

NATIONAL LABOUR POLICY

An unbalanced labour policy will cause social injustice and enlarge economic inequalities. Pushing the workers towards bipartism, in a situation where the basic prerequisites for bipartite relations are not yet established, will yield negative results. In contrast, our realities advocate the need for development of tripartism and for continuous state intervention. Thus, the formulation of a clear national labour policy is urgently needed.



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GEFONT's Concept and Position

Introduction

The vital role of labour in the long run process of development had been emphasised in the form of human capital formation in early periods. After passing through different phases of development, a more revised concept of human resource development came into existence. Recently, a new concept of human development has become the central point of development strategy.

Man is not only a factor of production but the real owner of returns, and the goal of all activities should be the achievement of a prosperous and high quality of life. Therefore, it should be established in all aspects and operational policies of the state that the final goal of all development activities is the quality of life. The policies in practice should also recognise the direct and indirect importance of human labour. Thus, the dynamic measures for the transition towards an environment of due respect to labour, can be included within labour policy.

It is necessary to initiate in balance between demand for and supply of labour, and to co-ordinate the reinvesting capacity of entrepreneurs with the broader objective of creating a non-exploitative environment for labour force. The maximum utilisation and mobilisation of the labour force in the long-term development strategy and continuation of the growth-rate of labour productivity have to be emphasised. Hence, in our conception, labour policy is the effective short-term as well as long-term policy package already determined or to be determined for the fulfilment of these objectives.

Thus, labour policy is closely associated with employment policy. The creation and maintenance of gainful employment should be the focus of agricultural policy, industrial policy, commercial policy, education policy, population policy and even by monetary and fiscal policies. Therefore, the tendency of the state to escape from its social and welfare functions, and to move for the blind privatisation cannot be justified. Similarly, in the name of liberalisation, the acceptance of imposed conditionalities of IMF/WB by the state, either willingly or otherwise, is unfair as it ignores our realities.

Escapist tendencies of the state may ultimately put labour policy in the control of employers, making labour policy not worker-oriented but pro-employer. Consequently, an unbalanced labour policy will cause social injustice and enlarge economic inequalities. Pushing the workers towards bipartism, in a situation where the basic prerequisites for bipartite relations are not yet established, will yield negative results. In contrast, our realities advocate the need for development of tripartism and for continuous state intervention. Thus, the formulation of a clear national labour policy is urgently needed.

Background of labour policy in Nepal

In the eve of World War II, the opening up of a few industries based on the probabilities of high profitability during war-time conditions, and the establishment

of an industry council, were the beginnings of modern industry in Nepal. It is also the elementary point of the rise of the industrial working class in the modern sense. Although some rules and regulations for the industrial sector, as necessitated by the establishment of various industries during the period, had come into existence, nothing in the history can be found on labour laws and related issues. As the war came to an end, changes in the war period supply conditions caused many industrial enterprises to incur losses and many of them closed down.

The first workers' movement was carried on by the newly rising class of industrial workers in Biratnagar resulting in political change of 1951. However, after 1951, nothing was done in connection with labour policy even though an effort at a planned economic development had begun in 1956. Only in 1959 did the Factory and Factory Workers Act come into existence. With the exception of a few provisions under some articles regarding factory workers, the act was not of much use in protecting the interests of workers.

The labour movement itself was suppressed during the period of the autocratic Panchayat system. Gradually, with the expansion of the service and industrial sector, the circle of the working class widened, but no effort for the formulation of a unified national labour policy was undertaken. Although the fifth plan had shown some good signs, in the absence of a suitable institutional framework, nothing substantial was done regarding labour issues in the fifth plan period. The Ministry of Labour and Social Welfare was established in 1981 during the sixth plan period, but the plan could not go beyond a one-sided emphasis on limited skill training for employment generation. Emphasis was given to the generation of self-employment opportunities in non-farm sectors during the seventh plan.

For the first time, labour policy matters were included in the eighth plan. The rate of overall unemployment, male unemployment and female unemployment were 7.6, 7.1 and 8.4 per cent respectively in the year 1992, the beginning of the eighth plan. The eighth plan concentrated on skill-developing measures for a higher rate of employment in both the farm and non-farm sectors, and on improving management for the protection of workers' interest. As mentioned in the eighth plan document, previous plans made attempts merely to fulfil the immediate needs of government departments. As a result, skilled manpower could not be produced through regular institutionalised training, and even the laws relating to labour could not be fully implemented. The eighth plan has considered the following as existing problems in the labour sector:

- a. Inability to create new jobs due to the low rate of economic development.
- b. Lack of co-ordination between employment policy and its implementation.
- c. Absence of reliable statistical information on labour situation.
- d. Shortage of basic skilled manpower.
- e. Lack of consistent policy and regulations for foreign employment.

Four objectives of the labour policy have been mentioned in the eighth plan document:

- a. Reducing unemployment by maintaining a balance between demand for and supply of labour.
- b. Producing skilled workers for the purpose of development activities.
- c. Creating appropriate conditions for employment opportunities at home and abroad.
- d. Protecting the basic rights of labourers effectively.

