posters have been posted showing the progress of the cases handled by the WCSC. There were four posts in each WCSC, comprising of 32 sanctioned posts. All the WCSCs are under the command of Assistant Sub-Inspector (ASI) and Asai may be female or male Police. It is reported that WCSCs have been established in eight Police Offices in Jhapa district including in Kakarbhitta. WCSC is not mandated to file the case of trafficking or any other types of crime cases against women and children, but it is responsible for investigation of the crime cases related to women and children. It was reported that there were few cases of trafficking registered in Jhapa district mainly because the victims do not want to file the case.

It is known that trafficking mainly takes place from the major border points. In minor border points, it rarely happens because of not accessible road or railway to India site as well as in Nepal site. Traffickers mainly uses of Rickshaw as the mode of transportation but traffickers first cross the border and then the victims. When enquired about the law enforcement status of trafficking case, it is reported that trafficking takes place through a complex network and complex set of pretending including fake marriage, hospital visits, visits of relatives, and it is difficult to arrest the main offenders. Even if the case is filed, there is high risk failure of the case mainly because the statement given by the victim in the Police and in the court differs, and it is the statement given that becomes strong one to come to conclusion by the court. The Government Attorney is not generally serious about the case.

**Visit of Office of Tinny Hands, Bhadrapur** – The OSRT-NHRC visited the office of the Tinny Hands in Bhadrapur and discussed about the trafficking situation and the progress of the Tinny Hands with Bikram Wagle and Indra Prasad Bista. It is reported that Tinny Hands has established two border surveillance centers in Jhapa district: one in Bhadrapur and another in Kakarbhitta and a border surveillance center in Gaurigunj will be established soon. Bhadrapur is one of the major border points in Jhapa district and it is the Mechi River that separates Nepal and India. In each

day, on the average, 12 to 15 persons are intercepted. Main flow of trafficking is in the name of foreign employment.

**Visit of Office of Loktantra Post Daily, Dhulabari, and Jhapa** – The Loktantra Post Daily is one of the 10 leading Daily newspaper published from Jhapa district. OSRT-NHRC discussed with journalists Ambika Bhandari, Jhulan Regmi and Khagendra Ghimire about the trafficking situation in Jhapa district and media coverage to combat the trafficking. As of October, 2017, there were 10 Daily Newspapers, 12 Weekly newspapers, 15 FMs and 2 TV in Jhapa district. Loktantra Post has been published for 3 years and it has a 'women bit' as well. The staff of the Loktantra reported that they have published the news about a trafficking victim who was in Saudi Arabia. Because of this, they claimed, the Vitim was rescued. Similarly, the Loktantra has covered news of missing children. It is reported that trafficking takes place mainly in the name of foreign employment. In addition, there is evidence of trafficking of Nepali girls in Sikkim. In Saneschare, one father has been accused of selling of his two daughters in Sikkim. The both daughters were rescued and they are kept in a shelter in Jhapa.

The staff of Loktantra complained that media is not well represented in the DCCHT, Jhapa.

**Monitoring of Kakarbhitta Border Point** – OSRT-NHRC team visited Kakarbhitta border point on October 27, 2017. In border point, three NGOs, namely, Maiti Nepal, Bishow Sewa Bistar Organization and Tinny Hands have established surveillance centers. On daily basis, a large number of people crosses the border and enters into Nepal. Immigration Office, Nepal Police and Nepal Armed Police have been posted in Nepal site – the west bank of the Mechi Bridge. All the NGO staff posted in the Surveillance centers reported that the surveillance starts from at 7 am to 6 pm. Surveillance is done in each type of transport that crosses the border including Rickshaw and auto. When enquired about any threats in surveillance, Muna Acharya the staff of Bishow Sewa Bistar Organization reported that they have always threats from the offenders and criminals and they also received the miss calls and threats calls. According to Maiti Nepal Kakarbhitta Branch In-Charge – Mr. Govind Ghimire – Maiti Nepal has run the surveillance in border in two shifts. In each shift, two staff is posted. The staff posted is very experienced and knowledgeable and they have worked with Maiti Nepal at least for the last 2 years. In addition, Maiti Nepal makes border surveillance from Bahundagi to Bhadrapur once in a week in coordination with Nepal Police. Maiti Nepal has a shelter in Kakarbhitta with the capacity of 40 persons. In June 2017, there were 53 victims in the shelter. According to Govind Ghimire, the key challenges to combat trafficking are the following: victims do not want to tell the truth; network business in Silguri, Duwars, Sikkim and Kalimpong; women including men are trafficked for kidney extraction and taking of the rare blood.

**Interview with Deputy-Mayor, Mechi Nagar Municipality** – Kopila Upretri, the Deputy Mayor of Mechi Nagar Municipality was interviewed to know about the municipality's programs about combating trafficking in persons. She reported that the Municipality has established the 'Help Disk' in the municipality office and the Municipality is going to establish the 'suggestion box' in each ward of the Municipality. The Municipality is planning to handle the cases of complaints of missing persons and trafficking. Recently, the Municipality handled the case of B1 (name changed). Mayor and Deputy Mayor actively worked to rescue her from Kuwait. Note that the case was filed by victim's father that his daughter has been trafficked by the ward member of the Municipality. She was transported from TIA, Kathmandu to New Delhi and from New Delhi to Kuwait.

Due to the pressure from the Municipality and media, she was rescued and she came from Kuwait-Oman-New Delhi-Bagdugra (West Bengal). In Bagdugra, the agent's husband reached to receive her and brought to Nepal. The victim finally became hostile due to the pressure from her family members.

**Visit of Area Police Post, Kakarbhitta** – The WCSC has been established in this Area Post. Mrs. Gyanu Khada is the In-Charge of the WCSC. She reported that there is large number of rescue cases from the border area but there are few cases filed in the court. This happens because the persons who lure the victims are often the own relatives/neighbors, and thus, the victims do not want to make a complaint. There were 5 cases of trafficking registered in Area Police Office in 2015/16 and one case in FY 2016/17. Of them, two cases were related to internal trafficking.

**Interaction held in Chandragari with the Key Stakeholders**

Box 4.8 provides a summary of the key issues emerged from the interaction held in Chandragari, Jhapa on October 28, 2017 with the district level key stakeholders in combating TIP.

## Box 4.8 Overview of the key issues emerged from the Interaction held in Chandragari, Jhapa

| SN | Name | Organization | Key issue raised |
|---|---|---|---|
| 1 | Bikram Wagle | Tinny Hands | Foreign employment; trafficking of women of 18-30 years |
| 2 | Indra Ojha | WDO | Increase social dysfunctional and decrease the social remittance; 10 Local Anti-Trafficking Committee formed in Jhapa district and no discussion about re-structuring of the Anti-trafficking committee |
| 3 | Jiwan Kala Rawat | | Newly elected representative need much training on anti-trafficking issue |
| 4 | Rekha Adhikari | | No Safe House in Bhadrapur; Bhadrapur Municipality is not listening it |
| 5 | Kopila Bhujel | WCSC, Nepal Police | No separate space in Police office to keep the victims; few cases are registered in the Police as the offenders are often the own relatives |
| 6 | Bhim Baral | Advocate | Cases are field under the Foreign Employment Act rather than human trafficking; Victims become hostile because of threats, promises and even delay in delivery of justice |
| 7 | Rewati Raj Ghimire | Journalist | Police inform about the event through e-mail to the media |
| 8 | Maya Acharya | Bishow Sewa Bistar Organization | Trafficking takes place in the name of network business in West Bengal and Sikkim; Political pressure not to file the case and also threats to burn the 'ghumti' (surveillance center) |
| 9 | Parmila Dulal | Bishow Sewa Bistar Organization | Threats come when victims are intercepted; even threats came not to file the case in which a 13-year old girl was rape victim |
| 10 | Anil Limbu | Tinny Hands Nepal | Victim becomes hostile in the court; proof of evidence shall be accepted as the first statement of the victim; no effective monitoring about internal trafficking |

**Visit of Kavre, Banepa (May 29, 2018)** – OSRT-NHRC team visited Kavre DSP Office and had interaction with SSP Rabi Raj Khadka and Sita Shrestha (Assistant Sub-Inspector) – the In-Charge of WCSC. In the district WCSC, there is 6 Police staff. After the earthquake, Nepal Police in collaboration with Maiti Nepal has established a surveillance center in Kavre Bhanjyang – the road head to Sindhuli. The Kavre Bhanjyang is located in Dhulekhel Municipality – a somewhat 4 or 5 KM south-east of Dhulekhel bazar. The OSRT-NHRC team also visited the Kavre Bhanjyang where Maiti Nepal has been running surveillance center and interviewed Sarita Humagaion. The surveillance is carried out from early 6 am to 6 pm. There is three staff. It is reported that there is daily flow of vehicle from 700 to 1000. Checking is mainly done in the public vehicles except the local bus. Generally, private vehicles are not checked, they may be checked if the Police request to do so. Major flow time in the road is in the morning from 7 am to 9 am. In this time, public vehicles coming from Kathmandu cross Kavre Bhanjyang to Sindhuli, and eastern Terai districts of Nepal. During this time, two staffs are posted for surveillance. Examining the record of Maiti Nepal maintained in the Kavre Bhanjyang surveillance center, a total of 11,577 persons were provided counseling and 515 persons were intercepted in the year of 2017 and the details of the intercepted persons were maintained: house address, name of the parents, mobile number and education. When inquired about the cooperation of Police in surveillance of vehicles, the Maiti Nepal staff reported that some Police does not want to cooperate with their checking and they say that stopping of vehicles may create traffic problem while other are cooperatives.

In Sindhupalchok, the OSRT-NHRC team visited the rehab center run by Shakti Samuha, visited the DSP office and Migration Resource Center run under the SAMI project in the premise of CDO office. The MoWCSC has provided financial support to run the Shakti Samuha's rehab center in Sindhupalchok. At the time of the visit of the OSRT-NHRC, there were seven victims. Among the seven victims, three were related victims of trafficking, 3 victims of sexual assaults and one was in domestic violence. The rehab center is established in a new building. The physical space of the rooms, toilet and kitchen were found reasonable adequate for the capacity of 10 persons. There were three staffs: In-Charge, warden and one security guard.

In Surkhet, Aawaj has been running a rehab center which is founded by the MoWCSC from the FY 2016/17. Aawaj has run the rehab center in the same building in which it has office. The overall capacity of the rehab center was 10 persons. In the top floor, the rehab center is located. There are Warden, cooks and support staff. The physical space of the rooms, toilet and kitchen all were found reasonable good and well cleaned and maintained. The documentation was also well done.

### 4.8 OSRT-NHRC Handling of TIP Complaints

OSRT-NHRC has received more than a dozen of applications and requests from the individuals as well as from the organizations for effective rescue of the trafficking victims and bringing the traffickers into justice. OSRT-NHRC followed some of the cases by itself to protect and promote the rights of the victim of trafficking. Some cases handled by the OSRT-NHRC in FY 2016/17 are summarized below:

1. On August 28, 2017, OSRT-NHRC wrote to the MoWCSC about the status of investigation and rescue of two women from Sri Lanka. They were brought from Sri Lanka via Indonesia to

Kathmandu and left abandoned in Bishnonath Hotel, Thamel, and Kathmandu. The Commission also made the concerns about the protection of their human rights.

2. On August 21, 201, NHRC received a letter of memorandum from different anti-trafficking organizations[38] to immediately rescue persons who were trafficked to Iraq. The letter informed that for some days, the trafficking racket has been active to sell the Nepali women who are deceived of good job at abroad, brought to Dubai, Turkmenistan to Bagdad, Iraq. Women trafficked to Bagdad are said to be in the state of slavery situation and are at greater risk of sexual, labor and other forms of exploitation. They are deprived of minimum human rights as well. On March 19, 2017, a 24-year girl of Chileme, Rasuwa was successfully rescued from Iraq with the combined effort of Government of Nepal, Shakti Samuha and News 24. According to victim, she was forced to lead slavery like condition in a house. She reported that there are more than 1,000 trafficked Nepali women in Iraq who are at greater risk of physical torture, sexual exploitation and labor exploitation. After the victim's safely rescue, 10 women had in contact with Shakti Samuha for their immediate rescue. The letter says, 'the trafficked accused man was arrested by the Police but he was released on bail by the court'. In this context, we the following anti-trafficking organizations, demand the following for effective and immediate implementation:

- Make effective efforts to immediately rescue the trafficked victims from Iraq including from the Gulf countries;
- Develop the Government's accountability for rescue the trafficked persons from Iraq and other Gulf countries and provide the rehabilitation and legal support to the victims from victim friendly approach
- Punish the culprit stringently
- Approve the Draft of the Rescue and Repatriation Regulation and immediately implement it
- Approve the UN Protocol on trafficking of persons

3. On August 28, 2017, OSRT-NHRC wrote to the MoWCSC and to the CIB, Nepal Police about the status of immediate rescue and repatriation of trafficked women from Bagdad, Iraq. An inquiry was made about whether the event is known to the offices and whether any effort was made to rescue and repatriation of the victims. The case was known when a victim of Rasuwa returned from Iraq. She was sent by an agent via Dubai to Bagdad and she was kept in captive situation in a house. Now, she was successfully rescued. It is said that there are more than 1,000 women in Bagdad living at high risk of sexual and labor exploitation and 10 women need immediate rescue**.**

4. Received a request letter from Prabashi Nepali Coordination Committee (PNCC) to support rescuing the four Nepali women from Saudi Arabia. The women were in the Nepali Embassy shelter for two months, waiting for rescue. They were brought to Saudi Arabia via Kuwait. The detail of the victims is as follow:

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*38 The following 19 anti-trafficking organizations signed on the Letter: Shakti Samuha, CWIN, WOREC, PPR Nepal, Legal Inquiry and Source Development Center, Aamakas, Chhori, LAC, Shakti Milan Samaj, CWISH, Pairawi Nepal, Biswas Nepal, Women Legal and Development Forum, NGO Federation, Sotantrata Aviyan, ABC Nepal, Yubalaya, AATWIN, Amacash Nepal.*

*A victim woman of Ramechhap district – She was brought to Kuwait two and half years ago and from Kuwait, she was transported to Saudi Arabia in tourist visa. She was again re-brought to Kuwait and kept her for two months in the agent's office. When she refused going to Saudi Arabia, she was brought by force by the household owner. It has been two years that she has been working in Saudi Arabia in slavery like condition. So, she ran away from the owner's house and reached to Nepali Embassy in Saudi Arabia. Another case: Rupa (name changed), Chitwan- She was brought to Kuwait via India and she was kept in Kuwait city for two weeks and she was sent to Saudi Arabia. She was physically and mentally torture. Not able to face the torcher, she ran away from the owner's house and reached to the Nepali Embassy to Saudi Arabia. In the third case: Rita (name changed), Chitwan – was told to go to Dubai but was brought to Kuwait. From Kuwait, she was reported to Saudi Arabia in tourist visa. When she refused to stay in a house in Saudi Arabia, she was severely bitten by the owner of the house. Not able to face the physical turture, she ran away from the house and reached to the Nepali Embassy in Riyadh. In the fourth case, Meera (name changed)- This information was heard by OSRT-NHRC timely and made inquiry to the concerned authority. It wrote to the Center Investigation Bureau of Nepal Police on March 27, 2018. On the basis of the response provided by the CIB on April 3, 2018 that the complaints for the rescue of these victims have not been registered in Nepal police across the country.*

5. OSRT-NHRC handled the case of B1 (name changed) for her rescue from Kuwait in mid-2017 and investigated further to register *Suo-Muto* case. The narrative of the case is this:

B1 was sent to Kuwait by a local agent nine months ago by establishing 'setting' from Kathmandu-New Delhi to Kuwait City.B1 was frequently calling her father and husband for her immediate rescue as she was bitterly physically and mentally abused there. This news was published in www.onelinekhabar.com with the heading of *B1's life at risk in Kuwait while the agent here treats that nobody can arrest her in charge of trafficking*. The victim father field the case in the Mechi Nagar Municipality requesting his daughter's rescue. He made complaint in the Municipality because the accused of trafficking was a Ward member of the Municipality. When he requested the agent for rescuing his daughter from Kuwait, the agent replied that shewas not a President that she could rescue his daughter immediately. Instead, the agent demanded the Rs. 150,000 from him as compensation of agent's loss while sending B1 to Kuwait. Or, he should lure three women for sending to Kuwait.

In this context, on August 19, 2017, OSRT-NHRC wrote to the Human Trafficking Control Unit, the MoWCSC, Interpol Section, CIB, and Department of Counselor Services for immediate rescue of B1 and also provided the mobile numbers the victim, victim's father and husband, agent's mobile number including the mobile number of human rights activists in Jhapa district. In response to the OSRT-NHRC letter, the MoWCSC sent a letter requesting the MoHAon September 18, 2017 for immediate and safely rescue and repatriation of B1 to Nepal. Similarly, on October 28, 2017, MoHA wrote to the Police Head Quarter for coordination with the MoFA for safely rescue and repatriation of B1. On October 11, 2017, the Nepal Police HQ informed OSRT-NHRC that the

victim was safely rescued from Kuwait and landed in Nepal on August 23, 2017, but further investigation was not being carried out because the victim herself did not willing to complain against any agency.

Considering the brutality of violation of human rights of B1 that she has to spend several days and nights in captive situation and greatly suffer physical and mental stress and the open threats by the agent to the justice system, OSRT and Investigation Division of NHRC jointly investigated the case for registration of *suo-motu.* For this, the OSRT team visited the victim's house in Jhapa in early 2018 and interviewed her, her father, father-in-law and her husband including the Deputy Mayor of Mechi Nagar Municipality and human rights defenders. The case was not registered due the hostile of the victim, however.

5. OSRTH-NHRC has also handled the case of support to the trafficked victim – Tara (name changed) is from Bhote Koshi Gaonpalika-5 of Sindhupalchok district. She was sent to Oman via New Delhi on September 2, 2016 telling that she would be going to Dubai. She was posted in a house as a domestic worker. But for a long time, she was not paid. The household owner told her that she would not be paid as she was bought. She was bitten. She informed about it to her husband in Nepal that she could not stay there and she wanted to come immediately to Nepal. On August 28, 2017, she ran away from the house and came to Nepali Embassy of Mascot. On November 6, 2017, she was sent back to Nepal.

Tara's family was the victim of the earthquake of mid-2015. Her family does not have a house; they were living in a stone cave. When Tara was in Oman, her husband has developed leg problem, her first son, 16, is studying in a Christian founded school, the second son, 12, is working as a hotel boy in Kapan, the last son, 9 year old works in a hotel in Lalitapur. Her daughter is with her. On December 2016, they received Rs. 50,000 as Government support to make the house damaged by earthquake. However, that money was paid to the agent to send her to Oman.

Tara's husband filed the case in Sindhupalchok Police on October 24, 2017 that Tara was trafficked by her village man. With the miserable condition of Tara's family, Tara is looking for livelihood support to her family from the concerned Government organization. Note that her passport was issued from Kathmandu District Administration Office.

OSRT-NHRC suggested and referred to CCWB for support for rescuing of her children from child labor situation. It was known that she was given Rs. 10,000 by CCWB and her children were taken out from hotels and the children are enrolled in school. The case is filed in Police.

### 4.9 Responses of Nepali Embassy: the Rescue Efforts

Nepali Embassies and Diplomatic Missions at abroad have been engaged in rescue of the Nepali MW across the world. Here, rescue efforts by the Embassies/Missions have been discussed on the basis of the information provided by 17 Nepali Embassies and Consulate General Office of Kolkata. According the Ministry of Foreign Affairs (citied in MoWCSC, 2018), the following Nepali Embassies/Missions, however, did not receive any request for rescue of Nepali MWs in the FY 2016/17:

1. Nepal Embassy to Israel and Cyprus (under the jurisdiction of the Embassy)
2. Nepal Embassy to Brazil and countries under the jurisdiction of the Embassy
3. Nepal Embassy to Canada
4. Nepali Embassy to Japan
5. Nepali Embassy to United Kingdom and countries under the jurisdiction of the Embassy including Ireland and Malta
6. Nepali Embassy to Manama, Bahrain
7. Nepali Consulate General Office, Hong Kong, China
8. Nepali Consulate General Office, Tibet, China

Table 4.16 summarizes the number of persons rescued/repatriated by the Nepali Embassies during the three Fiscal years (FY 2014/15-2016/17). Note that the countries referred to in Table 4.16 are only the countries of Nepali Embassies conducting the rescue. An Embassy may rescue MWs from more than one country.

**Nepali Embassy to China, Beijing** – Looking at the three fiscal year data on rescue/repatriation of MWs by Nepali Embassy to China, it can be inferred that trafficking of Nepali girls for marriage, trafficking for sexual exploitation in dance restaurants and trafficking for domestic work prevails. In case of men, trafficking for forced labor in hotel prevails. During the three FYs (2014/15-2016/17), a total of 119 MWs were rescued by the Embassy and of them, 72 were repatriated to Nepal.

- In 2014/15, three women were rescued who were trafficked for marriage.
- In 2015/16, the Embassy contacted 83 persons at most risk situation. Of them, 36 were rescued and repatriated to Nepal. Three women, who were trafficked for marriage, were rescued from Heilongjiang Province. Forth-seven men were forced to work in hotels for more than 12 hours in Jiangxi Province while they were brought there by false promises of learning Chinese language and training about hotels.
- In FY 2016/17, 3 women trafficked for marriage was rescued from Shandong and Heilongjiang Province while 29 men rescued from different cities of China.

**Nepal Embassy to Saudi Arabia, Riyadh** – The three year total figure of rescue conducted by the Embassy comes out to be 1,836 which accounts for the highest proportion among the countries from which the Nepali MWs were reported to have been rescued by the Nepali Embassies/ Missions at abroad (31%). Among the victims rescued, more than 90 percent were males and rest females. In FY 2015/16, of the 379 victims rescued, there was also one child as dependent of a woman worker.

**Nepali Embassy to Kuwait** – In Kuwait, the rescue of the trafficking victims were conducted by the Embassy only in FY 2014/15 while in the other two fiscal years, there is no information about the rescue.

**Table 4.16 Number of persons rescued/repatriated by the Nepali Embassy at Abroad, FY 2014/15-2016/17**

| | Country | 2014/15 | | | 2015/16 | | | 2016/7 | | | Three-year total (2014/15-2016/17) | | | % of total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Women | Men | Total | Women | Men | Total | Women | Men | Total | Women | Men | Total | |
| 1 | Saudi Arabia | 1 | 1231 | 1232 | 112 | 226 | 379 | 0 | 225 | 225 | 113 | 1682 | 1836 | 31.0 |
| 2 | Kuwait | 798 | 387 | 1185 | 0 | 0 | 0 | 0 | 0 | 0 | 798 | 387 | 1185 | 20.0 |
| 3 | Malaysia | - | - | 1126 | - | - | 450 | 1 | 11 | 12 | 1 | 11 | 1588 | 26.8 |
| 4 | UAE | 104 | 54 | 155 | - | - | - | - | - | 73 | 104 | 54 | 228 | 3.8 |
| 5 | Oman | 35 | 26 | 61 | 96 | 19 | 115 | 36 | 2 | 38 | 167 | 47 | 214 | 3.6 |
| 6 | Thailand | 3 | 11 | 14 | 1 | 8 | 9 | 8 | 38 | 46 | 12 | 57 | 69 | 1.2 |
| 7 | Qatar | 0 | 1 | 1 | 0 | 0 | 0 | 5 | 0 | 5 | 5 | 1 | 6 | 0.1 |
| 8 | Pakistan | 16 | 33 | 49 | 0 | 3 | 3 | 8 | 5 | 13 | 24 | 41 | 65 | 1.1 |
| 9 | South Africa | 44 | 8 | 52 | 5 | 7 | 12 | 4 | 25 | 29 | 53 | 40 | 93 | 1.6 |
| 10 | Korea | 0 | 0 | 0 | 13 | 36 | 49 | 7 | 29 | 36 | 20 | 65 | 85 | 1.4 |
| 11 | Russia | 0 | 0 | 0 | 3 | 27 | 30 | 0 | 0 | 0 | 3 | 27 | 30 | 0.5 |
| 12 | Sri Lanka | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 1 | 0.0 |
| 13 | Egypt | 0 | 0 | 0 | 64 | 2 | 66 | - | - | 57 | 64 | 2 | 123 | 2.1 |
| 14 | France | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 22 | 22 | 0 | 22 | 22 | 0.4 |
| 15 | Myanmar | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 1 | 0 | 1 | 0.0 |
| 16 | China | 3 | 0 | 3 | 4 | 32 | 36 | 4 | 29 | 29 | 11 | 61 | 68 | 1.1 |
| 17 | India | 46 | 16 | 62 | 116 | 64 | 180 | 57 | 18 | 75 | 219 | 98 | 317 | 5.3 |
| | Total | 1050 | 1767 | 3940 | 415 | 424 | 951 | 131 | 404 | 661 | 1596 | 2595 | 5931 | 100.0 |

Note: * 1 case was dependent child.

Source: summarized from MoWCSC (2072), MoWCSC (2073) and MoWCSC (2074).

**Nepali Embassy to South Africa** from South Africa, of the total 52 rescued and repatriated to Nepal, 20 were from Kenya, 23 from Tanzania, 6 from South Africa, and 1 was from Mauritius. In Nairobi and Mombasa of Kenya, Nepali women were illegally involved in night clubs/dance bars. While in case of men, the smugglers withheld their passports and they become abandoned. In Darussalam of Tanzania, girls were illegally involved in dance clubs as they were brought in the visit visa and the visa period was expired. In South Africa, the girls were also brought in visit visa and the visa period was expired and the girls became illegal. In FY 2015, of the 12 rescue cases, 4 were from South Africa (brought through visit visa for cook/domestic work while for men, the Education Consultancy, sent by giving the false promises of education and work); one girl was rescued from a dance bar in Kenya, 2 men from Tanzania (who were brought by giving the false promises of good work) and from Uganda, one man was rescued who was being smuggled to another country. In 2016/17, of the 29 rescued cases, 6 were from Kenya, 13 from Mauritius, 5 from Tanzania, 1 from Uganda and 4 from South Africa.

**Nepali Embassy to Bangkok, Thailand** – The Embassy rescued 3 women and 11 men in FY 2014/15 from Thailand who were illegally residing. In 2015/16, 9 persons were rescued. In FY 2016/17, 46 persons were rescued. Of them, 44 were from Thailand, 1 from Compendia and 1 from Malaysia. They were provided exist visa, air tickets and legal support and medicine and successfully repatriated to Nepal.

**Nepali Embassy to Cairo, Egypt** – Data reveal that Nepali Embassy to Egypt rescued 64 women from Lebanon who did not have passports and 2 men from Uganda in FY 2015/16. In addition, three women were rescued with the joint effort of Caritas Nepal, IOM and GoN. In FY 2016/17, 57 persons (sex disaggregated data not available) were rescued from Egypt, Lebanon and Syria. For them, the Nepali Embassy issued the travel documents and repatriated to Nepal.

**Nepali Embassy to Paris, France** – In 2016/17, the Embassy rescued 22 men from Grice.

**Nepali Embassy to Colombo, Malaysia –** According to the Embassy, a total of 23,870 illegal Nepali MWs were already sent back to Nepal by providing one-way travel permit. In 2015 alone, the Embassy rescued 1,326 MWs and they were provided one-way travel permit. In FY 2015/16, one woman and one her dependent child were rescued from a Correction Center and repatriated to Nepal. In addition, 450 MWs were provided one-way travel permit, air ticket and repatriated to Nepal. Of the 16 Nepali who were in abandonment situation in Micronesia, 12 were successfully repatriated to Nepal with the support of IOM. In FY 2016/17, one woman and 11 men were rescued from the Philippines (2 persons) and Indonesia (10 persons) and provided one-way travel permit and repatriated to Nepal successfully.

**Nepali Embassy to Russian Federation, Masco** – There were no rescue in FY 2014/15. In FY 2015/16, the Embassy rescued 3 women and 27 men. Of them, 16 men were rescued from Ukraine (illegally trying to cross the border and enter into Europe, Police arrested), 6 men from Georgia (in abandonment situation), 1 man and 1 woman from Azerbaijan (abandonment situation), 2 men from Russia (illegally enter into the country and Police arrested), 2 women and 2 men from Belarus (illegally entered into the country and Police arrested). In 2016/17, of the 17 persons (sex disaggregated data not available), 13 from Masco and 4 from Sofia, Bulgaria. They were successfully repatriated to Nepal.

**Nepali Embassy to Islamabad, Pakistan**–It rescued 49 MWs in 2014/15. Of them 1 woman and 2 men were from Pakistan, 15 women and 26 men from Iraq, and 5 men from Afghanistan. They all were subjected to forced labor. In 2015/16, 3 men who were smuggled to Afghanistan did not get job for a long time and they entered into Pakistan illegally. They were arrested by the Pakistani Police. In FY 2016/17, 13 persons were rescued by the Embassy. Of them, 8 were from Turkey, 3 from Iraq, and 2 from Pakistan. They all were provided exist permit and repatriated to Nepal successfully.

**Nepali Embassy to India, New Delhi and Consulate General Office, Kolkata - –** Table 4.17 summarizes the number of trafficked victims rescued by the effort of Nepali Embassy to India and Consulate General Office, Kolkata for the three fiscal years (2014/15-2016/17). The rescue was operated with the involvement of Indian NGOs, Indian Police including Nepali NGOs. In FY 2014/15, the trafficked victims were rescued from New Delhi, Amritsar, Chandigarh, Gujarat and Goa with the support of Maiti India, *Prawasi Nepali Mitra Manch*, and Maiti Nepal. Examining the rescue operation details, two types of trafficked victims can be identified: i) those that are being transported to overseas illegally via India and ii) those that are trafficked for sexual exploitation and labor exploitation within India. Altogether, 317 persons were rescued in the three FYs. Of them, majority were adult women (48%), followed by boys (28%), girls (21%) and men (3%). Majority of rescue operation was done from New Delhi (especially those being transported to third countries).

## Table 4.17 Number of persons rescued/repatriated from India, FY 2014/15-2016/17

| FY | Women | Men | Girls | Boys | Total | Description of the cases |
|---|---|---|---|---|---|---|
| 2014/15 | | | | | | |
| New Delhi | 10 | 0 | 3 | 14 | 27 | Rescued to those who were trafficked in different cities of India |
| Kolkata | 15 | 1 | 18 | 1 | 35 | |
| Total | 25 | 1 | 21 | 15 | 62 | |
| 2015/16 | | | | | | |
| New Delhi | 49 | 0 | 20 | 55 | 124 | 27 women rescued who were being transported illegally to oversea |
| Kolkata | 28 | 9 | 19 | 0 | 56 | |
| Total | 77 | 9 | 39 | 55 | 180 | |
| 2016/17 | | | | | | |
| New Delhi | 47 | 0 | 3 | 15 | 65 | Rescued mainly from New Delhi, UP, Mumbai, Goa, Hyderabad |
| Kolkata | 3 | 0 | 4 | 3 | 10 | Kolkata, Hauda |
| Total | 50 | 0 | 7 | 18 | 75 | |
| Three years | 152 | 10 | 67 | 88 | 317 | |
| Row % | 47.9 | 3.2 | 21.1 | 27.8 | 100.0 | |

Source: summarized from MoWCSC (2072), MoWCSC (2073) and MoWCSC (2074).

**Problem of Rescue from Saudi Arabia -** Examining the series of letters written by the Nepali Embassy to Saudi Arabia to the MoFA in Kathmandu, to the Ambassador of Kuwait, it is known that the rescue and repatriation of Nepali MWs is very problematic from Saudi Arabia when the MWs are especially do not possess the visa.

1. On March 12, 2018, the Nepali Embassy to Saudi Arabia wrote about the problem of rescuing of three women who were working as domestic workers in Saudi Arabia to the following Government agencies in Nepal: Ministry of Foreign Affairs (MoFA), Ministry of Home Affairs (MoHA), Ministry of Labor, Employment and Social Security (MoLESS), and Nepal Police. According to the letter, domestic workers who come to Kuwait in working visa are brought to Saudi Arabia in visit visa. The term of visit visa remains for six months and in each six month, it has to be renewed. If the visa has not been renewed on the given time, the domestic workers become illegal. Many employers do not wish to renew the domestic workers visa. Many do not provide salary on time and the workers are also victims of physical, mental and sexual abuse. Such workers come to the Embassy by running themselves or the Embassy has to rescue them. According to the law of the Saudi Arabia, violation of the immigration law by any foreign worker is liable to be fined of Saudi Arabia currency of 15,000. Without paying the fine, one cannot be granted the exit-visa. Although the visa is not renewed due to the dishonesty of the employer that if the workers are illegal, they could easily exploit them; non-compliance of the immigration law falls under the responsibility of the domestic workers. For this reason, those domestic workers whose visa have been expired and who come to the Embassy for going back to Nepal cannot be returned for 5 or 6 months. They have to be provided shelter in the Embassy.

The problem of brining the Nepali domestic workers to Saudi Arabia illegally has been increasing day-by-day. In addition to labor exploitation, they are physically, mentally and sexually exploited and abused.

The Embassy has requested the Government of Saudi Arabia not to give permit of brining the Nepali domestic workers from Kuwait to Saudi Arabia, but the authority` of the Saudi Government responded that they cannot do so among countries of the GCC. In this context, the Nepali Embassy to Kuwait may request the Kuwait Govt. not to give the permit of domestic workers coming in Saudi Arabia. According to the letter, in order to control human trafficking being carried out in the name of foreign employment, it is essential to adopt the preventive measures rather than just relying on protection measures. It is also essential to bring the smugglers into justice.

2. On March 1, 2018, the Embassy of Saudi Arabia sent a letter to the Department of Consular of Services, MoFA in Nepal. The Ambassador requested the Deputy Home Minister of Saudi Arabia on March 1, 2018 for granting the rebate on the fine. The Embassy has followed up the situation. But, the Saudi Government has not responded it positively yet. In the last year, 50 Nepali women domestic workers whose visa was expired were provided rebate of fine. But, this year, the Saudi Government is not positively responding it. As the MoHA of Saudi Arabia has not been prepared to give the rebate on fine, it is essential to make accountable the agent who sent the domestic workers from Kuwait to Saudi Arabia. In this context, it is better to stop sending of women domestic workers from Nepal. As some offenders reside in Nepal and other in Saudi Arabia, it is not possible to bring them into justice by the Nepali Embassy to Saudi Arabia.

3. On February 4, 2018, the Nepali Embassy to Saudi Arabia wrote to the Nepali Embassy to Kuwait that it is sending the personal details of three victims who have been brought via Kuwait to Saudi Arabia. As the Saudi Government is not responding positively to rebate the fine saying that such a problem would occur frequently, it is essential to make accountable to the agent and sponsor in Kuwait.

## 4.10 NGOs Responses

A number of NGOs have been involved in anti-trafficking issues in Nepal. Some NGOs work especially for prevention sector, while other in protection and other in legal support to the victims of trafficking. OSRT-NHRC requested all the leading NGOs to provide their interventions and achievement in relation to prevention and combating TIP for the FY 2016/17. However, only 8 NGOs provided information to OSRTH-NHRC about their program interventions. Biswas Nepal, Change Nepal, Chhori, HimRights, KI Nepal, Kumudini, Shakti Samuha. Information about the NGOs intervention was also obtained from their annual reports and visiting their websites as well. Note that the detail of the program interventions of the NGOs provided information to OSRT-NHRC is discussed here.

### 4.10.1 Prevention Related Activities

Annexes 4.3 and 4.4 summarize the main working areas of the NGOs and their coverage and prevention related activities.

**Alliance against Trafficking in Women and Children in Nepal (AATWIN)** – It was established in 1997 aiming to raise collective voice against human trafficking through advocacy, lobbying and awareness campaign. It is a network of 33 anti-trafficking organizations.

**Aawaj, Surkhet** – It was established in 1999 aimed to provide the services to the victims of domestic violence including GBV. From FY 2016/17, it has also been running a rehab center for the trafficked victim who is funded by the Ministry of Women, Children and Senior Citizens.

**Biswas Nepal**– is one of the NGOs working in entertainment sectors in Kathmandu valley since 2010. Its working area is Kathmandu Metropolitan city. Biswas Nepal is also the member of networks of AATWIN, NCCHT and NCPA. The networks carried out different activities like visit and monitoring of restaurant, interaction meeting with owners, Police, trade Union others. Especially they also are active in lobby and advocacy. In the FY 2016/17,Biswas Nepal carried out the following prevention related activities:

- Provided non-formal education/formal education for 96 females
- Provided life and income generating activities to 96 females
- Created awareness raising to 3337 persons (1406 males and 1931 females)
- Mobilized more than 170 persons in lobbying and advocacy
- Mobilized more than 60 persons in celebration of the anti-trafficking day.

**Change Nepal** –Change Nepal has been working in entertainment sectors in Kathmandu valley since 2003 and in combating pedophilia since 2013. The working districts of Change Nepal are Kathmandu and Pokhara. In Kathmandu, it works for those children who are working in entertainment sectors such as Message parlor, Spa, Cabin restaurant, *khaja ghar and* hotels. In Pokhara, it works for those children who are exploited by pedophilia. Change Nepal has

drop in centers at Thamel and Kalanki, Kathmandu. It carries out different activities related to prevention, protection, legal support and capacity development for the victims. In FY 2016/17, it carried out the following prevention related activities:

- Provided NFE/formal education support to 229 persons (4 males and rest females) – all of them girls working in the entertainment sectors in Kalanki, Thamel and Gangabu area of Kathmandu;
- Provided vocational training to 128 girls (beauty parlor, sewing training, computer training and life skill training)
- Provided orientation training to Police officers on the issues of child protection and commercial sexual exploitation to children and orientation program to newly elected representatives of Ward level as a part of lobbying and advocacy

**Chhori** – Chhori is one of the NGOs working to promote the rights of female workers in the entertainment sector. It has been working in anti-trafficking sector since 2013. Chhori is functioning as a secretariat of Campaign for Rights. Campaign for Right network consist of 16 organizations working in the field of entertainment sectors .This network conducts different advocacy activities for the rights and protection of girls and women working in entertainment sectors. Campaign for Rights conducted several activities together with monitoring and action committee (MAC) of Kathmandu and Lalitpur. In 2016/17, there were 6 monitoring visits, 5 orientations to owners and 3 girls in dance bars of Lalitapur were rescued during monitoring visits. Campaign for Rights also did advocacy with the elected represented of the Local Government. It has program interventions in Kathmandu, Lalitapur, Bhaktapur and Nuwakot districts.

**Child Workers in Nepal Concerned Centre (CWIN)** – Established in 1997, it is a pioneer organization in Nepal for the rights of the child and against child labor exploitation. In addition to its prevention related programs, CWIN runs Child Helpline with its toll free number 1098. It has Child Helpline in Kathmandu, Biratnagar, Pokhara, Hetauda and Nepalgunj.

**Gramin Mahila Srijanshil Pariwar, Sindhupalchok** – Established in 1992, it aimed at protecting the rights of women. It is one of the leading NGOs working in anti-trafficking activities in Sindhupalchok district. It is also the NGO that has been receiving the Government financial support for running of a rehabilitation center in Sindhupalchok district till 2015. It mainly conducts awareness programs, radio programs and also in several interactions lobbying to the district key stakeholders in order to strengthen the District Committee on controlling human trafficking.

**HimRights** – It is one of the leading NGOs working in anti-trafficking sector in Nepal. It has been working in anti-trafficking, safe migration and violence against women since 2000. It carries out all activities related to prevention, protection, prosecution, coordination, networking and collaboration and capacity building. In FY 2016/17, it has the intervention in the following districts: Makwanpur, Bara and Parsa districts. It mainly focuses on education and leadership building of marginalized groups. In Makwanpur, it has established Safe Migration Information Booth in the premises of District Administration Office. In Bara, Safe Migration Information is provided through the offices of Municipalities/Rural Municipalities. In Parsa, five Municipalities and all Rural Municipalities have been covered for carrying out the interaction on anti-trafficking issues.

**Kingdom Investment Nepal (KI Nepal)** – It is one of the leading NGOs working in anti-trafficking and safe migration issues in Nepal since 2008. KI Nepal has the intervention activities of conduction of surveillance centers in border, protection of survivors in emergency shelters and safe home, providing skill training to the survivors, and conduction of awareness programs among the vulnerable communities, focused on girls and women. It has also developed 'KI Nepal App' for data entry of trafficking victims and sharing information. KI Nepal extended the area of working in New Delhi for rescued and repatriation of girls and women and it has also formed Men up defender groups for combating human trafficking through male involvement.

In FY 2016/17, it has program intervention in 8 districts: Morang, Parsa, Chitwan, Rupandehi, Nawalparasi, Kapilbastu, Banke and Lalitapur. Excluding Lalitapur, it has border surveillance centers in all 7 districts. A total of 12,690 girls and women were provided counseling and safe migration information from different 7 border surveillance centers of KI Nepal (Table 4.18).

## Table 4.18 Number of girls and women provided safe migration information/ counseling, FY 2016/17, KI Nepal

| | | Number |
|---|---|---|
| 1 | Information booth, Aaptari-Chitwan | 1,317 |
| 2 | Border surveillance center, Biratanagar | 2,028 |
| 3 | Border surveillance center, Birgunj | 2,386 |
| 4 | Border surveillance center, Bhairahawa | 2,754 |
| 5 | Border surveillance center, Link Gate, Krishna Nagar | 2,100 |
| 6 | Border surveillance center, Yatru Gate, Krishna Nagar | 1,381 |
| 7 | Border surveillance center, Nepalgung | 2,041 |
| | **Total** | **12,690** |

Source: Kingdom Investment Nepal (KI Nepal), 2017.

**KUMUDINI** – It was established in 2014 aiming to contribute to reduce the trafficking of girls. In FY 2016/17, it worked in Kathmandu (Bansbari) and Nuwakot (Tupcheswor Rural Municipality) and it provided awareness raising and informal education to a few women and also involved in celebration of anti-trafficking day. In addition, it involved in protection and legal support to the victims of trafficking, especially those girls who are sexually abused. KUMUDINI finds several challenges to handle the cases of trafficking and sexual abuse. As many girls come from economically deprived families, the perpetrators tend to take advantage of their vulnerabilities. So, there is high risk of case hostile and difficult to maintain the relationship with children. Girls who come from street living background and involved in entertainment sector were very unstable and had background of substance abuse. They are not willing to be in contact with the organization. Some cases of victims are severely psychologically damaged so it is difficult to assess the case and cannot be healed within a short span of time. Reintegration of such girls also becomes difficult due to stigma attached and of the dysfunctional family.

**Maiti Nepal** – It is one of the leading anti-trafficking NGOs in Nepal. It carries out several programs related to prevention and combating TIP especially focusing on women and children. Table 4.19 summarizes its some of the outstanding achievement for three years (2014-2016).

## Table 4.19 Maiti Nepal data on TIP for the three years, 2014-2016

| | 2014 | 2015 | 2016 | 3-yearly average (2014-2016) |
|---|---|---|---|---|
| Total interception | 2,904 | 2,237 | 2,988 | 2,710 |
| Migrants informed at border points | 134,718 | 110,897 | 100,495 | 115,370 |
| Victims rescued | 183 | 104 | 239 | 175 |
| Human trafficking cases initiated | 19 | 26 | 60 | 35 |
| Missing | 1,533 | 1,272 | 3,013 | 1,939 |
| Found | 342 | 215 | 1,169 | 575 |

Source: Maiti Nepal (2014), 2015, and 2016 Annual Report: (Kathmandu: Author).

**Pravasi Nepali Coordination Committee (PNCC)**–PNCC through its Rapid Response Mechanism (RRM) has been supporting the distressed migrant workers to find possible solutions for their rescue, repatriation and reintegration in the family. It also provides a temporary shelter for the returnee male migrants. In 2017, PNCC provided shelter support to 73 returnee male migrant workers (MWs). In addition, it handled the complaints of the distressed MWs. In 2016, it received 1,048 cases from different destination countries where there were 1,557 individual victims. The highest number of the cases received was from Malaysia. This is followed by Saudi Arabia and Qatar including other countries. In 2017, PNCC received 938 cases of 1,178 migrant workers (1079 males and 99 females) from different destination countries – the highest number being from Malaysia followed by Saudi Arabia and Qatar (Table 4.20). The nature of distressed cases include contact issue, death, imprisonment, health problem, accidental problem, missing cases, trafficking cases and undocumented migrant workers.

## Table 4.20 Number of cases of migrant victims received by PNCC, 2016 and 2017

| | 2016 | 2017 |
|---|---|---|
| Malaysia | 418 | 354 |
| Saudi Arabia | 380 | 307 |
| Qatar | 104 | 116 |
| UAE | 54 | 61 |
| Kuwait | 51 | 44 |
| Oman | - | 31 |
| Afghanistan | - | 3 |
| Other countries | 81 | 22 |
| **Total** | **918** | **938** |
| **Number of victims** | **1,557** | **1178** |

Source: Pravasi Nepali Coordination Committee (PNCC), Annual Report, 2017.

**Pourakhi Nepal** – It is one of the leading NGOs working in safe migration issues in Nepal. Pourakhi was on the key partner organization of Combating Trafficking in Person project (CTIP) funded by USAID. The project was implemented from 2010 to 2015 in Sindhupalchok and Dolakha districts. At the national level, Pourakhi Nepal is continuously carrying out lobbying and advocacy to increase law enforcement in fraud related to deception and irregularities involved in foreign employment process.

**Shakti Samuha** - It is also only trafficking survivor based NGOs in Nepal. The organization has been involving in anti-trafficking activities since 1996. In the FY 2016/17, it has different program interventions in 14 districts. The program districts include: Kathmandu, Bhaktapur, Sindhupalchok, Nuwakot, Kaski, Makwanpur, Bardiya, Kailali, Banke, Jhapa, Dhading, Gorkha, Sindhuli and Rasuwa. During the reference period, it carried out the following:

- Provided safe migration information to nearly 3,600 potential migrant workers in Jhapa, Sindhupalchok and Bardiya districts – The safe migration information booths have been established with the premises of CDO offices.
- Provided Non-formal Education (NFE)/formal education to 40 victims of trafficking in rehab centers;
- Provided life and income-generating, skills, capacity development to 46 women and adolescent groups across the program districts;
- Conducted safe migration or anti-trafficking awareness program though mobilization of media in Bardiya and Jhapa benefiting more than 11400 males and females;
- Formed and mobilized women groups and adolescent groups.

**Swatantrata Abhiyan Nepal (SAN) -** It is one of the leading NGOs working in the entertainment sector. It works in capacity development through research and policy advocacy. The staff of the organization reported that difficulties in addressing the issue because of lack of education in people, minimum use of information technology to collect information about trafficking situation, lack of monitoring from the government, lack of Standard Operating Procedures for rehabilitation, repartition, communication and interception are the key challenges for the prevention and combating trafficking in Nepal. It has carried out the following research/studies during July 2016-June 2017:

1. **The Study of Resilience among Entertainment Sector Women and Girls Workers** – The study was conducted drawing sample of 30 entertainment sector women and girls workers in Kathmandu. The study findings are landmark in understanding how workers in the entertainment cope with the situation including their future aspiration.
2. **Study on Labor Condition and Access to Justice of Entertainment and Hospitality Workers** - The study was conducted in Kathmandu, Lalitpur and Bhaktapur drawing 504 girls/women working in the entertainment sector. The study showed the severe cases of abuse and exploitation that workers were deprived from many basic labor rights and there was fear of stigma attached to the work in entertainment sector.