The eighth plan has taken into consideration programmes such as basic skill training, development of employment-oriented and productive skills, encouraging those industries which make use of the country's raw material and technical skills, implementation of the Labour Act 1992, training programs for backward ethnic communities, and work-ers of remote areas.

In connection with labour-related policy, the main focus has been given to the development of self-employment opportunities, diversification and intensification of agriculture, vocational training, skill-training, technical and financial assistance to labour-intensive sectors, extension of family-planning services in order to control potential growth of labour supply, minimum wage determination, development of employment information centres, tax rebates to the employers investing for the training of their workers and others. The development of organisational and legal provisions to facilitate Nepalese workers for foreign employment is also mentioned in the policy.

Thus, problems are partially identified by the eighth plan. The priorities and policy have given one-sided emphasis to the aspects of employment. Many other aspects of the labour policy as a whole have not been taken into consideration. Therefore, no new and solid programmes have been put forward during the eighth-plan period except the program of establishing a central industrial health laboratory. The system of estimating demand for labour based on detailed analysis and calculation of various sectors of the economy is not yet developed. Similarly, no reliable database other than population census has been developed in connection with the supply condition of labour.

In this way, the review of the past reveals that the government sector has not been serious in labour issues. No special attention and activities can be found regarding the maximum utilisation of human labour, liberating labour from exploitation, and the increase of labour welfare accordingly. In the absence of a consolidated labour policy, existing legal provisions and their effective implementation are unable to meet the present necessities. Therefore, there is a necessity for an integrated & systematic labour policy committed to pro-worker changes in distributive shares, and which should be employment-oriented and concentrated on labour welfare.

The labour policy should encourage skill, productivity and efficiency. We feel it urgent to put forward our conception, viewpoints and practical suggestions on different aspects of labour policy in order to attract the attention of the working class, employers, government and related entities so that they will be serious in acting on labour policy issues. As we believe in the leading role of the working class in a strategic campaign for social transformation, we are sincere about class responsibilities for the development of society. Due to this responsibility, our obligation is to think over the different aspects of labour policy and to struggle simultaneously for workers' interests and for social revolution.

In the context of increasing adversities of the working population of the whole world through economic liberalisation and SAPs, we feel that our responsibility towards the workers of our country is increased. While shouldering these vital responsibilities, we have tried to present our conception, viewpoints and position on different aspects of labour policy especially based on global technological changes, fluctuations in the political scenario and labour movement, as well as the contemporary national-international realities. Our hope is that the pro-worker trade union movement of Nepal may go ahead unprecedented in fulfilling its national, social and class responsibilities.

Existing labour laws

Formulation of the first labour law became possible in our country only after 23 years of establishment of organised industries, but this does not mean there was a complete absence of labour laws. 'Shukra Niti' and 'Economics of Kautilya' include provisions like giving appropriate remuneration to workers, determination of wages in accordance with time and nature of work, higher wages for longer length of work time, no delays in payments and so on.

The above represent the ancient forms of labour law. Some chapters of the Muluki Ain of B.S. 1910 (i.e. 1853) are also connected with labour laws. The Essential Services Act issued in 1958, and the use of Bengal Awards' as prescribed by Labour Commission Report of 1951 are the basis for labour laws in Nepal.

Although the early industries were established in 1938, there was no systematic legal framework before the formulation of Factory and Factory Workers' Act in 1959. It was publicised in July 1995 but enactment was very late (only in 1962) after the right to trade union formation was rejected. This law was amended in 1974 and 1979. For the enforcement of this law, the Factory and Factory Workers' Regulations 1962 was issued. However, workers outside enterprises are covered by the Muluki Am 2020 (1963) which only states that there should be no forced labour. Bonus Act 1974 and Bonus Regulation Act 1983 were formulated in order to ensure workers access to enterprise profits. Other labour laws such as the Trainee's Training Act 1983 and Foreign Employment Act 1986 were also formulated.

Soon after the establishment of a multiparty system in 1990, the demand for the abolishing of the Factory and Factory Workers Act 1959 and for the guarantee of trade union rights came forward with great velocity. In the first parliamentary session after the first general election of 1991, GEFONT presented an 'Alternate Bill' on labour, industrial relations and trade union through its president who was a member of parliament. As a result, the government was forced by circumstances to enact the Labour Act 1991 and the Trade Union Act 1992. Regulations under these acts have also been issued.