**Tiny Hands Nepal –** is a faith based NGO dedicated to helping orphan and abandoned children and fighting sex trafficking in South Asia. Tiny Hands operates through national NGOs in Nepal, Bangladesh and India. It runs border surveillance centers along the Nepal-India border and Transit Homes.

**Women Forum for Women in Nepal (WOFOWON)** - It has been working in anti-trafficking

and safe migration issues since 2008. It works in prevention, protection, prosecution areas to ensure the human and labor rights of women and young girls working in the informal and entertainment sectors (dance restaurant, massage parlor, open and cabin restaurant). Its main target groups are community of women working in the informal and entertainment sectors, earthquake affected women, girls and children especially pregnant, lactating women, elderly women.

**Women Skill Creation Centre Nepal, Makwanpur**- This is one of the leading NGOs working in anti-trafficking areas in Makwanpur district. It mainly works in community awareness programs. It runs the interaction programs with stakeholders; it assists formation and mobilization of LCCHT on human trafficking, conducts interaction with the district network of victims; provides safe migration information, legal support, scholarship support and legal support to the most risk group of trafficking.

**Women Rehabilitation Center (WOREC) Nepal** – This is one of the leading NGOs working in empowerment of women in Nepal. WOREC Nepal conducted Radio program in Udayapur on safe migration issue, operation of migration information booths in Morang, Sunsari, Udayapur, Siraha, and Dhanusa, Dang, and Kailali districts.

### 4.10.2 Protection Related Services

Protection service here is defined as the services like rescue, repatriation, rehabilitation, reintegration, referral services, handling of missing cases including legal support. Table 4.21 summarizes the number of trafficked victims or at risk of trafficking who were provided protection services by sex and age. Note that it was only possible to include only the information from Biswas Nepal, Change Nepal, Chhori, HimRights, KI Nepal, Kumudini, Shakti Samuha and Maiti Nepal.

## Table 4.21 Distribution of persons provided protection related services by NGOs, FY 2016/17

| Categories | Total | Male | Female | Children | Adult |
|---|---|---|---|---|---|
| Persons intercepted | | | | | |
| Persons rescued | 1065 | 6 | 749 | 347 | 408 |
| Persons provided rehabilitation services | 603 | 0 | 603 | 166 | 174 |
| Persons provided reintegrated | 340 | 0 | 340 | 91 | 187 |
| Missing persons application received | 3196 | 18 | 165 | 96 | 86 |
| Missing persons found | 1199 | | | | |
| Untraced rate | 62.5 | | | | |
| Persons referred to other organizations | 106 | 0 | 106 | 78 | 28 |
| Persons received from other organization | 49 | 0 | 49 | 38 | 11 |
| Persons provided legal aid | 88 | 0 | 88 | 50 | 38 |

Note: Data were aggregated from the following eight NGOs: Biswas Nepal, Change Nepal, Chhori, HimRights, KI Nepal, Kumudini, Shakti Samuha and Maiti Nepal.

Source: data obtained from the concerned NGOs to OSRTH-NHRC and aggregated in Annex 4.5a to 4.5g.

**Rescue and Repatriation** – in the FY 2016/17, a total of 1065 number of trafficking victims was rescued by five NGOs: KI Nepal (466), Maiti Nepal (310), Biswas Nepal (276), Shakti Samuha (9), Chhori (3) and Kumudini (1). This number includes all the victims rescued within the country and outside of the country. Almost all the victims rescued were females while there were also some males. Of the total victims, children accounted for one-thirds and two-thirds were adult women. All the rescue cases of Biswas Nepal were from entertainment sectors in Kathmandu valley.

Maiti Nepal, according to its Annual Report of 2016, carried out 65 rescues from abroad and rest 245 from within the country (Table 4.22). Among those who were rescued from abroad, majority (52) were from India while there were 2 from Saudi Arabia, 3 from Kuwait, 1 from Bangladesh, and 7 from Sri Lanka. In India, majority were rescued from New Delhi (33), followed by Mumbai (9), Bihar (3), UP (2), Kolkata (3), Orissa (1) and 1 from Manipur. KI Nepal rescued 466 girls and women from different border points between Nepal and India in the FY 2016/17. Of the total rescued the highest proportion were from Sunauli (35%), followed by Krishna Nagar (21.5%), Nepalgunj (18%), Birgunj (14%), Biratanagar (8%) and 4 percent from Aaptari, Chitwan.

## Table 4.22 Distribution of the trafficked victims rescued by KI Nepal and Maiti Nepal, FY 2016/17

| | Number | % |
|---|---|---|
| **KI Nepal*** | | |
| Sunauli, Rupandehi | 163 | 35.0 |
| Krishna Nagar, Kapilbastu | 100 | 21.5 |
| Nepalgunj, Banke | 82 | 17.6 |
| Birgunj, Parsa | 65 | 13.9 |
| Biratnagar-Morang | 38 | 8.2 |
| Aaptari, Chitwan | 18 | 3.9 |
| Total | 466 | 100.0 |
| **Maiti Nepal**** | | |
| ***India*** | ***52*** | ***80.0*** |
| Delhi, India | 33 | 50.8 |
| Mumbai, India | 9 | 13.8 |
| Bihar | 3 | 4.6 |
| Utter Pradesh | 2 | 3.1 |
| Kolkata | 3 | 4.6 |
| Orissa | 1 | 1.5 |
| Manipur | 1 | 1.5 |
| ***Other countries*** | ***13*** | ***20.0*** |
| Saudi Arabia | 2 | 3.1 |
| Kuwait | 3 | 4.6 |
| Bangladesh | 1 | 1.5 |
| Sri Lanka | 7 | 10.8 |
| **Total** | **65** | 100.0 |

Source: * for KI Nepal, the letter sent to OSRT-NHRC, 2017 and ** for Maiti Nepal, the Maiti Nepal Annual Report 2016.

**Rehabilitation Services** – The details of the number of victims provided rehab services are given in Annex 4.5B. The rehab services include the services of temporary shelter, food, medical treatment, skill development training, psychosocial counseling, legal aids. Among the NGOs reported to OSRT-NHRC, Maiti Nepal (286), Shakti Samuha (166), KI Nepal (67), Chhori (58), Kumudini (17) and 9 by Biswas Nepal provided rehab services to the trafficked victims. All the victims provided rehab services were females and children accounted 40 percent and adult were 60 percent. Shakti Samuha has run Safe Houses in Pokhara, Kathmandu and Sindhupalchok districts. Of 166 victims in its Safe Houses, 93 were in Kathmandu, 37 in Sindhupalchok and 36 in Pokhara.

**Reintegration Services –** A total of 340 trafficked victims were reintegrated by six NGOs in the FY 2016/17 (Annex 4.5C). Two types of reintegration of the victims were found: one, victim's reintegration with the family and another, victim's reintegration to the family/community bygiving the skills development training, and seed money. Of the 340 reintegrated cases, 47 percent were reintegrated with the family while 53 percent were socially reintegrated by providing skills, seed money and job placement as well. Biswas Nepal reported that it reintegrated the trafficked victims/survivors to the family in districts like Baglung, Rolpa, Kailali, Gorkha, Dhading, Nuwakot, Sindhupalchok, Kaski and Chitwan. Change Nepal reintegrated 10 girls to their families by visiting their homes. These girls were from Dhading, Nuwakot, Nawalparasi, Rupandehi, Salyan, Khotang, Achham and Kathmandu. As a reintegration package, Change Nepal, provided vocational training to 72 girls and another 15 girls were provided business support.

However, from the data, it is not known whether the best interest of the victims/survivors was met during the reintegration process and whether the follow-up was conducted. From the discussion with the Shakti Samuha staff in Sindhupalchok and Aawaj staff in Surkhet, it was found that there is little focused in follow-up to the victims once they are reintegrated with the family and with the community.

**Referral Services –**NGOs have received the victims through different referral channels. Majority of victims are referred by Police Office, CDO office, District Women and Children Office, District Child Welfare Board including some NGOs. In FY 2016/17, 49 victims were received by the NGOs that have run the rehab centers. All the referral cases were females. There were 38 adult women and 11 were young girls. Note that of the total 49 victims, majority were the victims of trafficking or at risk of trafficking (23), followed by the victims of rape or attempt rape (19) and victims of domestic violence (12). All the victims were received by the NGOs for shelter support. Shelter support includes food, accommodation, and medical treatment, education support including skills or capacity development programs. At the individual NGO level, Chhori received 7 girls/women. They were in the age range of 15 to 25 years. They were largely the victims of sexual assaults. In case of KUMUDINI, among the six cases received through referral services, five were the victims of rape and one was victim of pedophile (Annex 4.5D).

Data reveal that 106 victims were referred to other organizations for more support such as skill development training, psychosocial counseling, medical treatment, and legal support. Of the total victims referred to other organizations, majority were children (78) while there were 28 adults. Of them, majority was victims of trafficking (43), followed by rape/attempt rape (27) and domestic violence (27). At the individual NGO, Change Nepal referred to 8 girls to other organizations for their shelter support. Of the referred girls 2 were 13 or 14 years of old while

others were in the age range of 17 or 18 years of old. All the girls were victims of sexual abuse including child labor and domestic violence (Annex 4.5E).

**Missing Persons –** NGOs also handle the missing person applications and they involve in seeking the missing persons with the support of Nepal Police and other relevant organizations, networks and groups. Maiti Nepal, KI Nepal and Shakti Samuha reported that they have handled the missing person applications in the FY 2016/17. Overall 3,196 mission person applications were received by these three organizations in the reference year. Data reveal that among the 178 missing persons handled by KI Nepal, an overwhelmingly majority were females (90%) against males (10%) and relatively more children (52%) over adults (48%). The overall untraced rate (for all three NGOs) is estimated to be 62.5 percent (Annex 4.5G).

**Prosecution and Legal Support** – NGOs also provide legal support to the victims (Annex 4.5). They support to the victim for First Information Registration (FIR) to Police, investigation and prosecution processes by collecting the evidences. In FY 2016/17, NGOs like Maiti Nepal, Shakti Samuha, KI Nepal, Chhori and Biswas Nepal supported 88 trafficked victims to file the case in Police and investigation. All the victims provided legal support were females and nearly 40 percent were children as well.

Chapter 5

# Law Enforcement Status and Judicial Responses to Trafficking

This Chapter reviews the legal framework, law enforcement status and judicial responses to trafficking.

## 5.1 Legal Framework

As legal framework for combating TIP, Nepal is a state party of major human rights instruments. Among them, the *UN Convention on Transnational Organized Crime 2000* is the major one in handling of human trafficking crime. Nepal ratified it on June 24, 2011. The Government of Nepal is in the process of ratification of *UN Convention on Transnational Organized Crime, 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000*. However, Government of Nepal has yet to give the priority to ratify the *UN Convention on Migrant Workers and Their Families, 1990*; *ILO Convention 189 on Domestic Workers 2011*; *ILO Convention on Forced Labor Number 29 Protocol of 2014*. In May 2016, the Government of Nepal as the capacity of chair of the SAARC prepared Zero Draft of 'SAARC Declaration on Labor Migration' and sent it for discussion among the SAARC countries. The Government organized a Consultative Workshop on SAARC Plan of Action on labor migration. The Action Plan seeks to i) set up an institutional mechanism at the regional level; ii) facilitate the development of a 'SAARC Declaration on Labor Migration' and iii) identify priority thematic areas for regional cooperation. There are seven areas of commitments made by the declaration (Luitel, 2016):

- Development of a Framework for Skills Qualification
- Strengthen Pre-departure Orientation Programs for Workers
- Formulation of Standard Employment Contract and Minimum Wages
- Establishment of a Mechanism for Information Exchange and Knowledge Building
- Ensuring Fair and Ethnical Recruitment
- Maximizing the Development Potential of Migration
- Improvement in the Justice Mechanisms, Support Services, Welfare a

At the Nepal's domestic legal framework, the Constitution of Nepal (2015) is the overreaching law of the land for the protection of rights of the victims, right against exploitation. The Constitution also grants special rights for women and children (Box 5.1).

## Box 5.1 Provisions in Constitutions of Nepal for right of victims and rights against exploitation

| Article | | Provisions |
|---|---|---|
| Article 21 | Right of victim of crime | (1) A victim of crime shall have the right to get information about the investigation and proceedings of a case in which he or she is the victim. (2) A victim of crime shall have the right to justice including social rehabilitation and compensation in accordance with law. |
| Article 29 | Right against exploitation | (1) Every person shall have the right against exploitation. (3) No one shall be subjected to trafficking nor shall one be held in slavery or servitude. |
| Article 39 | Rights of child | (5) No child shall be subjected to child marriage, transported illegally, abducted/kidnapped or taken in hostage. |
| Article 38 | Rights of women | (3) No woman shall be subjected to physical, mental, sexual, psychological or other form of violence or exploitation on grounds of religion, social, cultural tradition, practice or on any other grounds…. |

The *Human Trafficking and Transportation (Control) Act 2064* (2007) and its accompanying Rule 2008 are the laws for punishment of trafficking crime and protection of the rights of the victims. The Act has the following key features:

- The Act differentiates in trafficking in persons between adults and children by providing different levels of punishment for adult and child trafficking.
- The Act criminalizes commit or cause to commit human trafficking and transportation and punishes up to 20 years imprisonment and a fine of Rs. 200,000 for selling or buying a human being.
- The Act provides compensation to the victim of not less than half of the fine levied.
- The Act has provisions of rescue, rehabilitation and reconciliation.
- The Act exempts a person from punishment of killing or injuring the perpetrator if a person knows or there is reasonable ground to do so.

The Government of Nepal has amended the Act in 2016 with the greater pressure from the civil society and from the human rights activists. By amending it, the act has increasingly become victim friendly although the scope of the Act is still limited within the country. The amendment was done in the following area:

- The accused should be kept in police custody during the trail process (replaced the Section 8, and added with the provision).
- The victim can appoint a legal practitioner if he/she wishes to do so (replaced the Section 10, and added with the provision).
- The victim can appoint a translator, a dual language expert, and a symbolic language expert if the victim wishesto do so (replaced the Section 10, and added with the provision).
- The Government can establish cooperation with a foreign country for the exchange of legal treatment in case of victims being rescued from abroad (Section 12 added).
- The Government shall establish Rehabilitation Fund for providing the compensation to the victim (replaced the Section 14.1, and added with the provision).

- The victim may be exempted from punishment if the perpetrator happens to be killed or injured in the course of releasing from the perpetrators on the ground that 'he/she is being bought, sold or engaged in prostitution…' (Replaced Section 15.6, and added the provision).
- The victim shall be provided compensation from the Rehabilitation Fund if the perpetrator cannot pay the amount of the compensation due to his/her poor economic condition (Added provision in Section 17.1 *ka*)
- The Government shall provide daily allowance to the witness (Added the provision in Section 26ka).

Although the Act has been amended in several areas, according to the Mid-Term Implementation Report on NPA against TIP (MoWCSC, 2018), the Act still fails to include pornography, forced labor or services, slavery, slavery like practices and servitude in the definition of trafficking. Particularly, the Act has not explicitly covered the internal trafficking, trafficking of children from the religious places and Child Care Homes, trafficking of men and women in the process of migration for foreign employment. Instead, many of the cases that satisfy the definition of trafficking are field under the Foreign Employment Act 2008. The Foreign Employment Act's scope is limited to punish in case of deception and fraud involved related to foreign employment.

## 5.2 Law Enforcement Status

The key law enforcement agency is the Nepal Police. As discussed in Chapter two, the number of trafficking cases filed in the Nepal Police has not substantially increased over the years compared to the widespread reporting of the large number of victims of trafficking occurring in Nepal. Many stakeholders in Jhapa, Sindhupalchok, Kavre, Sunsari and Surkhet (that the OSRT-NHRC team visited) complained that it is not easy to file the First Information Report (FIR) to Nepal Police on human trafficking crime.

**Prisoners in Charge of Human Trafficking Crime** – The number of prisoners in charge of TIP crime may be taken as one of the indicators of status of law enforcement. According to the Human Trafficking and Transportation (Control) Act 2007, the accused of committing human trafficking must be kept in custody during his/her trail process. Such a person is called custody while a person who has been convicted by the competent court in charge of the crime is called prisoners.

### Table 5.1 Distribution of prisoners in charge of committing crime of TIP, FY 2015/16-2016/17, Nepal

| | FY 2015/16 | | | | FY 2016/17 | | | |
|---|---|---|---|---|---|---|---|---|
| | Female | Male | Total | % of total | Female | Male | Total | % of total |
| Prisoners | 201 | 431 | 632 | 79.7 | 163 | 437 | 600 | 70.4 |
| In custody | 62 | 99 | 161 | 20.3 | 82 | 170 | 252 | 29.6 |
| Total | 263 | 530 | 793 | 100.0 | 245 | 607 | 852 | 100.0 |
| **Row %** | 33.2 | 66.8 | 100.0 | | 28.8 | 71.2 | 100.0 | |

Source: Department of Prison Management, Kathmandu cited from MoWCSC, 2074 (2017) and MoWCSC, 2073 (2016).

According to the records of the Department of Prison Management, Kathmandu, there were 793 prisoners in FY 2015/16 and 852 persons in FY 2016/17 in charge of committing human trafficking, across the prisons of Nepal (Table 5.1). In FY 2015/16, nearly 80 percent were prisoners while the rest 20 percent werein custodyand the comparable figures in FY 2016/17 were 70 percent and 30 percent, respectively. Both males and females are imprisoned in charge of TIP cases although majority is males. In FY 2015/16, two thirds of prisoners were males against one-third for females. In 2016/17, 71 percent of the prisoners in charge of committing TIP crime were males and rest 29 percent were women.

The following are some of the testimonies how Nepal Police intervened to the trafficking racket in FY FY2015/16 and FY 2016/17.

- On July 9, 2017, Mahilakhapar.com[39] wrote news from Sindhupalchok district that a man of 26 year old Santosh of Sangachok Gadi Municipality-1was arrested. He was abscond. The Sindhuli district court sentenced him 10 years imprisonment and Rs. 50,000 as fine. He had run away from the jail after the earthquake of mid-April 2015. He was convicted of selling of two women from the district. He was arrested from Banepa, Kavre.
- On July 27, 2017, online media[40] reported that 'four men were arrested in Nuwakot district in charge of attempting to sell a woman'. The police arrested them in charge of brining a 24 year old woman of Tupcheshowar Rural Municipality -1 of Ghangyag Phedi to sell her. The accused were 22 year old Kumar Tamang of Ghangyag Phedi, 25 year old Arjun Tamang, 26 year old Raju Tamang and 21 year old Indra Lal Rajbansi of Mahabhara, Jhapa district. They were arrested from Kharanitar of Nuwakot on route to Kathmandu. The police submitted a Case-file to the district Government Attorney for prosecution of four persons in act of human trafficking and transportation crime.
- On July 27, 2017, the ekantipur[41] (from Nuwakot) reported that a 44 year old man (Man Bhadur) was arrested from Dhupcheshowar-1, Ghyang Phedi in charge of selling of a 12 year old girl. He was charged that he sold a 12 year old girl Kabita (name changed) in Kolkata by deception of her good job. The girl stayed about one-month in the brothel. She along with other 20 girls was rescued by the International Justice Mission and Indian Police. Kabita was provided rehabilitation services Sankalpa- an Indian NGO. She returned to Nepal some five-years ago. Now, she is living in a rehab center in Kathmandu.
- On August 26, 2017, news was published in the ekantipur[42] that 'a young man was arrested by Dolakha Police in charge of human trafficking'. The accused was 21 year old Dalit man. He was charged in selling of a girl in India by fake marriage. The charge sheet was filed that he sold a 16 year girl of Namdu, Dolakha in New Delhi in Rs. 135,000. The victim was transported to India through Nepalgunj border by using drugs of unconscious. After staying one year in the brothel in Majnukatilla, New Delhi, she ran away and reached to the Nepali Embassy Office to India. She was provided rehab services for a year in Kishore India Center and later she returned to Nepal.

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*39 http://mahilakhabar.com/news/2017/07/09/29042.html.*

*40 http://www.onlinekhabar.com/2017/07/613116/ downloaded 2017/7/27.*

*41 http://kantipur.ekantipur.com/news/2017-07-27/20170727122952.html.*

*42 http://radiokantipur.ekantipur.com/news/2017-08-26/20170826185239.html.*

## 5.3 Judicial Responses to Trafficking

**The Share of Trafficking Cases** – Table 5.2 summarizes the number of trafficking cases registered in Supreme Court, High Courts and District Courts of Nepal in three fiscal years 2013/14, 2015/16 and 2016/17 vis-à-vis the total number of cases in the courts. Data reveal that the total number of TIP cases in the courts of Nepal was 1007 in 2013/14, which slightly increased to 1092 in FY 2015/16 and it reduced to 946 again in FY 2016/17. The percentage share of the TIP cases to the total cases registered in the courts of Nepal comes out to 0.5 percent to 0.6 percent in these three fiscal years. In other words, there were 6 TIP cases in 1,000 total cases in the courts of Nepal in the FY 2013/14 and 2015/16 while it is 5 per 1,000 total cases in the courts in FY 2016/17. In FY 2015/16, the share of TIP cases in the Supreme Court was 1.6 while it declined to 0.7 percent in FY 2016/17. The share of the TIP cases in the High Courts remained almost the same in FY 2015/16 and 2016/17 (around 1%) while it was 0.7 percent in FY 2013/14. The share of the TIP cases in the district courts appears to be declining. For example, the share of the TIP cases was 0.5 percent in FY 2013/14, which declined to 0.3 percent in FY 2015/16 and to 0.2 percent in FY 2016/17.

### Table 5.2 Share of trafficking persons (TIP) cases to the total cases in the courts of Nepal, FY 2013/14-2016/17

| Courts | FY 2013/14 | | | FY 2015/16 | | | 2016/17 | | |
|---|---|---|---|---|---|---|---|---|---|
| | Total cases | Number of TIP cases | % share of TIP cases | Total cases | Number of TIP cases | % share of TIP cases | Total cases | Number of TIP cases | % share of TIP cases |
| Supreme Court | 20,353 | 215 | 1.1 | 27,100 | 431 | 1.6 | 25,458 | 185 | 0.7 |
| High Courts | 28,997 | 206 | 0.7 | 34,764 | 336 | 1.0 | 36,667 | 474 | 1.3 |
| District Courts | 109,349 | 586 | 0.5 | 117,713 | 336 | 0.3 | 125,753 | 287 | 0.2 |
| Total | 158,699 | 1,007 | 0.6 | 179,713 | 1,092 | 0.6 | 187,878 | 946 | 0.5 |

Source: Annual Reports of Supreme Court, FY 2013/14, 2015/16 and 2016/17.

Table 5.3 shows the levels and trends of trafficking crime cases registered and disposed by the Supreme Court of Nepal from FY 2012/13 to FY 2016/17. A 5-year-average number of the trafficking cases registered and decided in the Supreme Court come out to be 165 and 25, respectively – thus resulting to 57 percent conviction rate.

Note that the conviction rates are relatively higher in the FY 2015/16 and FY 2016/17 compared to the earlier three years. In FY 2016/17, a total of 156 cases were decided and the conviction rate was 61.5 percent and in FY 2015/16, the conviction rate was 66.7 percent while the conviction rate was nil in FY 2013/14 and it was 23 percent in FY 2014/15/. In the FY 2016/17, the pending rate is also very low (37%) – revealing a fast decisions on human trafficking cases in the Supreme court in the FY 2016/17 compared to the earlier years considered here.

## Table 5.3 Number of trafficking crimes registered, convicted, acquitted and pending in the Supreme Court, 2012/13 -2016/17, Nepal

| Years | Total Cases | No. of cases convicted | No. of cases acquitted | Total cases decided | Conviction rate (%) | No. of pending trials | Pending rate ( %) |
|---|---|---|---|---|---|---|---|
| 2012/13 | 78 | 4 | 8 | 12 | 33.3 | 66 | 84.6 |
| 2013/14 | 119 | 0 | 2 | 2 | 0.0 | 117 | 98.3 |
| 2014/15 | 138 | 7 | 23 | 30 | 23.3 | 108 | 78.3 |
| 2015/16 | 239 | 16 | 8 | 24 | 66.7 | 215 | 90.0 |
| 2016/17 | 249 | 96 | 56 | 156 | 61.5 | 93 | 37.3 |
| 5-year average | 165 | 25 | 19 | 45 | 55.6 | 120 | 72.7 |

Note: The conviction rate is defined as the ratio of number of convicted cases in a particular year to the total cases decided by a court in that year. The pending rate is defined as the ratio of number of pending cases in a particular year to the total cases registered in that year in a court.

Source: Annual Reports of OAG, 2012/13, 2013/14, 2014/15, 2015/16 and 2016/17.

**High Courts** - The 5-year average number of cases registered in the High Court comes out to be 281 and the 5-year average conviction rate and pending rates are 42 per cent, and 51 percent, respectively (Table 5.4). Data clearly reveal that the number of TIP cases filed in the High Courts has consistently increased over the last five years (FY 2012/13-2016/17). For example, it increased from 208 in FY 2012/13 to 365 in FY 2016/17 – an increase in more than 75 percent in the last five years.

## Table 5.4 Number of trafficking cases registered, convicted, acquitted and pending in the high courts, 2012/13 -2016/17, Nepal

| Years | Total Cases | No. of cases convicted | No. of cases acquitted | Total cases decided | Conviction rate (%) | No. of pending trials | Pending rate ( %) |
|---|---|---|---|---|---|---|---|
| 2012/13 | 208 | 48 | 58 | 108* | 44.4 | 100 | 48.1 |
| 2013/14 | 231 | 32 | 48 | 80 | 40.0 | 151 | 65.4 |
| 2014/15 | 300 | 96 | 105 | 201 | 47.8 | 99 | 33.0 |
| 2015/16 | 299 | 46 | 94 | 140 | 32.9 | 159 | 53.2 |
| 2016/17 | 365 | 62 | 95 | 157 | 39.5 | 208 | 57.0 |
| 5-year average | 281 | 57 | 80 | 137 | 41.6 | 144 | 51.2 |

Note: * cases of *multabi* also includes in this category and hence number of conviction and acquittal cases may not tally with the total decided cases.

Source: Annual Reports of OAG, 2012/13, 2013/14, 2014/15, 2015/16 and 2016/17.

Table 5.5 presents the status of the TIP cases in High Courts of Nepal for the FY 2016/17. Data reveal that except in Jumla High Court, there were TIP cases in all other High Courts in the FY 2016/17. Among the 18 High Courts, the Patan High Court alone had one-thirds of the total cases. There are also much higher proportions of TIP cases in High Courts of Biratanagar (14%), Butawal (12%), Illam (7%) and Nepalgunj (7%) compared to other High Courts such as Dhankuta (06%), Okhaldhunga (1%), Janakpur (1%), Hetauda (2%), Birgunj (2.5%), Baglung (2%), Tulsipur (1%) and Surkhet (2.5%).

## Table 5.5 Number of trafficking cases registered, convicted, acquitted and pending by High Courts, FY 2016/17, Nepal

| SN | High Courts | Total cases | No. of cases convicted | No. of cases acquitted | Total cases decided | Conviction rate (%) | No. of pending trials | Pending rate ( %) |
|---|---|---|---|---|---|---|---|---|
| 1 | Illam | 26 (7.2) | 4 | 13 | 17 | 23.5 | 9 | 34.6 |
| 2 | Dhankuta | 2 (0.6) | 1 | 0 | 1 | 100.0 | 1 | 50.0 |
| 3 | Biratanagar | 51 (14.0) | 6 | 4 | 10 | 60.0 | 41 | 80.4 |
| 4 | Okhaldhunga | 4 (1.1) | 2 | 1 | 4 | 50.0 | 0 | 0.0 |
| 5 | Rajbiraj | 13 (3.6) | 3 | 6 | 9 | 33.3 | 4 | 30.8 |
| 6 | Janakapur | 5 (1.4) | 2 | 0 | 2 | 100.0 | 3 | 60.0 |
| 7 | Birgunj | 9 (2.5) | 2 | 2 | 4 | 50.0 | 5 | 55.6 |
| 8 | Hetauda | 8 (2.2) | 4 | 1 | 5 | 80.0 | 3 | 37.5 |
| 9 | Patan | 123 (33.9) | 17 | 26 | 43 | 39.5 | 80 | 65.0 |
| 10 | Pokhara | 10 (2.8) | 2 | 1 | 3 | 66.7 | 7 | 70.0 |
| 11 | Baglung | 2 (0.6) | 0 | 0 | 0 | - | 2 | 100.0 |
| 12 | Butawal | 43 (11.8) | 6 | 22 | 28 | 21.4 | 15 | 34.9 |
| 13 | Tulsipur | 4 (1.1) | 2 | 0 | 2 | 100.0 | 2 | 50.0 |
| 14 | Nepalgunj | 24 (6.6) | 1 | 7 | 8 | 12.5 | 16 | 66.7 |
| 15 | Surkhet | 9 (2.5) | 0 | 3 | 3 | 0.0 | 6 | 66.7 |
| 16 | Jumla | 0 (0.0) | | | | - | - | - |
| 17 | Dipayal | 14 (3.9) | 0 | 6 | 6 | 0.0 | 8 | 57.1 |
| 18 | Mahendranagar | 16 (4.4) | 6 | 5 | 11 | 54.5 | 5 | 31.3 |
| | Total | 363 | 58 | 97 | 156 | | 207 | 57.0 |

Note: Two cases were missing and hence not included in the Table. Figures in parentheses indicate the percentage of the total cases.

Source: Annual Report of OAG, 2016/17.

The conviction rates vary by High Courts, it ranges as low as zero to 100 percent. But considering only the Patan High Court data, the conviction rate is less than 40 percent. The pending trail rates are also relatively higher in those High Courts were there were relatively large number of TIP cases such as High Courts of Patan (65%), Biratanagar (80%) and Nepalgunj (67%).

**District Courts** –District courts are the initial courts of Nepal. The 5-year (FY 2012/13-FY 2016/17) average number of trafficking cases registered and disposed in the district courts comes out to be 358 and 191, respectively. The 5-year average conviction and pending rates are 54.5 per cent 47 per cent, respectively (Table 5.6).

**Table 5.6 Number of trafficking cases registered, convicted, acquitted and pending in the district courts, 2012/13 -2016/17, Nepal**

| Years | Total Cases | No. of cases convicted | No. of cases acquitted | Total cases decided | Conviction rate (%) | No. of pending trials | Pending rate ( %) |
|---|---|---|---|---|---|---|---|
| 2012/13 | 341 | 58 | 56 | 115 | 50.4 | 226 | 66.3 |
| 2013/14 | 168 | 47 | 39 | 86 | 54.7 | 82 | 48.8 |
| 2014/15 | 431 | 133 | 107 | 241* | 55.2 | 190 | 44.1 |
| 2015/16 | 395 | 130 | 115 | 245 | 53.1 | 150 | 38.0 |
| 2016/17 | 454 | 153 | 113 | 270* | 56.7 | 184 | 40.5 |
| 5-year average | 358 | 104 | 86 | 191 | 54.5 | 167 | 46.6 |

Note: * cases of *multabi* also includes in this category and hence number of conviction and acquittal cases may not tally with the total decided cases.

Source: Annual Reports of OAG, 2012/13, 2013/14, 2014/15, 2015/16 and 2016/17.

Office of the Attorney General has maintained human trafficking cases according to the definition of human trafficking and transportation as given in the Human Trafficking and Transportation (Control) Act 2007. As discussed in Introduction, the Act defines the following acts as human trafficking and transportation:

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

Section 15 of the Act outlines the different types of punishment and compensation by types of offences (Box 5.2). Generally, the punishment is more for human trafficking crime against the crime of human transportation, and trafficking of a child against an adult person. Punishment appears low in case of crime of 'engaging in prostitution'.

## Box 5.2 Offences, punishment and fine in Human Trafficking and Transportation (Control) Act 2007

| Offences | Imprisonment | Fine |
|---|---|---|
| Selling or buying a person for any purpose | 20 years | Rs. 200,000 |
| To use someone into prostitution, with or without any benefit | 5 years to 10 years | Rs. 50,000 to Rs. 100,000 |
| Extracting human organs | 10 years | Rs. 200,000 to Rs. 500,000 |
| A person engaged in prostitution | 1 – 3 months | Rs. 2,000 to Rs. 5,000 |
| **Human Transportation** | | |
| Taking a person out of country | 10 years to 15 years | Rs. 50,000 to Rs. 100,000 |
| Taking a child out of country | 15 years to 20 years | Rs. 100,000 to Rs. 200,000 |
| Taking a person from one place to another within a country | 10 years | Rs. 50,000 to Rs. 100,000 |
| Taking a child from one place to another within a country | 10-12 years | Rs. 100,000 |

Source: Section 15 of Human Trafficking and Transportation (Control) Act, 2064 (2007).

Table 5.7 summarizes the TIP cases filed in the district courts of Nepal in the FY 2015/16 and FY 2016/17 by types of the offences committed. In FY 2015/16, there were 395 cases. Of them, more than two-thirds were filed under the 'human transportation', 31 percent under the crime of 'selling or purchasing of a person', less than 1 percent (08%) for 'extraction of human organs' and 1 percent 'to use someone into prostitution'. There were no cases related to 'to go for in prostitution'. There were 977 defendants in these cases – suggesting more than 2 person defendants/per TIP case. The convection rate is almost the same for the crime of 'to sell or purchase a person' (55%) and 'human transportation' (51%). On the other hand, the convection rates are much higher in case of 'extraction of human organs, selling' (67%) and 'to use someone into prostitution' (100%).

In FY 2016/17, there were 454 TIP cases filed in the district courts. Of them, only 30 percent were filed under the crime of 'selling or purchasing of a person' while 70 percent were field under the crime of 'human transportation'. There were no cases under the crime of 'to use someone into prostitution' and 'to go for in prostitution'. The convection rates were much lower for the crime of 'selling or purchasing of a person' (23%) against 77 percent for 'human transportation' crime.

**Table 5.7 Number of trafficking cases registered, convicted, acquitted and pending in the district courts, by types of charges, FY 2015/16 and 2016/17, Nepal**

| | Total | | Conviction | | Acquittal | | Returned | | Total cases decided |
|---|---|---|---|---|---|---|---|---|---|
| | Cases | Offenders | Cases | Offenders | Cases | Offenders | Cases | Offenders | |
| **FY 2016/17** | | | | | | | | | |
| To sell or purchase a person | 137 (30.2) | 340 (45.3) | 35 (22.7) | 68 | 22 | 53 | 0 | 0 | 57 |
| Human transportation | 317 (69.8) | 711 (54.7) | 119 (77.3) | 207 | 87 | 176 | 6 | 13 | 206 |
| Extraction of human organs, selling | 0 | 0 | | | | | | | |
| To use someone into prostitution | 0 | 0 | | | | | | | |
| To go for in prostitution | 0 | 0 | | | | | | | |
| Total | **454** | **751** | **154** | **275** | **109** | **229** | **6** | **13** | **263** |
| **FY 2015/16** | | | | | | | | | |
| To sell or purchase a person | 121 (30.6) | 305 (31.2) | 41 (54.7) | 81 | 34 | 84 | 0 | | 75 |
| Human transportation | 267 (67.6) | 658 (67.3) | 84 (51.2) | 170 | 80 | 147 | 1 | 5 | 164 |
| Extraction of human organs, selling | 3 (0.8) | 7 (0.7) | 2 (66.7) | 6 | 1 | 1 | - | - | 3 |
| To use someone into prostitution | 4 (1.0) | 7 (0.7) | 3 (100.0) | 5 | 0 | 0 | - | - | 0 |
| To go for in prostitution | 0 | 0 | 0 | 0 | 0 | 0 | - | - | 3 |
| Total | 395 | 977 | 130 | 262 | 115 | 232 | 1 | 5 | 245 |

Note: Figures in parentheses indicate the percentage of total. In case figures in the 'conviction' column, the figures refer to the conviction rates.

Source: Annual Reports of OAG 2015/16 and 2016/17.

Table 5.8 charts the top 11 district-courts with having at least 10 cases of TIP in the FY 2016/17. The share of the TIP cases in these 11 district courts alone accounted for more than 73 per cent. At the individual district court, an overwhelmingly large number case was in Kathmandu district court (153 cases). This is followed by other three districts courts, namely, Jhapa (36 cases), Rupandehi (30 cases) and Banke (25 cases). There were 19 cases in Kanchanpur, 16 in Sunsari, 12 in Chitwan and 11 each in Morang and Kaski district courts. There were 10 cases each in Parsa and Kapilbastu district courts. It is important to note that all of the TIP cases in Kathmandu district court were under the crime of 'human transportation' and there were no cases related to 'selling or purchase of a person'.

**Table 5.8 Top-11 districts with TIP Cases in the districts courts of Nepal, FY 2016/17**

| | District courts | To sell or purchase a person | | Human transportation | | Total TIP cases | |
|---|---|---|---|---|---|---|---|
| | | Number of cases | Number of defendants | Number of cases | Number of defendants | Number of cases | Number of defendants |
| 1 | Kathmandu | 0 | 0 | 153 | 348 | 153 | 348 |
| 2 | Jhapa | 0 | 0 | 36 | 76 | 36 | 76 |
| 3 | Rupandehi | 29 | 74 | 1 | 1 | 30 | 75 |
| 4 | Banke | 7 | 23 | 18 | 54 | 25 | 77 |
| 5 | Kanchanpur | 0 | 0 | 19 | 38 | 19 | 38 |
| 6 | Sunsari | 2 | 3 | 14 | 34 | 16 | 37 |
| 7 | Chitwan | 12 | 26 | 0 | 0 | 12 | 26 |
| 8 | Morang | 0 | 0 | 11 | 21 | 11 | 21 |
| 9 | Kaski | 11 | 18 | 0 | 0 | 11 | 18 |
| 10 | Parsa | 10 | 20 | 0 | 0 | 10 | 20 |
| 11 | Kapilbastu | 9 | 19 | 1 | 1 | 10 | 20 |
| | Total | 80 | 183 | 253 | 573 | 333 | 756 |

Source: Annual Report of OAG, 2016/17.

The following is one of the landmark decisions of the district court Nuwakot in convection of the trafficker.

**Case 5.1 Decision of District Court of Nuwakot: Sun Bahadur Tamang convicted for 6 years**

According to Central Investigation Bureau (CIB), Sun Bahadur Tamang of Tupcheshowar Rural Municipality, Nuwakot has been accused of running of brothels in different four locations in India and trafficking of more than 200 girls. His wife, Radha, has been running the brothels while Sun Bahadur supplies the girls. He is charged of running the brothels in i) JB Road Street No-64, New Delhi ii) Sola Garchhe-15, Pune, iii) Kolkata and iv) Mumbai.

In 1996, Sun Bahadur including three other men was suspected to have brought four girls of Ghyang Phedi, Nuwakot in Kakarbhitta intending to sell them in India. But he and other two men ran away and one of them was arrested and convicted. In the same case, the Nuwakot district court sentenced him 6 years. In this case, Sun Bahadur went to challenge the district court's decision to the Patan High Court, but the High Court also confirmed the district court's decision. The court decision cannot be implemented as he ran away.

On 2014, another case was filed against him in charge of selling of many girls from Ghayang Phedi, Nuwakot. This was revealed when two of the said trafficking victims escaped from a brothel in New Delhi and complained against Sun Bahadur. The victim, 37, accused of Sun Bahadur including other four persons for selling her in the brothel. On January 22, 2018, the Kathmandu district court in another case released him on bail of Rs. 500,000. But he was again arrested to implement the Nuwakot district court order of six years imprisonment. Sun Bahadur became

the candidate of Ward Chair of Tupcheshowar Rural Municipality-1 from Nepali Congress when he was still run away from the eye of Police. He was also elected as the Ward Chair.

### 5.4 Victim's Access to Compensation

The *Human Trafficking and Transportation (Control) Act (2064) 2007* makes the provision for compensation to the trafficking victims (Section 17). It says, 'a court shall issue order to provide compensation to the victim which shall not be less than half of the fine levied as punishment to the offender'. The status of the access to compensation to the victims has been discussed here drawing a study conducted by FWLD (2017). The study analyzed the cases of trafficking into three groups:

- The cases field in the districts courts of Makwanpur, Sindhupalchok, Kavre, Kathmandu, Banke and Kanchanpur. A total of 125 prosecution sheets were studied. These districts were taken in the sampling because the CTIP project (2010-2015) funded by USAID was implemented in these districts. The project's intervention areas were related to prevention, prosecution and protection areas.
- The cases decided by the District Courts and High Courts but were filed for appeal in the Supreme Court. They studied 66 cases of *Misil* in the Office of the Attorney General.
- The cases decided by the Supreme Courts which were field under the Human Trafficking and Transportation 2007 and published in *Nepal Kanuna Patrika* (number of cases studied is not mentioned in the book, however) (Table 5.11).

### Victims' Access to Compensation: The Cases Field in the District Courts

Table 5.9 shows the status of access to compensation of the victims among the trafficking cases registered in District Courts (N=125 number of *Misil*).

Nature of Crime - Of the 125 cases in the districts courts studied, majority (48%) were related to the crime of 'human transportation' within the country, followed by 'human trafficking' (30%), 'human transportation abroad' (19%), and only 2 per cent extraction of human organs.

Age and Sex of the Victims - In 90 percent of cases, females were the victims while the rest 10 percent were males. By age group, an overwhelmingly majority (97%) of the victims were adult women and men while only 3 percent victims comprised of minors.

Status of the Investigation of the Property of Offenders - In majority of cases, the property of the offenders was investigated (64%) while in the rest 36 percent, it was not. Of the cases in which the property of the offenders investigated, 61 percent was of fixed assets/capital, 37 percent the movable assets/capital and 2 percent for both fixed and movable assets. Among the cases in which the property was investigated, the highest proportion of the cases it was the joint family's property (51%). This is followed by others (36%), 'father son property' (11%) and 'husband wife (2%) property.

Status of the Investigation Authority Request for Investigation of the Property of the Offender to the Government Attorney - Because the crimes under the Human Trafficking and Transportation (Control) Act 2007 are the state cases, the Investigation Authority has to request the order from the Government Attorney to investigate the property of the offenders. In the sample of 125

cases, none of the cases such an order was sought from the Government Attorney.

Status of the demand of compensation to the victims in the charge sheet – In all 125 cases, the interim relief or economic support to the victims was claimed. As per the Human Trafficking and Transportation (Control) Act 2007, the Court may order the compensation to the victim but if the offender has poor economic condition, the compensation money shall be provided from the Rehabilitation Fund.

Status of Demand for the Banning of the Property of the Offender - In only 4 percent of the cases, the prosecutors demanded the banning of a sale or transfer of offender's and his/her family's property while in the rest 96 percent cases such a demand was not lodged.

Status of the Court's Decision on Compensation to the Victim - Of the cases decided by the Court, in more than 50 percent cases, the Court ordered for the compensation to the victims while in the rest cases, there was no mention of compensation.

Status of the Payment of Compensation to the Victims - Of the cases in which the court decided for compensation, only in 44 percent cases compensation was being paid, and in 5 percent cases there was no details about the property of the offenders.

**Table 5.9 Status of access to compensation of the victims among the trafficking cases registered in District Courts (N=125 number of misils)**

| Types | % |
|---|---|
| **Types of Crime** | |
| Human transportation (abroad) | 19.0 |
| Human transportation (within the country) | 48.0 |
| Human trafficking | 30.0 |
| Extraction of human organs | 2.0 |
| Others | 1.0 |
| **Victims sex and age** | |
| Women | 89.0 |
| Men | 11.0 |
| Minor girls | 1.0 |
| Minor boys | 2.0 |
| % of cases in which property of the accused is investigated | 64.0 |
| **If investigated, types of property investigated** | |
| Fixed assets/capitals | 61.0 |
| Movable assets/capitals | 37.0 |
| Both | 2.0 |

| Whose property was investigated? | |
|---|---|
| Joint family's property | 51.0 |
| Father-son's property | 11.0 |
| Husband-wife/father-son's property | 2.0 |
| Others | 36.0 |
| % of cases in which investigation officer requested the order from the Government Attorney to investigate the property of the accused | 0.0 |
| % of cases in which prosecution letter included the demand for property compensation to the victims | 100.0 |
| % of cases in which interim compensation relief/economic support to the victims was claimed | 0.0 |
| % of cases in which prosecution-letter claimed compensation to the victims | 100.0 |
| % of cases in which the property of the accused banned for selling or transfer | 4.0 |
| % of cases in which the court's decision to be paid to the victims | 50.0 |
| % of cases in which the decision to be compensated made, the state of the implementation of the order | 44.0 |

Source: summarized from FWLD (2017).

**Victims' Access to Compensation: The Cases Disposed by District Courts and High Courts**

Table 5.10 summarizes the status of access to compensation of the victims among the trafficking cases decided by the District and High Courts (N=66 *Misils*).

Nature of Crime – Of 66 cases studied, majority of cases (57%) were related to human transportation to abroad, followed by human transportation within the country (21%), human trafficking (14%) and human organs trafficking (1%) and 7 percent for others.

Age and Sex of the Victim – Ninety two percent of the victims were females and rest 8 percent were males. By age group, 35 percent of the victims were minors (31% girls and 4% boys) and rest 65 percent were adult women and men.

Status of the Investigation of the Offender's Property to Compensate the Victim – In 98 percent cases, the property of the offenders was not investigated while only in 2 percent cases it was.

Status of the Investigation Officer Demanding the Order from the Government Attorney for Investigation of the Offender's Property –In the sample of 66 cases studied, only in 2 percent cases, the Investigation Officer demanded the order from the Attorney, while in the rest 98 percent cases, it was not.

Status of the Demand for Compensation in the Prosecution Sheet – Nepal's criminal justice system demands the court shall look into only the matters demanded in the charge sheet. If

the charge sheet fails to demand the compensation to the victims, there is less possibility of compensation order from the courts. Of 66 cases studied, in 10 percent cases, the demand to provide the compensation was included in the charge sheets while in the rest 90 percent cases, it was not.

Status of the Restriction of Offender's Property for Selling or Transfer – In the human trafficking and transportation crime, if the offender or joint family's property is restricted to sell or transfer until the case is not disposed, it will be easy to compensate the victims. Of the cases in which the property of the offender/family was investigated, only in one case, the court ordered the restriction of the offender's property from a sale or a transfer.

Status of the Decision of the High Court vis-à-vis the Decision of the District Court –The District court is the initial court and its decision can be challenged in the upper layer courts of Nepal. Of the cases decided by the High Courts, in 44 percent cases, the High Court confirmed the District Court's decision on matters of compensation to the victim, in 17 percent cases, the High Court did not confirm District's court decision and acquitted the accused, in 15 percent cases, the High Court reduced the punishment; in 11 percent cases, the punishment increased. In only 6 percent of the cases, the initial decision was rejected and convicted.

Status of High Court Decision on the Initial Court Decision to Compensate the Victim – Of the 66 cases studied, in 40 percent cases both District and High Court did not decide to compensate the victim, in 35 percent cases, the High Court confirmed the District Court decision of compensation; in 11 percent of cases, High Court offered compensation which District Court did not; in 14 percent cases, High Court did not offer the compensation which District did.

Status of Both Courts Decision on Providing the Compensation – The High Court is also hearing court of the initial court decision and while studying the High Court decision on compensation to be provided, only in 35 percent cases both court decided to compensate the victim while in the rest 5 percent cases, both cases decided not to compensate the victims.

Decision on How to Pay the Compensation – In Human Trafficking and Transportation offences, there is a provision that the amount of the compensation shall not be less than the fine levied as punishment to the offender (Section 17.1). Of the 66 cases studied, in 77 percent cases, compensation is separately offered without the fine, in 20 percent cases, the compensation to be paid for the fine imposed to offender and only in 3 percent cases, the compensation to be paid from the Rehabilitation Fund.

In human trafficking and transportation offences, the maximum fine to the offender is Rs. 200,000 (Section 15a) and if the crime is proved the court shall order to provide compensation to the victim which shall not be less than 50 percent of the fine imposed on punishment to the offender. Thus, decision of the court on fine to the offender will have impact on victim compensation. Of the cases 66 studied, in 62 percent, up to Rs. 50,000 compensation is ordered, in 13 per cent Rs. 50,000-Rs.100, 000, in 13 percent cases Rs. 100,000-200,000. There were no cases in which victims were provided more than Rs. 300,000.

Status of Compensation Amount as Percentage of Fine to the Offender – In 68 percent of cases, only 50 percent of the fine offered to the offender was compensation amount, in 28 percent

cases, the compensation amount was more than 50 percent of the fine and in 4 percent of the cases, the compensation amount was less than 50 percent of the fine amount.

Status of Information about Compensation to the Victim – In none of the 66 cases studied the victims were informed about the court's decision about the compensation.

**Table 5.10 Status of access to compensation of the victims among the trafficking cases decided by the District and High Courts (N=66 *Misil*)**

| Types | % |
|---|---|
| **Types of Crime** | |
| Human transportation (abroad) | 57.0 |
| Human transportation (within the country) | 21.0 |
| Human trafficking | 14.0 |
| Extraction of human organs | 1.0 |
| Others | 7.0 |
| **Victims sex and age** | |
| Women | 61.0 |
| Men | 4.0 |
| Minor girls | 31.0 |
| Minor boys | 4.0 |
| % of cases investigated the property of the accused | 2.0 |
| % of cases in which investigation officer requested the order from the Government Attorney to investigate the property of the accused | 2.0 |
| % of cases in which prosecution letter included the demand for property compensation to the victims | 90.0 |
| **Status of punishment offered by the high court vis-à-vis the punishment offered by the district court** | |
| Initial decision (by the district) of punishment accepted | 42.0 |
| Initial decision (by the district) of punishment rejected | 17.0 |
| The punishment reduced | 15.0 |
| The punishment increased | 11.0 |
| Initial decision rejected and convicted | 6.0 |
| Initial decision to acquit was accepted | 8.0 |
| Others | 1.0 |
| **High court decision on compensation to be paid to the victim via-a-vis the decision of the district court** | |
| Both district and high court did not decide to compensate to the victims | 40.0 |
| District court offered compensation to the victim and also accepted by the high court | 35.0 |

| | |
|---|---|
| District court did not offer compensation but High Court did offer | 11.0 |
| District Court offered the compensation but High Court did not | 14.0 |
| **Decision on how to pay the compensation** | |
| Offered compensation but not fine to the accused | 77.0 |
| Compensation to be paid from the accused punishment | 20.0 |
| Compensation to be paid from the Government Fund | 3.0 |
| **Court Decision on the amount of compensation** | |
| Up to Rs. 50,000 | 62.0 |
| Rs. 50,000 to Rs. 100,000 | 13.0 |
| Rs. 100,000 to Rs.200,00 | 22.0 |
| Rs. 200,000 to Rs.300,00 | 3.0 |
| Above Rs. 300,000 | 0.0 |
| **Compensation amount as percentage of fine amount** | |
| Only 50% of the Fine offered | 68.0 |
| More than 50% of the Fine offered | 28.0 |
| Less than 50% of the Fine offered | 4.0 |
| % knew about compensation | 0.0 |

Source: summarized from FWLD (2017).

**Victims' Access to Compensation: The Cases Disposed by the Supreme Court**

Table 5.11 displays the status of access to compensation of the victims among the trafficking cases decided by the Supreme Court.

Nature of the Crime – Of the total cases decided by the Supreme Court, the highest proportion were of 'human trafficking' (50%), followed by human transportation within the country (33%), and 17 percent for others. There were no cases of extraction of human organs.

Age and Sex of the Victims – All the victims in the cases studied were females, and there were no men and boys as the victims. Of the victims, 17 percent were girls and 83 percent were adult women.

Status of Compensation Claimed in the Charge Sheet – In 80 percent of cases, the compensation the victim was claimed while in the rest 20 percent cases, it did not.

Status of the Banning of Property of the Accused for Selling and Transfer – In none of the cases studied, there was demand for the banning of the property of the accused or his/her family's property.

Court Decision on Amount of Fine – In half of the cases, the Court imposed fine to the offender

up to Rs. 50,000 and in the rest 50 percent cases, it was Rs. 50,000 to Rs. 100,000.

Compensation Amount as a Percentage of Fine Amount – In 75 percent cases, the compensation amount accounted for the only 50 percent of the fin imposed, and in rest 25 percent of the cases, the compensation amount was more than 50 percent of the fine imposed.

Status of Victims Information on the Compensation Provided – In none of the cases in which compensation to the victims were provided, the victims were not informed about it.

### Table 5.11 Status of access to compensation of the victims among the trafficking cases decided by the Supreme Court

| Types | % |
|---|---|
| **Types of Crime** | |
| Human transportation (abroad) | - |
| Human transportation (within the country) | 33.0 |
| Human trafficking | 50.0 |
| Extraction of human organs | - |
| Others | 17.0 |
| **Victims sex and age** | |
| Women | 83.0 |
| Men | 0.0 |
| Minor girls | 17.0 |
| Minor boys | 0.0 |
| % of cases in which prosecution-letter claimed compensation to the victims | 80.0 |
| % of cases in whichg the property of the accused banned for selling or transfer | 0.0 |
| **Court Decision on the amount of compensation** | |
| Up to Rs. 50,000 | 50.0 |
| Rs. 50,000 to Rs. 100,000 | 50.0 |
| Rs. 100,000 to Rs.200,00 | 0.0 |
| Rs. 200,000 to Rs.300,00 | 0.0 |
| Above Rs. 300,000 | 0.0 |
| **Compensation amount as percentage of fine amount** | |
| Only 50% of the Fine offered | 75.0 |
| More than 50% of the Fine offered | 25.0 |
| Less than 50% of the Fine offered | 0.0 |
| | |
| % of cases in which information to the victims about the compensation to be provided | 0.0 |

Source: summarized from FWLD (2017).

Chapter 6

# Implementation Status of NPA and NHRC Recommendations

This Chapter critically reviews the implementation status of National Plan of Action (NPA) against TIP Especially Women and Children (2012-2022) and the National Human Rights Commission (NHRC) recommendations to the Government of Nepal for the prevention and combating TIP. The implementation status of the NPA has been reviewed mainly drawing from the Mid-Term Evaluation Report of the MoWCSC published in 2018. While the implementation status of the NHRC recommendations were assessed on the basis of the Ministry's responses as well as review of their annual progress reports, periodic reviews and relevant publications.

## 6.1 Implementation Status of the NPA against TIP Especially Women and Children (2012-2022)

The NPA was adopted by the GoN in 2012. In 2014, the MoWCSC has also developed the Implementation Plan for the NPA against TIP Especially for Women and Children. The NPA has five areas of intervention. They include: i) prevention, ii) protection, iii) prosecution, iv) capacity development and v) coordination, cooperation and partnership. In 2017, the Ministry has conducted the mid-term evaluation of the implementation status of the NPA. The Mid-Term Evaluation Report revealed that a number of NPA activities have not been implemented even after the 5-years of its implementation, and it is only 51.5 percent of the 163 activities in the NPA that have been either fully or partially implemented or are being implemented. Conversely, 79 activities out of 163 activities listed in the NPA have not been implemented at all. More than two-thirds of the activities of Prevention and Capacity Development components have been implemented while the comparable figure for Protection component is 53 percent. Among the five components, it is the Coordination, Cooperation and Partnership (only 32% of the activities) and Prosecution in which a few activities have been implemented (21% of the activities).

### Box 6.1 Overview of the implementation status of the NPA against TIP especially Women and Children, 2012-2022

| Areas | Number of activities | Number of activities implemented | Number of activities to be completed | % of activities implemented |
|---|---|---|---|---|
| Prevention | 50 | 34 | 16 | 68.0 |
| Protection | 36 | 19 | 17 | 52.8 |
| Prosecution | 22 | 7 | 15 | 31.8 |

| | | | | |
|---|---|---|---|---|
| Capacity development | 27 | 18 | 9 | 66.7 |
| Coordination, Cooperation and Partnership | 28 | 6 | 22 | 21.4 |
| Total | 163 | 84 | 79 | 51.5 |

Source: MoWCSC (no date), *National Action Plan against Trafficking in Person Especially Women and Children (2012-2022) Mid-Term Evaluation Report* (Kathmandu: Author).

**1. Prevention Related Activities** – Box 6.1 summarizes the implementation status of the prevention related activities. The 50 prevention related activities listed by the NPA can be broadly classified into six categories for the purpose of analysis. They include: i) mapping and identification of most risk communities, locations and groups of trafficking, ii) establishment of special mechanism for prevention and combating TIP, iii) increase public awareness and information campaign against TIP, iv) economic and social empowerment of the most risk communities/groups of trafficking, v) monitoring and regulation of market and economic sectors and vi) addressing the sensitivity of human trafficking in the disaster context.

## Box 6.2 Implementation status of prevention related activities, NPA Mid-Term Evaluation

| NPA main activities | Implementation status |
|---|---|
| Mapping and identification of most risk communities, locations and groups of trafficking | **Not implemented**: No activities carried out in this area<br>Because of not identification of most risk groups, communities, locations and not able to develop the indicators for identification of the risk groups, majority of anti-TIP programs are concentrated in the previously identified districts and locations. |
| Establishment of special mechanism for prevention and combating TIP | **Implementedsatisfactorily:** The Mid-Term Evaluation of the Ministry indicated that the LCCHT and other groups have been crucially important mechanism in talking the TIP issues in the country. The LCCHT needs to be reconstituted according to the new structure of the Governments of Nepal. |
| Increase public awareness and information campaign against TIP | **Implemented satisfactorily**: Public awareness programs are being held though hundreds of thousands of child clubs, child help lines, women's groups, and other local groups. In addition to these, safe migration information is being provided though Help Desk in the TIA, CDO offices (passport section), border areas, high way routes, free-telephone number and including from school education. But the mid-term Evaluation of the Ministry indicated that the public awareness has not adequately mobilized the mass media. The IEC materials produced by the NGOs are in duplication to each other. The awareness programs were unable to link the victims/most at risk group with the alternative skills development and employment programs. |

| | |
|---|---|
| Economic and Social empowerment of the most risk communities/ groups of trafficking | **Partially implemented**: Thousands of the liberated *Kamlari*, conflict affected children, Dalit children, children from the endangered Janajati group, girl children are covered by the scholarship programs for their regular schooling.<br>The share of Dalit, Madeshi and Janajati in the Women and Development promoted groups is of satisfactory.<br>Number of NGOs has mobilized women and children in the communities.<br>Despite this, the empowerment programs run by the NGOs and development partner organizations have not been reflected in the national accounting system. |
| Monitoring and regulation of market and economic sectors | **Very limited implementation**: Monitoring in TIA, international border areas, in route, major highway heads including strategic location in the East-West Highway by Nepal Police is being held<br>Migration information centers extended to 26 districts<br>90% of women and children participate in the Women and Development Programs<br>But, monitoring in the private sectors such as entertainment sectors and employment sectors have not been satisfactorily<br>The District Monitoring and Advisory Committee in entertainment sector have not been functional in many districts and needs restructuring according to the new structure of the country. |
| Addressing the sensitivity of human trafficking in the disaster context | **Partially implemented**: After the mid-2015 devastating earthquake of Nepal, several measures were employed to prevent trafficking of children and women especially in 14 earthquake hit districts of Nepal. However, such measures have not been continued in the period of rehabilitation/reconstruction phase of the earthquake-affected families. |

Source: the Same as Box 6.1.

**2. Protection Related Activities –** The NPA listed 36 protection related activities. These activities can be broadly re-grouped into three categories for analytical purpose here (Box 6.3). They include: i) identification of victims in need of rescue and repatriation, ii) safely return to the country, return to the community and reunion with the family and iii) strengthening the rights based rehab and protection service system.

## Box 6.3 Implementation status of PROTECTION related activities, NPA Mid-Term Evaluation

| NPA main activities | Implementation status |
|---|---|
| Identification of victims in need of rescue and repatriation | **Partially implemented**: Nepal Police is working to establish online tracking system. This system has already been operation in Kathmandu valley and is being extended within the country and even to India. The system is being extended to other countries through Interpol Services<br>Child helpline (1098), *Bal Balika Khoja Talas Kendra* (104) and several NGOs are working in this area<br>But, there is no systematic record, analysis and punishment status. |

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|---|---|
| Safely return to the country, return to the community and reunion with the family | **Very limited implementation**: Nepali Embassies, Nepal Police, NCCHT, and GOs and NGOs involvement in rescue and repatriation from abroad,<br>But there is no systematic record maintained about the returns, deportation, rescue and reunion with the family. There is also duplication in reporting of the victims by more than one organization.<br>Except in the few cases of trafficking of girls/women to sex work in India, majority of cases of trafficking has not been brought in the judicial system (no FIR, Investigation, prosecution). |
| Strengthening the rights based rehab and protection service system | **Partially implemented**: There are 10 temporary rehab centers funded by the MoWCSC and run by NGOs<br>The FEPB has run 3 Safe House in Nepal and 7 Houses in major destination countries<br>One temporary Safe House is run in Kolkata, according to the MoFA, its impact has been greater in rescue, providing the rehab services to the victims of trafficking and it is also suggested to extend the Safe Houses in New Delhi and Mumbai<br>There are 29 One-stop Crisis Management Centers (OCMCs) established for GBV victims in 29 hospitals in Nepal.<br>Although all these rehab centers/service centers/safe houses are providing rehab services to the trafficked victims, the continued capacity development of the service system (resources, human resources, coverage) is important.<br>One of the key challenges of these temporary rehab service centers is to minimize the risk of re-victimization of the trafficked victim after their reintegration with the family and community. |

Source: the Same as Box 6.1.

**3. Prosecution Related Activities –** The NPA listed 22 prosecution related activities. They can be broadly classified into three groups: i) ending the impunity by increasing the effectiveness and responsibility of the justice system, ii) ratification of Trafficking Protocol and domestication of the internal and regional laws and iii) establishing centralized and unified database system of the law enforcement and execution status of the TIP cases (Box 6.4).

## Box 6.4 Implementation status of PROSECTUION related activities, NPA Mid-Term Evaluation

| NPA main activities | Implementation status |
|---|---|
| End the impunity by increasing the effectiveness and responsibility of the justice system | **Limited implementation**: The number of TIP cases field in Nepal Police, in courts of Nepal has increased by 58% during the last 5 years (144 to 227 cases)<br>However, the Mid-Term Evaluation Report of the MoWCSC indicated that a large number of events that can be taken as the human trafficking are not filed in the Police due to the lack of capacity of investigation in organized crime, and lack of quality and special investigation skills and technology as well<br>Many victims become hostile in due course of filing a case in Police or in the court. This is mainly due to threats and promises on the part of the traffickers to the victims and partly due to the political influences<br>Only a few criminals in front-line are believed to have been brought under the justice system while many especially in the higher Government and Political echelon are out of the orbit the justice system. |

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|---|---|
| Ratification of Trafficking Protocol and revision and formulation of the domestic laws compatible with the regional and international human rights laws | **Very limited implementation**: The MoWCSC is in the process of ratification of the Trafficking Protocol<br>The GoN has amended the Civil Code and is being implemented from August 2018<br>Nepal has already ratified the UN Convention on Transnational Organized Crime but Nepal has yet to ratify the its Protocol (Trafficking Protocol)<br>Nepal has not given priority to ratify the ILO Forced Labor Convention No. 29 and ILO No. 189<br>The FEPB has prepared the Zero Draft Report on Migrant Workers<br>Despite this, the Mid-Term Evaluation Report of the Ministry indicated that the present justice system has not adequately and efficiently covered the emerging dynamics of trafficking such as internal trafficking, trafficking of children from the religious organization, orphanages |
| Establish centralized data-base on law enforcement of the justice-system and monitoring the progress | **Very limited implementation**: Currently, law enforcement data is produced separately by the Supreme Court, Office of the Attorney General, Nepal Police, NCCHT, DoFE, FET, Nepali Embassy etc.<br>The current database provides somewhat understanding of the nature of the problem of TIP and the response of the justice system. But, lack of unified, centralized counter-trafficking law enforcement data possesses challenges of duplication in reporting, lack of coordination among the organizations. |

Source: the Same as Box 6.1.

**4. Capacity Development –** NPA listed 27 activities related to capacity development of various GOs, NGOs, civil society, and networks at the national, district and local levels across the country in dealing with the TIP issues. The Mid-Term Evaluation Report indicated that many of the capacity development activities such as training, exposure visits, and orientation have been conducted. But such capacity development programs havelittle focused on the TIP related issues. Further, similar types of capacity development training were provided to all the service providers while they require specific skills depending upon their working areas.

**5. Coordination and Cooperation -** The Mid-Term Evaluation Report indicated that the coordination and cooperation activities are not visible and there is no significant progress in this area. Coordination can be understood i) among the Government agencies, ii) among GOs and NGOs involved in similar working areas and iii) Nepal's coordination with the destination countries/agencies working abroad. The Report claimed that the coordination between the Government agencies has been improved. Now, it is claimed, there is effective coordination between the MoWCSC and MoFA, but similar type of coordination between the MoWCSC and MoLESS has not been found. The coordination between the GOs and NGOs has also been reported at the national as well district level though the NCCHT and DCCHT. But the Report claimed that there is little work in establishing and strengthening the coordination between Nepal and major destination countries of Nepali MWs including the Nepali diaspora and other human rights organizations.

## 6.2Implementation Status of the NHRC Recommendations

National Human Rights Commission provided recommendations to the Government of Nepal for the prevention and combating TIP on the basis of its National Report of 2013/15. The recommendations were sent to the Prime Minister (PM) Office and Minister of Council in July 13, 2016. The recommendations were related to four areas: i) prevention, ii) protection, iii) prosecution and iv) collection and generation of systematic data on situation of trafficking and initiatives. On July 25, 2016, the PM Office in turn ordered the relevant Ministries for their implementation of the recommendations:

1. Ministry of Women, Children and Social Welfare (now called Ministry of Women, Children and Senior Citizen);
2. Ministry of Labor and Employment (now, Ministry of Labor, Employment and Social Security)
3. Ministry of Home Affairs.
4. Ministry of Foreign Affairs;
5. Ministry of Education (now, Ministry of Education, Science and Technology);
6. Ministry of Finance;
7. Ministry of Law, Justice and Parliamentary Affairs;
8. Ministry of Information and Communication (now, Ministry of Communication, Information and Technology);

While preparing this National Report, OSRT-NHRC followed these Ministries about the implementation status of the recommendations.

**1. The Ministry of Women, Children and Senior Citizen (MoWCSC) -** The Ministry is the key line agency in prevention and combating TIP in Nepal. While the Ministry has carried out several activities and established the institutional mechanism to address the trafficking issue, the Ministry has not addressed the several areas for prevention and combating TIP and hence the compliance level of the recommendations by the NHRC can be labeled as **low** (Box 6.5). The Ministry initiated the process of ratification of the Trafficking Protocol 2000 and wrote MoHA but it was pending in the MoHA for more than three months without any response. After months of delays, the Ministry of Law, Justice and Parliamentary provided several pre-conditions to be met before ratification of the Protocol, requiring the revisions of the laws related to trafficking, immigration, passports. Thus, it appears that the ratification process would take a long time.

The Ministry has not increased the budget for the mobilization of the DCCHT and LCCHT, the Embassies and Mission at abroad although the budget allocation to the Rehab Centers has been increased from 8 to 10 from the previous FY 2015/16 to FY 2016/17. Police Officers in Jhapa, Kavre and Sindhupalchok complained that it is a lousily process of refurbishment of expenses of rescue of the trafficked victims. The MoWCSC releases the money after the completion of the rescue and thus making it difficult to manage the money for emergency rescue by the Police or WDO and NGOs in the districts.

The monitoring in the entertainment sector is reported to be not satisfactory. When enquired about the monitoring of internal trafficking to the Under Secretary of the MoWCSC, it was found that there is no regular and effective monitoring of the entertainment sectors by the District

Monitoring Committee and the Ministry is also unaware about it.

The Ministry has yet to develop the systematic data reporting system. Currently, the Ministry prepares its Annual Report on Trafficking in Persons based on information from the diverse sources including Nepal Police, Government agencies, NGOs and INGOs. The Ministry has not conducted any specific studies or funded to conduct a specific study about trafficking in persons especially in relation to identification of the trafficking prone areas/communities/groups in FY 2016/17 in the changing context of Nepal while trafficking for forced labor and sexual exploitation has been widely reported. Neither data from the DCCHT are regularly reported to the NCCHT although by rule they have to submit their progress report to the NCCHT in each three month. The DCCHT themselves are not actively engaged in prevention and combating TIP.

## Box 6.5 Overview of the implementation status of the NHRC recommendations by the MoWCSC, Nepal

| NHRC Recommendation | Implementation Status | Future direction |
|---|---|---|
| Revise the NPA in the changing context of disaster | **Implemented**, the MoWCSC has carried out Mid-Term Evaluation of the Implementation of the NPA and suggested for major change required, but still the NPA is less focused on disaster context. | Need suggestion of the Report to be incorporate in the Ministry's activities |
| Ratify the UN Protocol on Trafficking 2000 to address all required pillars of combating TIP | **Partially implemented** – The Ministry initiated the process of ratification, but responses by the other line agencies are very slow. And it will take a long-time if all the suggestions given by the MoLJPA are to be satisfied before ratification. | High priority<br>Much advocacy and lobbying<br>First-track implementation needed |
| Regulate inter-country adoption and Child Care Homes | **Partially implemented**, the MoWCSC has adopted the Terms and Conditions for Adoption and data also show that only a few cases of inter-country adoption in FY 2015/16 and 2016/17.<br>But, there are few cases of monitoring and punishment (Chapter 4). | High priority |
| Increase the financial support to NGOs to run the rehab centers and also extend the program | **Partially implemented**, two rehab centers have been established (Surkhet and Kaski) from FY 2016/17; the President Women's Promotion Programs launched in 19 districts; the Service Centers in 17 districts (Chapter 4).<br>But there is no significant increase in budget to the rehab centers and rehab centers to be extended in other areas (Chapter 4). | High priority, consider the extension with the new restructuring of the country |
| Strengthen the NCCHT/ DCCHT/LCCHT | **Partially implemented,** the NCCHT is constituted with members representing to civil society and victim and conducted 5 times meeting in the FY 2016/17, but<br>Many DCCHT and LCCHT has become ineffective because of the restructure of the administration | High priority, restructure according to the current structure of the administration and the Governments |

| | | |
|---|---|---|
| Monitor whether the best interest of the trafficked victims has been served in the process of reunion with their family and community | **Not implemented,** the National Minimum Standards have been drafted but there is no reporting in the Annual Report of MoWCSC about whether the NCCHT, DCCHT or LCCHT monitored such activity. | High |
| Ensure access to education and vocational training and job placement | **Partially implemented,** a large number of NGOs have implemented activities like providing education and vocational training skills, but their programs are largely concentrated in some districts and there is also duplication in providing such programs. | High priority, and discourage the duplication of activities and areas |
| Increase budget to diplomatic mission at abroad, increase the Rehabilitation Fund, and support to NGOs | **Partially implemented,** the MoWCSC allocates budget to the 5 Missions (Table 4.7); the MoLESS also allocates some budget in 7 Missions (Table 4.8). But, the more extension is needed; spending from the Rehab Fund appears to be low and make easy process of release of Fund to the NGOs. | High priority, more Missions at abroad to be looked given the magnitude of problem and increase the Rehab Fund, and make easy process of spending of Rehab Fund |
| Formulate the Act based on the Supreme Court Directive for protection of female workers in entertainment industry | **Not Implemented,** the MoWCSC has yet to initiate this activity. | High priority |
| Amend the HTTCA 2007, FE Act | **Partially implemented,** the Government amended some provisions of HTTCA 2007 (Chapter 5), but there is lacking of amendment of FE Act to deal with TIP in relation to foreign employment (Chapter 3). | High priority, amendment of HTTCA 2007 for capturing the internal trafficking, trafficking for foreign employment and trafficking from Child Care Homes and religious places |
| Maintain and develop unified and centralized data reporting system | **Not implemented,** the Ministry has yet to develop the system.<br>The Ministry has not conducted any household base representative survey to identify the most risk groups/communities for trafficking (Chapter 4). | High priority |

Note that the *National Report on Combating TIP 2074 (2017)* of the Ministry of Women, Children and Senior Citizen has maintained about NHRC recommendations.

**2. Ministry of Labor, Employment and Social Security (MoLESS)** – NHRC recommendations in relation to prevention of TIP to the Ministry were related to the following areas: increase the number of skill MWs and discourage unskilled labor migration; provide skills and entrepreneurship support to the returnees especially those of trafficked victims; increase and expand the safe migration awareness program across the country; strengthen and expand the Migration Resource Centers to the District/Area Administration Offices and at the Local Levels (Box 6.6). The MoLESS has these programs/activities in the FY 2015/16 and 2016/17, but their coverage and effectiveness are grossly inadequate given the magnitude of the problems.

Therefore, the level of compliance of the NHRC recommendations by the Ministry can be labeled as **low**. For example, the FEPB provided one-month skill development training to about 10,000 during the two fiscal years (Chapter 4, Table 4.5), while the magnitude of the MWs going abroad for work was 759,230 alone in FY 2016/17 – that is, roughly 1.3 percent of the MWs receive the skill development training annually from FEPB. Although the GoN also provides skill development training through Council of Technical Education and Vocation Training (CTEVT), the annual number of trainees produced by CTEVT also does not exceed 15,000 to 20,000 over the whole FY 2006/07-2016/17 with few exceptions (Chapter 4, Table 4.4). As discussed vividly in Chapter 4, in relation to safe migration information to the aspirate migrant workers, the Migration Resource Centers have been in operation only in 20 districts while there are more than 40 districts that require Migration Resource Centers immediately. Further, there is also very low achievement vis-à-vis the target of these resource centers in terms of their spending annually (Chapter 4). Regarding the reunion of the returnees especially the trafficked victim women by providing those skills, entrepreneurship support is also grossly inadequate – not more than 1,000 returnees were targeted for this program while one study reported that there are more than 500,000 returnee migrant workers in Nepal (World Bank, 2018).

Examining the Annual Progress Report of FEPB, it can be inferred that the Ministry has neither substantially increased the number of Safe Houses in the destination countries (7 Safe Houses in destination countries and 3 in the country), nor it has increased the amount of budget for the Safe Houses. In FY 2016/17, the FEPB planned to support the Safe Houses in five countries for which only Rs. 1.5 million was allocated. Of the allocated budget, only 81 percent was spent. In FY 2015/16, the Ministry planned to expand the Safe Houses in seven destination countries and allocated Rs. 7 million.

## Box 6.6 Overview of the implementation status of the NHRC recommendations by the MoLESS, Nepal

| NHRC Recommendation | Implementation Status | Future direction |
|---|---|---|
| Establish Labor Bank for the optimum utilization of MWs remittance of their welfare, their families and for the nation in productive sector | **Not implemented** – The MoLESS announced to establish the bank in 2014, but it has not yet been established. | High priority, arrange for the optimum utilization of the remittance for the productive sector as well as for the welfare of the MWs and their families |
| Conduct public awareness programs on safe migration, anti-trafficking including the legal process of foreign employment;<br>Expand and strengthen the Migration Resource Centers (MRC) | **Partially implemented**, The FEPB has launched MRC in Central Office and including in 20 districts with the support of IOM and ILO. Many NGOs are contributing in this area. However, due to the lack of identification of the risk groups/communities at most risk of trafficking, the coverage of such programs cannot be said adequate. The effectiveness of these MRC has not been studies yet. Thus it is not known whether the receiver understand the massage of safe migration or not. | High priority, identify the most risk group<br>Develop the indicators for identification of risk groups<br><br>Study the impact of the MRC especially from the receivers' perspectives. |

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|---|---|---|
| Broadcast message of anti-trafficking and safe migration from electronic, print and social media including in local languages | **Partially implemented,** FEPB has allocated separate budget for increasing the awareness level on safe migration through media. NGOs like Pourakhi Nepal, PPR Nepal, and People's Forum are also working in this area (Chapter 4, section 4.10). But with the lack of study that whether and to what extent the receiver have received the message, it is difficult to evaluate the programs are successful. | High priority<br><br>Conduct study from the receiver perspective |
| Reduce the delay in rescue process by developing the Fast Track System to the destination country through conducting the bilateral agreement to the destination countries | **Not implemented,** although NCCHT is mandated for the coordination of rescue from abroad, finding of this Report (Chapter 4, section 9) suggested that rescue from Gulf countries takes a much longer time and so does from other countries – due to this the victims develop psychosocial pathology | High priority<br>Lobby for revision of *Kafala* system of Gulf countries to make it MW friendly |
| Facilitate the implementation of MoU between the NHRC Nepal and NHRC Qatar | **Not implemented,** there are no evidences of such efforts mentioned in the annual progress reports of both MoLESS and MoWCSC | High priority |
| Encourage migration for the skilled workers and make the mandatory provision for at least 3 months skill training and provide economic support for training who could not afford it | **Partially implemented –** The FEPB provided skills development training in FY 2016/17 to about 10,000 aspirant MWs, but this number is too low. Still 3 in 4 MWs are unskilled workers. More women are unskilled workers. Monitoring of the effectiveness of training is highly needed to reduce the accidental death of the MWs at abroad. | High priority, expand the mandatory provision |
| Conduct study on situation of Nepali MWs/women domestic workers | **Not Implemented –** The Ministry published *Labor Migration for Employment, A Status Report for Nepal 2015/16-2016/17*. It provides information about the magnitude of MWs, origin, destination countries etc. It does not however explore whether or not MWs are subjected to trafficking for forced labor – a nationally representative household survey will highlight in this issues. | High priority<br><br>Need to study the whole process (from recruitment, departure, working condition, return process) by taking the framework of forced labor and trafficking elements |

**3. Ministry of Home Affairs (MoHA) -** NHRC recommendations related to the jurisdiction of MoHA were to i) maintain effective surveillance in border points between Nepal-India and Nepal-Tibet, China, Tribhuvan International Airport (TIA) including in other major road heads; ii) develop WCSD/WCSCs as special authority Police Unit for addressing both the internal and cross-border trafficking and also making them more gender and human rights friendly and iii) amending the Immigration Act, Passport Act to make them victims friendly (Box 6.7). Under the Ministry, a number of rescues, investigations and prevention activities have been carried out by the Nepal Police, WCSD/WCSCs, Metropolitan Police Parisar of Kathmandu and other Police Units including District Police Office and border police. Despite this, the Ministry has not fully implemented the recommendations provided by NHRC and thus the compliance level of recommendations of NHRC can be said to be **low to medium**.

As discussed above, the WCSC has yet to be expanded in major border locations in the country. There is also gap of working police to the sanctioned police posts in the WCSCs. Further, the WCSCs cannot register the case. As found in Jhapa district, the border surveillance has not been effective due to the fact that there has been frequent transfer of the Police Officer. Further, although many WCSCs have separate buildings or are being constructed separate building in many districts, they are still not well equipped and they also lack the victim friendly rooms.

### Box 6.7 Overview of the implementation status of the NHRC recommendations by the MoHA, Nepal

| NHRC Recommendation | Implementation Status | Future direction |
|---|---|---|
| Develop WCSD/WCSCs as special authority Police Unit for addressing both the internal and cross-border trafficking and also make them more gender and human rights friendly | **Partially implemented**, Nepal Police has extended the surveillance between Nepal-India in breadth and width (Chapter 4), but Nepal Police has reported that more surveillance centers are to be established along the India-Nepal border. The NGOs have also increased the surveillance along the major border points including in some highway points in the earthquake hit districts such as in Kavre, Sindhupalchok and Kathmandu. The International Relations and Labor Committee of Parliament in 2016 accused that surveillance in TIA is inadequate for controlling the TIP (Chapter 3). | High priority<br><br>Ensure and break the 'sitting' from TIA |
| Amend the Immigration Act, Passport Act to make them victim friendly | **Partially implemented** – The WCSCs have been widely established but they are still to be promoted as the special unit for investigation of TIP. The WCSCs also lack the adequate human resources and only 47% of the sanctioned police posts currently working (Chapter 4, Table 4.1). | High priority, promote the WCSCs as handling of TIP cases |
| Amend the Immigration Act, Passport Act to make them victim friendly | **Not implemented** | High priority |

Although the Metropolitan Police *Parisar* has initiated rescue efforts from abroad and handling and investigation of trafficking cases, the number of rescue and investigation of cases is very low vis-à-vis the magnitude of the problem. Only 7 cases of transnational organized trafficking and smuggling were investigated in FY 2016/17 and submitted the Case-file to the district government attorney for prosecution of the traffickers (please refer to Chapter 2). The Ministry has not initiated revision of the Immigration Act and Passport Act in view of the protection of the rights of trafficking victims and victims of human smuggling and in favor of undocumented migrants. There is also no information obtained from the Ministry about whether the High Level Coordination Committee among the MoHA, MoLESS, Nepal Police and Attorney General formed in 2012 is still active or not. The Committee was formed to provide the effective justice to the victims.

**4. Ministry of Foreign Affairs (MoFA)**- The NHRC recommendations on prevention and combating of trafficking related to the MoFA were i) initiation of the rapid response mechanism to rescue and repatriate the trafficked victims by conducting bilateral agreements with the major destination

countries; ii) increasing the budget for the Embassies at abroad for the protection of the rights of the MWs; iii) strengthen the capacity of Department of Counselor Service (DoCS) for effective and timely rescue of the trafficked victims from abroad and repatriation of dead body and iv) developing the diplomatic coordination to the Government of India to prevent the trafficking of Nepali via Indian cities to oversees. In relation to these recommendations, the Ministry has conducted several activities but it has yet to fully implement these recommendations (Box 6.8).

### Box 6.8 Overview of the implementation status of the NHRC recommendations by the MoFA, Nepal

| NHRC Recommendation | Implementation Status | Future direction |
|---|---|---|
| Establish and initiate the rapid response mechanism to rescue and repatriate the trafficked victims by conducting bilateral agreements with the major destination countries | **Partially implemented** - Although rescue of the trafficking victims are increasingly conducted through the different Embassies/ Consulate General Offices of Nepal (Chapter 4, Section 9), the Ministry has still to establish an institutionalized rapid response mechanism by bring the Nepal Police, MoWCSC, MoLESS and I/ NGOs. | High priority |
| Increase budget for the Embassy at abroad for the protection of the rights of the MWs | **Not implemented** – Except some budget allocated through FEPB to some Missions at abroad, there is no evidence that the Ministry of Foreign Affairs has allocated budget for rescue efforts, running of Safe Houses and providing the legal support for those who are charged of criminal offences in the destination countries. | High priority, also increase the number of countries, especially focusing on number of WMWs. Need collaboration between the MoLESS and MoFA |
| Strengthen the capacity of Department of Counselor Services (DoCS) for effective and timely rescue of the trafficked victims from abroad and repatriation of dead body | **Partially implemented** – There is significant improvement in the part of DoCS in terms of its physical space, human resources and service delivery compared to few years ago. But, there have been complaints from the stakeholders and victims themselves that the DoCS has not timely delivered the services. | DoCS should be made a focal unit for rescue and repatriation with high skilled technical human resources |
| Develop the diplomatic coordination to the Government of India to prevent the trafficking of Nepali via Indian cities to oversees | **Partially implemented** – The Ministry initiated to providing the 'No Objection Letter' for those flying from India. Yet there are news that the 'No Objection Letter' are made false for smuggling or trafficking of persons from New Delhi and other Indian cities. | High priority Monitor the false practices and punish the false doers. |
| Maintain data on returnees, number of persons deported, number of persons in detention and their nature of problem and loss of life | **Not implemented** | High priority<br><br>The Embassies at abroad need to regularly produce data and regularly report to the MoFA |

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|---|---|---|
| Establish the bilateral relations to the Government of India to maintain data of Nepali MWs who fly from Indian cities to overseas | **Not Implemented** | High priority |

The Ministry has initiated issuing of Machine Readable Passport (MRP) so that the deception and fraud can be reduced. Now, the passports of Nepali citizens are available from the concerned District Administration Office, Ministry of Foreign Affairs and from the Foreign Mission to Nepal – thus making the greater access to receive of the passports especially from the district. This makes it access to passports to a large number of women and marginalized people. As discussed Chapter 3, the Ministry has given the greater priority to the issue of MWs and formulated the Task Force to resolve the problem in June 2017. With the initiation of the Ministry, the inter-ministerial meeting held and decided to request the Government of India to produce 'No Objection Letter' by a Nepali worker flying from India. The 'No Objection Letter' should be provided by the Nepali Embassy to India if a Nepali MW is flying form India. Further, through the efforts of the DoCS, rescue and repatriation were made in FY 2015/16 and FY 2016/17. Despite these efforts, the compliance of the NHRC recommendations by the Ministry can be placed as **low.** This is due to the fact that hundreds and thousands of Nepali are being subjected to trafficking for forced labor and sexual exploitation in the Gulf countries. The *Kafala* system in Gulf countries still prevails – a system like the modern day slavery. The MoFA has failed to increase the regional diplomatic pressure to the Gulf countries to repeal the system. This is evident from a series of letters written by the Ambassador of Saudi Arabia that he could not repatriate three women to Nepal while the MoFA was not responding to the Ambassador (Chapter 4, Section 9). Some victims' families also complain that they were not immediately heard by the DoCS.

**5. Ministry of Education, Science and Technology (MoEST) -** NHRC recommendations to this Ministry was related to i) inclusion of TIP, safe migration and other forms of violence against women and children in both the formal school education system and non-formal education system; ii) provide the training and orientation to the teachers, school management committee (SMC) and parents-teachers association (PTA) on issues of safe migration, trafficking and foreign employment (Box 6.9). Drawing the analysis of the Ministries programs and activities carried out in the FY 2015/16 and FY 2016/17, the Ministry's level of compliance to these NHRC's recommendations can be said as **medium** or satisfactorily implemented. This is because the Ministry has initiated incorporation of human trafficking's contents in its school education (class 6-10) in Social Studies and other Subjects (Chapter 4, Box 4.4). Yet the curriculum needs revision from the human rights perspective. The CDC has yet to incorporate the contents of human trafficking in class 11 and 12. Further, there is no record in the Annual Report of Department of Education of 2016/17 that the Ministry initiated trafficked victims targeted formal and non-formal education such as providing scholarship to the specific group. In the field study in Sindhupalchok and Surkhet, for example, it was reported that children residing in the Rehabilitation Centers are going to school but the monthly fee and examination fee – both direct and indirect cost- has been incurred by the rehabilitation Centers.

## Box 6.9 Overview of the implementation status of the NHRC recommendations by the MoEST, Nepal

| NHRC Recommendation | Implementation Status | Future direction |
|---|---|---|
| Include TIP, safe migration in both the formal school education system and non-formal education system | **Implemented satisfactorily** - | High priority,<br>Also increase the scholarships to the children from the disadvantaged group and girl children |
| Provide orientation to the- teachers, SMC and PTA on issues of safe migration, trafficking and foreign employment. | **Implemented partially** - | High priority<br>Also provide orientation to the child clubs, SMC and PTA as they are the key agents of change in school |

**6. Ministry of Finance (MoF) -** NHRC recommendations related to the Ministry's jurisdiction was to increase budget in anti-trafficking activities and safe migration issues. Our analysis suggest that the Ministry has continued the allocation of budget for the prevention and combating TIP through MoWCSC, MoLESS, Nepali Embassies abroad and MoF itself and DoCS. However, with a close scrutinizing the budget allocated to these agencies over the last five years, it is found that budget has not been increased substantially(Chapter 4, Section 5). The amount of Rehabilitation Fund under the MoWCSC has remained about Rs. 1million annually over the years. There is also tiny fraction of budget in the Central and District Levels programs of MoWCSC. The provision of budget of less than Rs.500,000 to the DCCHT is very insignificant to carry out the anti-trafficking and safe migration campaign. More importantly, the budget allocated to the Safe Houses at abroad (Rs. 1,500,000) for the five Safe Houses is very insignificant. The physical space for the Safe Houses is reported to be very narrow, congested and grossly inadequate (Chapter 3, Section 3.7). Further, while the men are also subjected to trafficking for forced labor in many Gulf countries including in other countries, there are no Safe Houses established for male victims of trafficking and smuggling at abroad as well as in Nepal. Very limited budget of the Embassy is reflected by the fact that some Nepali Embassy Offices have to request the middle persons/agents/recruiting agencies to buy the air ticket for the victims to send back them to Nepal. This is the most unfortunate and ridiculous situation on the part of the Government. The Parliamentary International Relations and Labor Committee in 2016 reported that even the house rent and office staff of the Nepali Embassy to Kuwait is paid by the Kuwait Government. Further, nearly 80 percent of the anti-trafficking budget is contributed by the external sources while only 20% is contributed by the Government budget or internal sources of the anti-trafficking organizations. As the nearly 30 percent of the GDP is contributed by the migrant workers' remittance in Nepal, the valuation of MWs must be put in lexical priority and allocation of budget accordingly.

**7. Ministry of Law, Justice, Parliamentary Affairs (MoLJPA) -** The NHRC recommendation related to the MoLJPA were to i)facilitate the process of ratification Trafficking Protocol; and ii) provide capacity development of public prosecutors, judges, court officials, Bar Association and private law practitioners on anti-trafficking, human rights and gender justice issues. In relation to the second recommendation, the Ministry has limited capacity development programs in the FY 2015/16 and FY 2016/17 especially related the TIP issues (Box 6.10).

## Box 6.10 Overview of the implementation status of the NHRC recommendations by the MoLJPA, Nepal

| NHRC Recommendation | Implementation Status | Future direction |
|---|---|---|
| Facilitate the process of ratification Trafficking Protocol (*This recommendation also relates to the MoWCSC*) | **Very limited implemented:** The Ministry provided its suggestion to the MoHA and MoWCSC before ratification of the Trafficking Protocol. From the suggestion, it will take a longtime. | Priority |
| Provide capacity development of public prosecutors, judges, court officials, Bar Association and private law practitioner on anti-trafficking, human rights and gender justice issues | **Partially implemented**: There were limited programs in the Ministry in FY 2015/16 and 2016/17. The National Judicial Academy (NJA) has also not conducted trafficking crime focus training and research program in the reference period either. | High priority |
| Provide the rapid response on matters related to trafficking, exploitation | **New recommendation**: the Ministry has to place lexical priority to trafficking, exploitation issues and revise and review rapidly the relevant Acts needed to be amended before the ratification of the Trafficking Protocol 2000. | Initiate the activity |

In relation to the ratification of the *Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*[43], the MoWCSC wrote about the requirement of the ratification of the Protocol and for it, it sought the suggestion from MoHA. The MoHA again sought suggestions from MoLJPA before ratification of the Protocol. The MoLJPA on April 8, 2018 provided the following suggestions to the Ministry of Home Affairs and copies of its suggestions were also informed to OSRT-NHRC:

1. The implementation of the said Protocol require the following measures: listing of human trafficking and transportation crime as the organized crime; development of the legal arrangement as Nepal can be the country of destination and origin; the scope of punishment to be expanded according to the Protocol speed; establishment of the special criminal investigation unit; establishing as criminal offences of participating as an accomplice in an offence or organizing or directing other persons to commit an offence; protection of the victim's privacy and identity and making appropriate housing. For all of these acts, immigration related law, human trafficking and transportation law, law related to control of organized crime and criminal code are required to be studied and revised as per the speed of the Protocol.
2. To effectively and immediately carry out the work stated in Point 1, a Committee should be formed. The Committee shall be comprised of MoHA as the coordinator and office of the Prime Minister and Council of Minister, MoWCSC, MoLJPA as members.
3. On the suggestion of the Committee formed as mentioned in point 2, the ratification process of the Protocol shall be carried out pursuant to the Protocol's Article 16 (4) and Section 4 (1) of the Nepal Treaty Act.

43 *The purposes of the Protocol (Article 2) are to i) prevent and combat TIP, paying particular attention to women and children; ii) protect and assist the victims of trafficking, with full respect for their human rights; and iii) promote cooperation among States Parties in order to meet those objectives.*

4. While ratifying the Protocol, it is better to make reservation on the Article 15 (3) of the Protocol as being the state party of the Protocol.

**8. Ministry of Communication and Information Technology (MoCIT)** – NHRC recommendation related to the Ministry's jurisdiction was to sensitize media persons on TIP issue and reorient them towards victim centric and fact-based news by providing orientation to the media persons (Box 6.11). This recommendation is crucially important in the context that the media has been greatly penetrating to the grass-route levels – at the Province, district and even to the Local Levels. There are Radios, FMs and Television programs from the electronic media across the country. The print media has also greatly influenced especially in urban areas. The current social media, face-book, twit, online news, blogs, ads all will have significant impact on people's lives in coming days.

We do not have any testimony to confirm that the Ministry has adequately provided orientation to the media houses both at the central and local level. Having examined the website of the Ministry (http://mocit.gov.np/) and its reports, standards, guidelines and notices, it can be said that the Ministry has not carried out any capacity development programs for the media house and made them much gender and human rights friendly while writing the news and views, however. Further, there is also no any exchange program between the Central Department of Journalism of Tribhuvan University and the Ministry.

## Box 6.11 Overview of the implementation status of the NHRC recommendations by the MoCIT, Nepal

| NHRC Recommendation | Implementation Status | Future direction |
|---|---|---|
| Sensitize media person on TIP issues and reorient them towards victim centric and fact-based news by providing them orientation programs | **Not Implemented** – In the FY 2015/16 and 2016/17, there were no such programs targeted to the media persons/houses | High priority |
| Include the TIP and safe migration issues in University education in the Journalism course | **New Recommendation** | High priority |

# Chapter 7

# Conclusions and Recommendations

This National Report on *Trafficking in Persons in Nepal* is a continuation of previous National Reports published by NHRC. This Report mainly focuses on situation of trafficking in persons in Nepal with especial reference to both cross-borders traffickingand internal trafficking. It examines the nexuses between migration for foreign employment and trafficking; monitors the counter-trafficking initiatives and law enforcement status and judicial responses to trafficking. If further goes on assessing the implementation status of the NHRC recommendations related to prevention and combating.

The Report covers the Nepali two fiscal years (FY 2073/74 and FY 2074/75) or 2016/17 and 2017/18. In case of information from some NGOs, the Report utilizes data only for the FY 2016/17. Some of the media reporting is even extended to mid-2018. This Report uses both secondary and primary data/information. Secondary data/information mainly comes from annual and periodic progress reports of relevant GOs, and I/NGOs and UN organizations. Primary data was generated from concerned GOs, NGOs including some victims. Various consultation workshops, questionnaire survey, monitoring and observation of the border surveillance and rehab centers, interview the GOs staff, Nepal Police, NGOs all were done. Some NGOs also provided information about their intervention in the reference period.

Drawing on the findings of the Report (summarized in Executive Summary), the following conclusions can be made:

## 7.1 Conclusions

There is a greater shift in trafficking dynamics in Nepal. In the past, Nepal was basically a source country for trafficking of children and women to prostitution to India. Now, Nepal has emerged as source-transit-destination country of trafficking. It is not only trafficking of women and children are subjected trafficking but increasingly men are also subjected to trafficking for forced labor. Broadly, three types of trafficking emerge: cross-border (to India), cross-border (to outside of India and mostly to Gulf countries) and internal trafficking.

Unlike in the past where more children were reported to be trafficking in circus performance to India, now more girls are trafficked to Bihar and Utter Pradesh for orchestra dance. Trafficking of girls/women to South Korea, China and other countries for marriage is also evident. Trafficking of girls/women for dance, performing erotic performances, involvement in production of pornography in night clubs and other so called entertainment sectors in African countries like

Kenya, Tanzania and South Africa is also reported. Smuggling of MWs to USA using illegal route via a number of countries has emerged a very profitable business for the traffickers. Further, trafficking in the name of performing cultural programs, study, family visits, medical treatment are also the emerging dynamics of trafficking phenomenon in Nepal.

This study identified a number of opportunities and challenges for the prevention and combating TIP emerging in Nepal.

**Opportunities**

- Adopting and implementation of the Human Trafficking and Transportation (Control) Act for law enforcement.
- The implementation of National Plan of Action in Combating TIP especially Women and Children (2012-2022).
- Widespread institutional mechanism already developed – WCSC, NCCHT, DCCHT, LCCHT and other community levels organizations like child clubs, child helplines, women groups, service centers and GBV defender groups across the country.
- Government allocation of budget for Rehab Centers, Safe Houses, Service Centers, rescue and relief to the trafficked victims is positive step.
- Active involvement of NGOs in anti-trafficking activities – The Mid-Terms Evaluation Report indicated that 77 programs were funded by CTIP project during the 2010-2015 and implemented in areas of prevention, protection and prosecution.
- Inclusion of some contents about safe migration and human trafficking in school education.
- The PM office well responded to NHRC recommendations and circulated to the relevant Ministries for implementation.

**Challenges**

Prevention Related

- Address the widespread poverty, unemployment, underemployment among the growing youth where Nepal has been experiencing demographic divided – a situation in which the proportion of youth population increases to the total population.
- Mainstream the idea that TIP and migration are taken as the cross cutting issues across the sectoral Ministries. Elimination of TIP is also the achievement of targets of SDGs. Therefore, elimination of TIP is also the development agenda.
- Mobilize the range of line Ministries/Departments – Ministry of Education, Ministry of Health and Population, MoLJPA, MoLESS, MoICT for effectively targeting the trafficked victims in their regular programs. This is crucially important to meet the main programs/ activities envisioned in NPA as well.
- Address the persistent social anomalies like GBV including harmful practices of child marriage, law value of girl child education, preference and bring the social transformation in favor of justice and fair society.
- Develop the indicators of identifying the most risk groups/communities of trafficking and map such groups and locations so that the coming TIP programs should be

concentrated in the areas/groups/communities that have high need of.

- Meet the demand of skill development training to the growing number of labor force in the country. While on the average, Nepali 500,000 youth enter into the labor market or they search for work, altogether annually 10,000 to 15,000 receive the skills based training.
- Utilize the Foreign Employment Contribution Fund (Rs. 1500 * nearly 729,000 in FY 2016/17) increasingly for welfare of the MWs and their families, rather than in overhead cost of the Ministry.

Protection Related

- Ensure the rights of the female workers in entertainment sectors in the context where trade union movements have failed to address the rights of female workers in the entertainment sectors. For this, there is a need to study the actual situation of these workers and also monitor the entertainment sectors regularly.
- Restructure the institutional mechanisms in addressing the trafficking issues in the changing context of Nepal by making responsible to all three layers of Governments in their own jurisdiction: the Federal, the Provincial and the Local Levels Governments.
- Link the safe migration information provided through MRCs and border areas to alternative livelihood options to the aspirant MWs or those who are intercepted in route to going for search for work. This is vitally important to ensure that the MWs do not feel that their mobility has been restrained or their rights to mobility from one-place to another is ensured.
- Conduct a study revealing that the safe migration information has actually benefited the individuals or aspirant migrants or repeat migrants. It is essential to know how the receivers receive the message and how it is linked to the intention of the message producers.

Prosecution Related

- Increase the registration of TIP cases by amending the Foreign Employment Act and Human Trafficking and Transportation (Control) Act so that the trafficking crimes committed in relation to the foreign employment shall be brought into the Trafficking Act and in the Foreign Employment Act.
- Increase the effectiveness of law enforcement especially in the economic and market sectors like recruiting agencies, training orientation institutions, skill development training centers, education consultancies, travel agencies and airlines. The Mid-Term Evaluation Report of MoWCSC also found that there is weak monitoring in private sector and even the private sector is wrongly claiming that they are generating employment.
- Maintain the effective surveillance in border areas between Nepal and India in the context where Nepal-India has open-border. On the one hand, ensuring the rights of migration to the citizens of the two countries is crucially important. On the other hand, protection of the people from any types of human rights violation is equally important.
- Address the transnational organized crime in the context of emergence of new technology, Information Technology, social media, face-book, and blogs. The response

mechanism should be developed in line with emergent state-of-technology and trained the concerned service providers to effectively conduct the inquiry, tracking of the victims and traffickers, conducting the investigation and prosecution as well.

- Ensure and maintain the good governance in foreign employment business management by bringing the Governmental officials who are suspected to have been involved in 'setting' and colluding with the traffickers/smugglers into justice.
- Apprehend of the perpetrators in the context where the traffickers play in different routes of trafficking. All the traffickers/smugglers that are in the chain of trafficking of the victims should be identified and brought into justice. Traffickers/smugglers committing the crime residing at abroad should also be made liable to the justice and make provision for extradition of such criminals though establishing bilateral relations with the concerned countries.

Coordination and Collaboration Related

- Monitor the implementation status requirement of 'No Objection Letter' provision to fly from Indian cities to the Nepal MWs from India by establishing the diplomatic relationship with the concerned Ministry of Indian Government.
- Monitor theanti-trafficking activities of Local Levels Governments and Province Governments if any. This is important in the context that the Constitution of Nepal grants the state power to all three Governments even in relation to prevention and combating of TIP. There is lacking of a unified, an integrated counter-trafficking mechanism that also encompasses the Local Levels and Province Governments on boat in fighting against TIP.
- Address the issues that emerged due to the *Kafala* system in order to protect the rights of MWs especially women domestic workers in GCC Countries. Brining the importance of care work and care economy into focus at the regional and global forums and utilization of such forums for the benefit of the MWs is very important to protect the rights of MWs especially of women domestic workers.

## 7.2 Recommendations

In addition to the recommendations suggested in Chapter 6 for each of the relevant Ministry and the challenges discussed in Section 7.1, the following recommendations are forwarded to effectively tackle the crime of trafficking in persons in Nepal.

**Prevention Related**

1. Restructure the current mechanism for prevention and combating TIP - The NCCHT, DCCHT and LCCHT needs to be reconstituted according to the new structure of the Governments of Nepal. Currently, there are no representatives from Ministry of Education, Ministry of Health and Population and Ministry of Federal Affairs in the NCCHT. Provincial Committee and Local Levels Committee shall be constituted so as to bring all the Government structures into the movement against TIP.
2. Map and identify most risk communities, locations and groups and also establish the indicators of vulnerability of trafficking. Expertise of Central Bureau of Statistics,

Tribhuvan University, ILO, IOM, human rights organizations, anti-trafficking organizations may be useful in establishing indicators of vulnerability of trafficking and mapping the most risk group of trafficking.

3. Continue and strengthen the public awareness and information campaign programs mostly targeting the vulnerable groups.
4. Continue and strengthen the economic and social empowerment programs to the Dalit, Janajati, and trafficked prone/vulnerable groups/communities. Such programs should be well tailored with poverty alleviation and empowerment programs of women, children and disadvantaged groups.
5. Address the sensitivity of human trafficking in the disaster context by revising the NPA, National Human Rights action plant and and Trafficking Policy in the Periodic development plan. Disasters that bring the massive displacement such as floods, earthquake must come as the cross-cutting issue in all intervention areas.

**Protection Related**

1. Identify the victims in need of rescue and repatriation and establish the rapid response mechanism for rescue of the victims from abroad as well as within the country.
2. Ensure that trafficking victims are not punished unlawful acts committed as a result of subject to trafficking and their safely return to the country bymobilization of Nepal Embassies, Nepali diaspora organizations, NHRIs, Nepal Police, NCCHT and other relevant organizations.
3. Expand access to and availability of rights based victim care services including for male victims even in the major destination countries and in Nepal as well, by both strengthening capacity development service delivery mechanism including of rehab centers/service centers/safe houses and also by maintaining the Minimum Standards for Rescue, Care and Rehabilitation of the victims.
4. Lift the current age ban of female migration to Gulf countries in order to discourage the undocumented and illegal migration from India and ensure the informed choices to all equally.
5. Maintain records of returns, deportation, rescue and reunion with the family. There is also duplication in reporting of the victims by more than one organization.
6. Carry out the study on tracking of the missing children and establish the system in WCSD that the missing children to be tracked whether they were victims of trafficking.

**Prosecution Related**

1. Accede UN Trafficking Protocol (Palermo) in fast track - There is a greater need to pressure on the GoN to bring the draft of the ratification of Trafficking Protocol. It must be carried out in fast-track system.
2. Amend the Human Trafficking and Transportation (Control) Act in line with definition of the UN Trafficking Protocol 2000 and investigate, prosecute and convict all forms of trafficking, internal, and trafficking for dance or night clubs, trafficking for production of pornography, trafficking for marriage including trafficking of males for labor exploitation or any other purposes.

3. End the impunity by increasing the effectiveness and responsibility of the law enforcement and agency in order to increas the believe government agency. Ensure the access to justice to he victims and maintain the good governance for increase the effectiveness, believe and prosecute to the perpetrator.
4. Penalize the recruiting agencies, agents, and others who are allegedly involved in fraudulent recruitment or charge of excessive fee.
5. Monitor and regulate the entertainment sectors including other informal sectors. The monitoring and action comittee need to be restructured.
6. Ensure the victim and witness protection provisions have been implemented
7. Ensure easy access to compensation to the victims.
8. Establish systematice data-base on law enforcement of the justice-system and monitoring the progress - Currently, law enforcement data is produced separately by the Supreme Court, Office of the Attorney General, Nepal Police, NCCHT, DoFE, FET, and Nepali Embassy.

**Capacity Development**

1. Launch the trafficking focused capacity development programs to different stakeholders including the law enforcement and justice actors. Capacity development programs are especially needed for WCSCs who are in front of protection of the victims of trafficking.
2. Carry out research and study regularly as a part of addressing the emergent dynamics of TIP.
3. Develop the OSRT-NHRC as the overreaching monitoring of anti-trafficking initiatives from human rights perspective and assessing the situation of TIP in Nepal by increasing its research, complaint handling and recommendation.

**Coordination and Cooperation**

1. Establish coordination between the Governments to address the TIP issues jointly – Federal, Province and Local Levels Government.
2. Establish and strengthen the coordination and cooperation between Nepal and major destination countries of Nepali MWs including the Nepali diaspora and other NHRIs for ensuring the rights of the Nepali MWs in the destination country.
3. Use effectively the regional and international forums in favor of migrant rights and combating trafficking in persons especially women and children.

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## Annex

Annex 2.1.Number of women and children rescued by border surveillance centers in the FY 2016/17, Jhapa district

| Month | Women | Boys | Girls | Total |
|---|---|---|---|---|
| Srawan | 20 | | 7 | 27 |
| Bhadra | 36 | | 2 | 38 |
| Ashoj | 24 | | | 24 |
| Kartik | 29 | | 3 | 32 |
| Mansir | 52 | 2 | 3 | 57 |
| Paush | 28 | 3 | 7 | 38 |
| Magha | 64 | | 1 | 65 |
| Falgun | 56 | 4 | 1 | 61 |
| Chaitra | 54 | | 3 | 57 |
| Baisak | 57 | | 2 | 59 |
| Jestha | 96 | | 2 | 98 |
| Ashad | 50 | 6 | 3 | 59 |
| Total | 566 | 15 | 34 | 615 |
| Row % | 92.1 | 2.4 | 5.5 | 100.0 |

Source: Jhapa district WCSC, 2018.

Annex 2. 2 Number of missing, found children in Sindhupalchok district, FY

| | 2014/15 | | 2015/16 | | 2016/17 | | 2017/18 | | Four yearly average (2014/15-2017/18) | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Missing | Not found | Missing | Not found | Missing | Not found | Missing | Not found | Missing | Not found |
| Women | 35 | 28 | 46 | 37 | 55 | 48 | 67 | 44 | 51 | 39 |
| Boys | 13 | 8 | 7 | 5 | 18 | 14 | 9 | 5 | 12 | 8 |
| Girls | 22 | 13 | 26 | 16 | 21 | 19 | 18 | 10 | 22 | 15 |
| Total | 70 | 49 | 79 | 58 | 94 | 81 | 94 | 59 | 84 | 62 |
| % of untraced rate | | 70.0 | | 73.4 | | 86.2 | | 62.8 | | 73.8 |

Source: Letter of District Police Office, Sindhupalchok to OSRT-NHRC, 2018.

Annex 2.3 Characteristics of the female workers interviewed, and recruitment process

| | N | % | | N | % |
|---|---|---|---|---|---|
| **Caste/ethnic groups** | | | **First Work** | | |
| Chhetri | 4 | 40.0 | Massage Parlors | 1 | 10.0 |
| Gurung | 1 | 10.0 | Dance Bar | 2 | 20.0 |
| Janajati | 2 | 20.0 | Cabin Restaurants | 2 | 20.0 |
| Lama | 1 | 10.0 | Khaja ghar | 1 | 10.0 |
| Newar | 1 | 10.0 | Tailoring | 1 | 10.0 |
| Tamang | 1 | 10.0 | Domestic work | 2 | 20.0 |
| **Marital status** | | | **Where working?** | | |
| Unmarried | 7 | 70.0 | Cabin Restaurant | 1 | 10.0 |
| Married | 1 | 10.0 | Dance Bar | 2 | 20.0 |
| Divorcee | 2 | 20.0 | Dohori Restaurant | 5 | 50.0 |
| **Education** | | | Others | 2 | 20.0 |
| Literate only | 1 | 10.0 | **Type of work** | | |
| Lower secondary(5-8) | 1 | 10.0 | All Rounder | 1 | 10.0 |
| Secondary(9-10) | 4 | 40.0 | Dancer | 4 | 40.0 |
| SLC and above | 4 | 40.0 | Dohori singing | 2 | 20.0 |
| **District of origin** | | | Waiters | 2 | 20.0 |
| Bara | 1 | 10.0 | Manager | 1 | 10.0 |
| Bhaktapur | 1 | 10.0 | **Duration of work** | | |
| Chitwan | 1 | 10.0 | <=1 year | 3 | 30.0 |
| Dhading | 1 | 10.0 | 1-2 years | 4 | 40.0 |
| Nuwakot | 1 | 10.0 | More than 2 years | 3 | 30.0 |
| Ramechhap | 2 | 20.0 | **Reasons for selection of the job** | | |
| Salyan | 1 | 10.0 | Tallies with the education | 1 | 10.0 |
| Sindhuli | 2 | 20.0 | Priority to the first work | 2 | 20.0 |
| **Living with whom?** | | | Suggest by friends | 5 | 50.0 |
| Single | 4 | 40.0 | Others | 2 | 20.0 |

| | | | | | |
|---|---|---|---|---|---|
| With friends | 1 | 10.0 | **How did you get the job?** | | |
| Living with the family | 5 | 50.0 | Clients | 0 | |
| **Age at which the job initiated** | | | Self | 1 | 10.0 |
| <=14 years | 1 | | Friends | 7 | 70.0 |
| 15-17 | 6 | | Relatives | 2 | 20.0 |
| 18 and above | 3 | | **Priority to employ in the job** | | |
| **Current Age** | | | Young | 3 | 30.0 |
| <=14 years | 0 | | Beauty | 1 | 10.0 |
| 15-17 | 4 | | Married but not having a child | 2 | 20.0 |
| 18 and above | 6 | | Young and beauty | 4 | 40.0 |
| | | | Total | 10 | 100.0 |

Source: based on questionnaire survey among females in entertainment sectors, 2018.

Annex 2.4 Working conditions and behaviors of co-workers and customers

| | N | % | | | |
|---|---|---|---|---|---|
| **Time to work** | | | **Behaviors by the co-workers** | | |
| Morning | 0 | | Like friends | 7 | 70.0 |
| Day | 3 | 30.0 | Uncomfortable | 1 | 10.0 |
| Evening | 6 | 60.0 | Bad behavior | 1 | 10.0 |
| Day and evening | 1 | 10.0 | Others | 1 | 10.0 |
| **Main responsibility at work** | | | **Behavior by the male customers** | | |
| Dancing | 1 | | Like friends | 1 | 10.0 |
| Dohori signing | 1 | | Uncomfortable | 2 | 20.0 |
| Give satisfaction to the customer | 1 | | Bad behavior | 4 | 40.0 |
| Singer | 1 | | Sexual harassment | 2 | 20.0 |
| Singing and dancing | 2 | | Others | 1 | 10.0 |
| Waiter | 2 | | **To whom you fear the most** | | |
| Washing pots and cleaning | 2 | | Police | 2 | 20.0 |
| **Additional work to be done** | | | Customer | 4 | 40.0 |
| Yes | 8 | 80.0 | Agent | 3 | 30.0 |
| No | 1 | 10.0 | customer and agent | 1 | 10.0 |
| Missing | 1 | 10.0 | **Reasons for fear** | | |
| Luring for foreign job? | | | Any time they can arrested | 1 | 10.0 |
| Yes | 6 | 60.0 | Bad behavior | 2 | 20.0 |
| No | 4 | 40.0 | Harassment | 3 | 30.0 |
| **Salary system** | | | Scolding | 1 | 10.0 |
| per day | 1 | 10.0 | Physical and mental harassment | 1 | 10.0 |
| per months | 6 | 60.0 | **Any abuse to you?** | | |
| after months | 3 | 30.0 | Yes | 7 | 70.0 |
| **Salary (in Rs.)** | | | No | 3 | 30.0 |
| 11,000 | 1 | 10.0 | **Types of abuse** | | |
| 14,000 | 1 | 10.0 | Bad behavior | 1 | |
| 3,5000 | 1 | 10.0 | Body touch | 2 | |
| 6,000 | 3 | 30.0 | Teasing | 1 | |
| 7,500 | 1 | 10.0 | Using vulgar words | 1 | |

| | | | | | |
|---|---|---|---|---|---|
| 8,000 | 2 | 20.0 | Have you complained about the abuse? | | |
| **Additional benefits* (multiple response)** | | | Yes | 5 | 50.0 |
| Transport facility | 7 | 70.0 | No | 5 | 50.0 |
| Food | 8 | 80.0 | Total | 8 | 80.0 |
| Clothes | 1 | 10.0 | **If complained, to whom?** | | |
| Leave | 2 | 20.0 | Nepal police | 2 | |
| **Tips per day** | | | INGOs | 1 | |
| Not much | 6 | 60.0 | Nepal police and INGOs | 2 | |
| Much | 2 | 20.0 | Total | 5 | |
| Total | 8 | 80.0 | Have you thought about any health problem in your job? | | |
| Missing | 2 | 20.0 | Yes | 6 | 60.0 |
| **Expenses of earning** | | | No | 4 | 40.0 |
| Buying of cosmetic | 5 | 50.0 | | | |
| Family support | 8 | 80.0 | | | |
| School fee for children | 3 | 30.0 | | | |

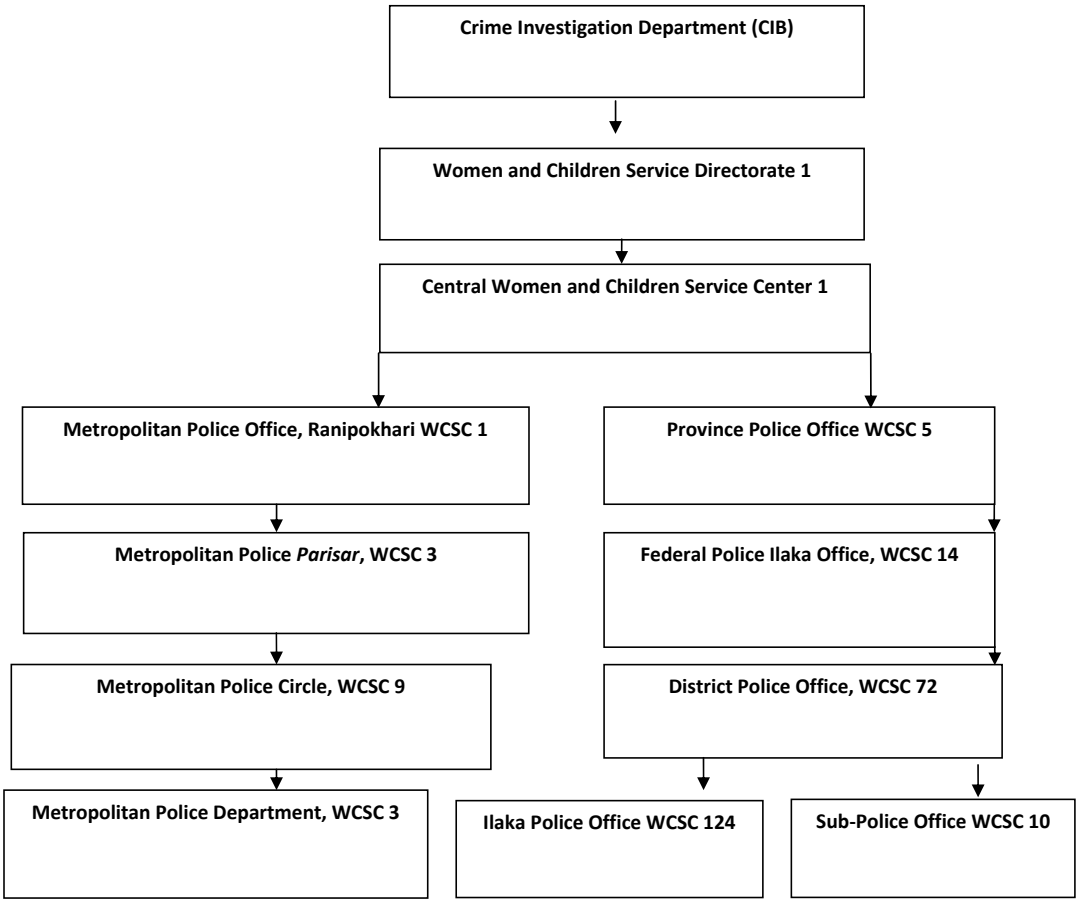
Annex 3.1 Number of complaints during the three fiscal years (FY 2014/15-2016/17) by nature of complaints

| Nature of complaints | Number | | | Percent | | |
|---|---|---|---|---|---|---|
| | Individual | Institutional | Total | Individual | Institutional | Total |
| Action against the culprit and compensation | 984 | 1139 | 2123 | 80.2 | 26.8 | 38.7 |
| Compensation | 17 | 884 | 901 | 1.4 | 20.8 | 16.4 |
| Action, refund, and repatriation along with compensation | 14 | 605 | 619 | 1.1 | 14.2 | 11.3 |
| Action and compensation | 145 | 399 | 544 | 11.8 | 9.4 | 9.9 |
| Rescue and repatriation, compensation | 8 | 305 | 313 | 0.7 | 7.2 | 5.7 |
| Return passport | 0 | 214 | 214 | 0.0 | 5.0 | 3.9 |
| Action against the culprit and return the passport and the amount | 9 | 142 | 151 | 0.7 | 3.3 | 2.8 |
| Action against the culprit and return passport | 4 | 140 | 144 | 0.3 | 3.3 | 2.6 |

| | | | | | | |
|---|---|---|---|---|---|---|
| Action against the culprit and repatriation | 2 | 124 | 126 | 0.2 | 2.9 | 2.3 |
| Repatriation | 0 | 53 | 53 | 0.0 | 1.2 | 1.0 |
| Action | 2 | 43 | 45 | 0.2 | 1.0 | 0.8 |
| Return the passport and the amount | 4 | 36 | 40 | 0.3 | 0.8 | 0.7 |
| Take necessary action and provide salary | 4 | 32 | 36 | 0.3 | 0.8 | 0.7 |
| Action against the culprit and refund | 11 | 24 | 35 | 0.9 | 0.6 | 0.6 |
| Action against the culprit and return the passport | 6 | 26 | 32 | 0.5 | 0.6 | 0.6 |
| Refund | 4 | 22 | 26 | 0.3 | 0.5 | 0.5 |
| Rescue and action against the culprit | 4 | 21 | 25 | 0.3 | 0.5 | 0.5 |
| Repatriation and receive the dead body and compensation | 1 | 11 | 12 | 0.1 | 0.3 | 0.2 |
| Provide justice and compensation | 1 | 10 | 11 | 0.1 | 0.2 | 0.2 |
| Provide insurance amount | 3 | 2 | 5 | 0.2 | 0.0 | 0.1 |
| Foreign employment fraud | 2 | 3 | 5 | 0.2 | 0.1 | 0.1 |
| Necessary assistance | 0 | 4 | 4 | 0.0 | 0.1 | 0.1 |
| Salary difference from the contract provision | 0 | 4 | 4 | 0.0 | 0.1 | 0.1 |
| Repatriated without receiving salary | 0 | 3 | 3 | 0.0 | 0.1 | 0.1 |
| Visa cancellation | 0 | 2 | 2 | 0.0 | 0.0 | 0.0 |
| Return the citizenship certificate | 1 | 1 | 2 | 0.1 | 0.0 | 0.0 |
| Provide remuneration | 0 | 2 | 2 | 0.0 | 0.0 | 0.0 |
| Refund after deducting the deposit | 0 | 2 | 2 | 0.0 | 0.0 | 0.0 |
| Settlement | 1 | 1 | 2 | 0.1 | 0.0 | 0.0 |
| Attempt to charge more amount than the actual cost | 0 | 1 | 1 | 0.0 | 0.0 | 0.0 |
| Insurance amount and compensation | 0 | 1 | 1 | 0.0 | 0.0 | 0.0 |
| Release from the prison and provide work | 0 | 1 | 1 | 0.0 | 0.0 | 0.0 |
| Total | 1227 | 4257 | 5484 | 100.0 | 100.0 | 100.0 |

Source: summarized from MoLESS (2018) Labor Migration for Employment, A Status Report for Nepal 2015/16-2016/17.

## Annex 4.1 Organogram of Women and Children Service Directorate (Total 243)



Annex 4.2 Number of Child Care Homes and number of children in the Homes by Province, 2016

| SN | Districts | Number of Child Care Homes | Number of boys in the Homes | Number of girls in the Homes | Total children | % of total children | % of total Child Care Homes |
|---|---|---|---|---|---|---|---|
| | **Province I** | | | | | | |
| 1 | Sankhuwasabha | 3 | 7 | 18 | 25 | 0.2 | 0.5 |
| 2 | Illam | 2 | 8 | 8 | 16 | 0.1 | 0.4 |
| 3 | Udayapur | 1 | 3 | 2 | 5 | 0.0 | 0.2 |
| 4 | Jhapa | 9 | 75 | 68 | 143 | 0.9 | 1.6 |
| 5 | Morang | 5 | 19 | 60 | 169 | 1.0 | 0.9 |
| 6 | Dhankuta | 1 | 7 | 7 | 14 | 0.1 | 0.2 |
| 7 | Sunsari | 6 | 119 | 95 | 214 | 1.3 | 1.1 |
| | Total | 27 | 128 | 258 | 586 | 3.5 | 4.8 |
| | **Province II** | | | | | | |
| 1 | Saptari | 1 | 24 | 0 | 24 | 0.1 | 0.2 |
| 2 | Parsa | 4 | 128 | 0 | 128 | 0.8 | 0.7 |
| 3 | Sarlahi | 5 | 59 | 46 | 105 | 0.6 | 0.9 |
| 4 | Mahottari | 1 | 1 | 1 | 2 | 0.0 | 0.2 |
| 5 | Bara | 1 | 11 | 6 | 17 | 0.1 | 0.2 |
| 6 | Rautahat | 1 | 23 | 3 | 26 | 0.2 | 0.2 |
| 7 | Siraha | 1 | 4 | 9 | 13 | 0.1 | 0.2 |
| 8 | Dhanusa | 1 | 2 | 7 | 9 | 0.1 | 0.2 |
| | Total | 15 | 252 | 72 | 324 | 2.0 | 2.7 |
| | **Province III** | | | | | | |
| 1 | Kathmandu | 199 | 2954 | 3242 | 6196 | 37.5 | 35.2 |
| 2 | Lalitapur | 126 | 1524 | 1459 | 2983 | 18.0 | 22.3 |
| 3 | Bhaktapur | 21 | 360 | 284 | 644 | 3.9 | 3.7 |
| 4 | Chitwan | 31 | 548 | 588 | 1136 | 6.9 | 5.5 |
| 5 | Dolakha | 1 | 11 | 0 | 11 | 0.1 | 0.2 |
| 6 | Sindhuli | 1 | 3 | 5 | 8 | 0.0 | 0.2 |
| 7 | Dhading | 6 | 56 | 63 | 119 | 0.7 | 1.1 |
| 8 | Sindhupalchok | 5 | 49 | 44 | 93 | 0.6 | 0.9 |
| 9 | Makwanpur | 12 | 131 | 162 | 293 | 1.8 | 2.1 |
| 10 | Kavre | 11 | 153 | 196 | 349 | 2.1 | 1.9 |
| 11 | Nuwakot | 2 | 37 | 13 | 50 | 0.3 | 0.4 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | Total | 415 | 5826 | 6056 | 11882 | 71.9 | 73.3 |
| | **Province IV** | | | | | | |
| 1 | Lamjung | 1 | 8 | 10 | 18 | 0.1 | 0.2 |
| 2 | Myagdi | 1 | 4 | 6 | 10 | 0.1 | 0.2 |
| 3 | Tanahu | 6 | 59 | 40 | 99 | 0.6 | 1.1 |
| 4 | Kaski | 46 | 680 | 804 | 1484 | 9.0 | 8.1 |
| 5 | Gorkha | 1 | 2 | 6 | 8 | 0.0 | 0.2 |
| | Total | 55 | 753 | 866 | 1619 | 9.8 | 9.7 |
| | **Province V** | | | | | | |
| 1 | Palpa | 1 | 14 | 13 | 27 | 0.2 | 0.2 |
| 2 | Kapilbastu | 1 | 16 | 4 | 20 | 0.1 | 0.2 |
| 3 | Banke | 11 | 166 | 80 | 246 | 1.5 | 1.9 |
| 4 | Dang | 3 | 275 | 270 | 545 | 3.3 | 0.5 |
| 5 | Nawalparasi | 4 | 115 | 90 | 205 | 1.2 | 0.7 |
| 6 | Rupandehi | 8 | 179 | 118 | 297 | 1.8 | 1.4 |
| 7 | Bardiya | 2 | 13 | 7 | 20 | 0.1 | 0.4 |
| | Total | 30 | 778 | 582 | 1360 | 8.2 | 5.3 |
| **9** | **Province VI** | | | | | | **0.0** |
| 10 | Surkhet | 5 | 143 | 137 | 280 | 1.7 | 0.9 |
| 11 | Dailekha | 1 | 3 | 2 | 5 | 0.0 | 0.2 |
| 12 | Humla | 4 | 36 | 88 | 124 | 0.8 | 0.7 |
| 13 | Jumla | 2 | 20 | 29 | 49 | 0.3 | 0.4 |
| | Total | 12 | 202 | 256 | 458 | 2.8 | 2.1 |
| | **Province VII** | | | | | | |
| 1 | Kailali | 6 | 98 | 93 | 191 | 1.2 | 1.1 |
| 2 | Achham | 1 | 11 | 8 | 19 | 0.1 | 0.2 |
| 3 | Kanchanpur | 5 | 65 | 25 | 90 | 0.5 | 0.9 |
| | Total | 12 | 174 | 126 | 300 | 1.8 | 2.1 |
| | | | | | | | |
| | Total (45 districts) | 566 | 8,313 | 8,216 | 16,529 | 100.0 | 100.0 |
| | Row % | | 50.3 | 49.7 | 100.0 | | |
| | Average number of children/ Homes | | 15 | 15 | 30 | | |

Source: CCWB, 2073 (2016).

Annex 4.3 Name lists of leading NGOs working in safe migration, anti-trafficking and child rights issues including GBV

| SN | Name of NGOs | Main working area | Established | Coverage |
|---|---|---|---|---|
| 1 | AATWIN<br>(33 organizations in network) | Anti-trafficking network<br>Advocacy, pressure group<br>Policy change at the local, national and international levels. | 1997 | |
| 2 | Aawaj, Surkhet | VAW and anti-trafficking<br>Rehab center | 1999 | Surkhet |
| 3 | Biswas Nepal | Entertainment sector | 2010 | Kathmandu valley |
| 4 | Change Nepal | Entertainment sector | 2014 | Kathmandu valley |
| 5 | Chhori | Entertainment sector | 2013 | Kathmandu valley and Nuwakot |
| 6 | CWIN Nepal | Child rights<br>Helpline | 1987 | Kathmandu, Morang, Makwanpur, Banke, Kaski, Dolakha |
| 7 | Gramin Mahila Srijanshil Pariwar | Anti-trafficking<br>Prevention | 1992 | Sindhupalchok |
| 8 | HimRights | Anti-trafficking<br>Prevention and legal support | 1999 | Makwanpur, Bara and Parsa |
| 9 | KI Nepal | Anti-trafficking<br>Border surveillance<br>Rehab support<br>Skill development<br>Community mobilization<br>Awareness, advocacy and lobbying<br>Rescue | 2008 | Surveillance centers in 8 major cross border points: Rani in Biratnagar, Jamunaha and Khadaicha in Nepaljunj, Inaruwa in Birgunj, Yatrugate and Lingate in Krishnaanagar, Sunauli in Rupandehi, Madi in Chitwan and Kakadvitta in Jhapa |
| 10 | KUMUDINI | Entertainment sector | 2014 | Kathmandu |
| 11 | Maiti Nepal | Anti-trafficking<br>Awareness and advocacy<br>Prevention and protection<br>Transit homes<br>Prosecution and legal counseling<br>Rescue and repatriation<br>Reintegration and rehabilitation<br>Education and skills | 1993 | Surveillance center: Kakarbhitta, Jogamuni, Birgunj, Bhairahawa, Nepalgunj, Mahandranagar |

| | | | | |
|---|---|---|---|---|
| 12 | Non-Resident Nepali Association (NRNA) | Rescue of MWs | 2003 | 71 countries |
| 13 | Peoples' Forum for Human Rights | Safe migration<br>Legal support | | |
| 14 | Pourakhi Nepal | Safe migration<br>Returnee women migrant workers | | |
| 15 | PPR Nepal | Kidney trafficking<br>Legal advocacy | 2002 | |
| 16 | Pravasi Nepali Coordination Committee (PNCC) | Safe migration<br>Implemented SaMi project in 16 districts | 2009 | Within country<br>Networks of Bahrain, Kuwait, Malaysia, Oman, Saudi Arabia, Qatar, and the U.A.E. Since 2012 |
| 17 | Shakti Samuha (run by the survivors of trafficking) | Prevention<br>Protection (rescue, repatriation, reintegration)<br>Legal support<br>Capacity development | 1996 | 14 districts: Kathmandu, Bhaktapur, Sindhupalchok, Nuwakot, Kaski, Makwanpur, Bardiya, Kailali, Banke, Jhapa, Dhading, Gorkha, Sindhuli and Rasuwa |
| 18 | Women Forum for Women in Nepal | Rights of women in the informal and entertainment sectors | 2008 | Kathmandu |
| 19 | Women Rehabilitation (WOREC) Nepal | Anti-trafficking and safe migration<br>Prevention, safe house | | Morang, Udayapur, Siraha, Dang, Dang |
| 20 | Women Skill Creation Center Nepal (WOCC) | Anti-trafficking<br>Prevention | 1993 | Makwanpur |

Source: data obtained from concerned NGOs to OSRT-NHRC, 2017 and visit of the Website of the concerned NGOs.

Annex 4.4 Number of program beneficiaries in prevention related programs by NGOs, June 2016-July 2017

| SN | Prevention activities | Biswas Nepal | Change Nepal | Chhori | Him Rights | KI Nepal | KUMUDIN | Shakti Samuha | Maiti Nepal |
|---|---|---|---|---|---|---|---|---|---|
| 1 | Safe Migration Information Booths | - | - | - | 3800 | 1317 | - | 3600 | 28,050 |
| 2 | NFE/Formal education | 152 | 229 | 36 | 50 | 4 | 16 | 40 | |
| 3 | Life and IG generating & skills, capacity development | 96 | 128 | 81 | - | 366 | 2 | 46 | |
| 4 | Awareness raising | 3337 | 716 | 2300 | 266 | 79856 | 16 | 11472 | |
| 5 | Lobbying and advocacy | 176 | Involved | 1200 | 50 | - | - | All program districts | |
| 6 | Celebration of anti-human trafficking day | 61 | Involved | 960 | 300 | 28290 | 11 | Hetauda, Pokhara, Bardiya, Kathmandu | |
| 7 | Awareness program though local media | | | | 266 | 120000 | | Pokhara, Kathmandu, Gorkha, Nuwakot | |
| 8 | Community Surveillance (no. of groups) | | | | 200 | | | | |
| 9 | Border Surveillance | | | | 450 | | | | |

Source: data obtained from concerned NGOs to OSRT-NHRC, 2017.

Annex 4.5a Number of persons **rescued** from within the country and from abroad by NGOs, July 2015-June 2016

| | Name of NGOs | Number of victims | | | | | Number of Cases/victims forward to the Police for FIR | Number of Victims not willing to registered the FIR |
|---|---|---|---|---|---|---|---|---|
| | | Total | Male | Female | Adult (> =18 years) | Children (<18 years) | | |
| 1 | Biswas Nepal | 276 | | 276 | 37 | 239 | 2 | No |
| 2 | Change Nepal | 0 | | | | | | |
| 3 | Chhori | 3 | | 3 | 3 | | 0 | 0 |
| 4 | HimRights | 0 | | | | | | |
| 5 | KI Nepal | 466 | 6 | 460 | 304 | 162 | 10/17 | 0 |
| 6 | KUMUDINI | 1 | | 1 | 1 | | 0 | 1 |
| 7 | Shakti Samuha | 9 | | 9 | 2 | 7 | 0 | 0 |
| 8 | Maiti Nepal* | 310 | | | | | | |
| | **Total** | 1065 | 6 | 749 | 347 | 408 | 12 | 1 |

Note: * data obtained from the Maiti Nepal (2016) Annual Report.

Note; all the victims were rescued by Biswas Nepal from the entertainment sectors in Kathmandu valley.

Source: data obtained from concerned NGOs to OSRT-NHRC, 2017.

Annex 4.5b Number of persons provided rehabilitation services by NGOs, July 2015-June 2016

| | Name of NGOs | Number of victims | | | | |
|---|---|---|---|---|---|---|
| | | Total | Male | Female | Adult (> =18 years) | Children (<18 years) |
| 1 | Biswas Nepal | 9 | | 9 | 1 | 8 |
| 2 | Change Nepal | 0 | | | | |
| 3 | Chhori | 58 | 0 | 58 | 23 | 35 |
| 4 | HimRights | 0 | | | | |
| 5 | KI Nepal | 67 | 0 | 67 | 40 | 27 |
| 6 | KUMUDINI | 17 | 0 | 17 | 40 | |
| 7 | Shakti Samuha | 166 | 0 | 166 | 70 | 96 |
| 8 | Maiti Nepal | 286 | | | | |
| | **Total** | **603** | **0** | **317** | **174** | **166** |

Note: NI refers to no intervention activities.

Source: data obtained from concerned NGOs to OSRT-NHRC, 2017.

Annex 4.5c Number of persons provided **REINTEGRATION services**, July 2016-June 2017 (Out of the total in the Rehab Centers)

| | Types of Reintegration Services | Number of victims/survivors/survivors | | | | |
|---|---|---|---|---|---|---|
| | | Total | Male | Female | Adult (> =18 years) | Children (<18 years) |
| | **Reintegrated with the Family (please specify the program area)** | | | | | |
| 1 | Biswas Nepal | 52 | 0 | 52 | 7 | 45 |
| 2 | Change Nepal | 10 | 0 | 10 | 10 | 0 |
| 3 | Chhori | 9 | 0 | 9 | 5 | 4 |
| 4 | HimRights | 0 | | | | |
| 5 | KI Nepal | 0 | | | | |
| **6** | **Shakti Samuha** | 90 | | 90 | 35 | 55 |
| | **Sub-total** | 161 | 0 | 161 | 57 | 104 |
| | **Reintegrated by giving skill training and seed money** | | | | | |
| 1 | Biswas Nepal<br>Seed money for her family | | | | | 6 |
| 2 | Change Nepal<br>Vocational training<br>Business Support | 72<br>15 | | 72<br>15 | | 10<br>15 |
| 3 | Chhori (skill training) | 29 | 0 | 29 | 0 | 29 |
| 4 | HimRights | 0 | | | | |
| 5 | KI Nepal | 63 | 0 | 63 | 34 | 29 |
| 6 | Maiti Nepal | NA | | | | |
| | **Total** | **179** | **0** | **179** | **34** | **83** |
| | **All total** | **340** | **0** | **340** | **91** | **187** |

Source: data obtained from concerned NGOs to OSRT-NHRC, 2017.

Annex 4.5d Number of victims received as referral services, by NGOs, July 2016-June 2017

| NGOs | | | Sex | | Children/Adult | | Nature of violence faced | | | Purpose of referral | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | No. of NGOs | Total | Female | Male | Children | Adult | Human Trafficking | Sexual exploitation | VAW | Legal aids | Shelter support | Community mediation |
| Biswas Nepal | | 0 | 0 | 0 | | | | | | | | |
| Change Nepal | | 8 | 8 | 0 | 8 | 0 | 0 | 7 | 1 | | 8 | |
| Chhori | | 2 | 2 | 0 | 1 | 1 | 0 | 2 | 0 | | 2 | |
| HimRights | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | |
| KI Nepal | | 16 | 16 | 0 | 9 | 7 | 16 | 0 | 0 | | 16 | |
| KUMUDINI | | 6 | 6 | 0 | 6 | 0 | 1 | 5 | 5 | | 6 | |
| Shakti Samuha | | 17 | 17 | 0 | 14 | 3 | 6 | 5 | 6 | | 17 | |
| Maiti Nepal | | NA | | | | | | | | | | |
| **Total** | | **49** | **49** | **0** | **38** | **11** | **23** | **19** | **12** | **0** | **49** | |

Source: data obtained from concerned NGOs to OSRT-NHRC, 2017.

Annex 4.5e Number of victims referred to other organizations, by NGOs, July 2016-June 2017

| NGOs | | | Sex | | Children/Adult | | Nature of violence faced | | | Purpose of referral | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | No. of NGOs | Total | Female | Male | Children | Adult | Human Trafficking | Sexual exploitation | VAW | Legal aids | Shelter support | Community mediation |
| Biswas Nepal | | 0 | | | | | | | | | | |
| Change Nepal | | 0 | | | | | | | | | | |
| Chhori | | 7 | 7 | 0 | 5 | 2 | 1 | 6 | 0 | | 7 | |
| HimRights | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | |
| KI Nepal | | 4 | 4 | 0 | 3 | 1 | 4 | 0 | 0 | | 4 | |
| KUMUDINI | | 17 | 17 | 0 | 17 | 0 | 3 | 9 | 5 | | 17 | |
| Shakti Samuha | | 78 | 78 | 0 | 53 | 25 | 35 | 21 | 22 | | 78 | |
| Maiti Nepal | | NA | | | | | | | | | | |
| **Total** | | **106** | **106** | **0** | **78** | **28** | **43** | **36** | **27** | **0** | **106** | |

Source: data obtained from concerned NGOs to OSRT-NHRC, 2017.

Annex 4.5 Number of cases and victims assisted for legal treatment, June 2016-July 2017

| SN | | Total Number of cases | Number of Victims | | | | | Number of Offenders | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | Total | Male | Female | Adult (>=18 years) | Children (>=18 years) | Total | Male | Female |
| | Biswas Nepal | | | | | | | | | |
| 1 | Assisted to register in Police | 5 | | | 5 | 2 | 3 | | | |
| 2 | Assisted to file the case in the court | | | | | | | | | |
| | Change Nepal | - | | | | | | | | |
| | Chhori | 2 | | | 2 | | | | | |
| | HimRights | 0 | | | | | | | | |
| | KI Nepal | 10 | | | 17 | 14 | 3 | | 15 | 7 |
| | Shakti Samuha | 34 | | | 34 | 20 | 14 | | | |
| | Maiti Nepal | 37 | | | | | | | | |
| | **Total** | **88** | **0** | **0** | **58** | **36** | **20** | **0** | **15** | **7** |

Source: data obtained from concerned NGOs to OSRT-NHRC, 2017.

Annex 4.5g Number of persons missing and found handled by NGOs, July 2016-June 2017

| Name of NGOs | Number of victims | | | | | Number of Cases forwarded to the Police |
|---|---|---|---|---|---|---|
| | Total | Male | Female | Adult (> =18 years) | Children (<18 years) | |
| **Shakti Samuha** | | | | | | |
| Number of missing person applications received | 5 | | 5 | 1 | 4 | 5 |
| Number of missing person found | 0 | | 0 | | 0 | |
| Number still missing | 5 | | 5 | | 5 | |
| **KI Nepal** | | | | | | |
| Number of missing person applications received | 178 | 18 (10.1) | 160 (89.9) | 85 (47.8) | 93 (52.2) | |
| Number of missing person found | 30 | 6 | 24 | 24 | 6 | |
| Number still missing | 148 | 12 | 136 | 61 | 87 | |
| **Maiti Nepal** | | | | | | |
| Number of missing person applications received | 3013 | | | | | |
| Number of missing person found | 1169 | | | | | |
| Number still missing | | | | | | |
| **All NGOs** | | | | | | |
| Number of missing person applications received | 3196 | 18 | 165 | 86 | 97 | 5 |
| Number of missing person found | 1199 | 6 | 24 | 24 | 6 | 0 |
| Number still missing | 1997 | 12 | 141 | 62 | 91 | 5 |
| Untraced rate (in %) | 62.5 | 66.7 | 85.5 | 72.1 | 93.8 | 100.0 |

Note: Among the NGOs sent their reports, Biswas Nepal, Change Nepal, Chhori, HimRights, KI Nepal, KUMUDINI and Shakti Samuha, only Shakti Samuha and KI Nepal has provided information about missing children. Figures in parentheses indicate the percentage of the total.

Source: data obtained from concerned NGOs to OSRT-NHRC, 2017.