The Transportation Act 1992, Children's Act 1992 and Working Journalist Act 1994 were also enacted. The labour court and present labour laws were formed after the issue of Labour Court Regulations Act 1995. Even after the issuing of labour-regulations, we felt that a number of provisions concerning the law were not only against workers' interest but also obstacles to rapid industrialisation. Up to now, the central labour advisory committee has not been formed. Neither the criteria for trade union representation in the committee has been fixed nor the minimum wage board has been formed. While analysing the nature of existing labour laws and experiences based on practice and traditions, the present situation can be described as follows:

- a. Effort has been centred to formulate a labour law to include workers of all sectors and varying fields, but in reality, it is incomplete for every sector. Suitable labour laws for each sector has not been formulated because of the concentration towards a single labour law.
- b. The labour law is formulated only for workers of organised sectors and the huge workforce of the country in unorganised sectors is excluded.
- c. Foreigners are allowed to work through global tender methods in the projects of foreign investment, but there are no provisions in our labour laws

regarding the rights and welfare of workers hired by such foreign companies, firms or organisations.

- d. A number of provisions of the labour law are not enforced by the government.
- e. Not only is the enacted labour law incomplete and insufficient, it is also 'illusivive and not clear.
- f. Rules and regulations for the implementation and enforcement of the provisions of existing labour laws are insufficient as well as inefficient.
- g. Legal provisions concerning the formation of a labour court and its rights and procedures are incomplete, insufficient and wrong with the view point of legislative principles.
- h. Clear and complete provisions are lacking in connection with meth-ods and mechanism for the enforcement of decisions and of col-lective agreements done under labour laws.

In this situation, serious efforts are essential in order to revise existing labour laws in accordance with the existing condition, and to establish appropriate concepts and norms in the labour sector as well as enforce them in a clear-cut manner. Concentration should be on the formula-tion, development and extensions of labour laws in a simple, appro-priate and comprehensive manner mainly for dynamic labour relations and industrialisation. A policy for labour laws has to be undertaken based on the following principles:

- a. Laws should be formulated covering all the necessary provisions in order to guarantee a balanced and equitable bargaining positions for workers who are suffering social imbalances caused by social, economic, political and educational factors.
- b. Due respect and balanced status should be ascertained to workers through the law, and provisions should be systematised to help workers obtain rights and benefits through collective bargaining in accordance with the capacity to pay of enterprises. Measures have to be created by the law to provide prerequisites for successful col-lective bargaining.
- c. Opinions of trade unions have to be collected for the formulation, amendments or modifications of the labour laws and the draft should include their suggestions.
- d. Studies on labour activities including labour policy, labour laws, labour standards and statistics have to be systematised, and provi-sion of timely revisions should be done through the labour laws.
- e. An appropriate law is to be formulated to provide for the selection of central level representatives based on multi-unionism.
- f. Fair and appropriate wage policy and permanent wage board are necessary, so that a fair wage system for the entire workforce can be developed.
- g. The labour sector is suffering from disputes and adversities due mainly to existing management in the private sector. Hence, labour laws should create compulsory provisions for a scientific management based on skills and expertise.
- h. Unnecessary provisions, illusions and confusions have to be removed from the legal system.
- i. While developing fair labour relation, unnecessary restrictions and difficulties imposed on workers have to be eliminated. An enforc-ing agency for the implementation of collective agreements should be created.
- j. There is no minimum wage for the workers of especial sectors and nature. Three major acts have to be made: the Systematic Labour Act (for the determination of rights, benefits as well as minimum terms and conditions of

employment in favour of workers), the Industrial Relation Act or the maintenance of fair labour management relations) and the Trade Union Act (for registration and operation of trade unions).

- k. Rules and regulations formulated under labour laws are insufficient and their provisions are unclear. Therefore, the redrafting and preparation of separate regulations for enterprises of a specific nature are urgently needed.
- l. This Industrial 'Trainee's Training Act,' formulated to develop skilled industrial manpower is completely passive. Its implementation by preparing suitable and appropriate rules and adequate revisions are urgently needed.

Adequate provisions for evaluation and follow-up are missing in labour laws. This indicates the need for quick formation of a tripartite central labour advisory committee with full authority. We think that proportional representation based on enterprise level unions and national federations will be appropriate for the representation of trade unions in this committee.

The debate on the coverage of trade unions could not be put to an end during this period. The wrong understanding that trade unions refer solely to manual workers of the factories and not others associated with the civil service, corporations, education and health including white-coloured employees even in the factories, has dominated the mentality of the activists concerned.

There is also another tradition to include all levels of workers: from unskilled manual workers to highly skilled engineers, doctors or professors within the structure of the trade unions engaged in private, semi-government or non-government sectors. In this trend of thought, a trade union is an organisation of people engaged in any profession. The organisation should participate in collective disputes and have the right of collective bargaining. Therefore, the dispute whether to form a trade union or a professional organisation does not make any sense.

In this context, employee organisations in Nepal should be treated as trade unions and by using the term "trade union" in a broader sense, the artificial discrimination between "trade union" and "professional association" should be eliminated. Similarly, the arbitrarily fixed objectives of trade unions as dictated in the Trade Union Act have to be eliminated.

Industrial context

a) Industrial revolution in our case

The term "industrial revolution" is understood in a technical sense. It indicates the process of rapid industrialisation of Europe after the invention of the steam engine in the 18th century. However, we have taken it, not in its rigid sense but as a general term, to express our urgent need of rapid industrialisation.

The beginnings of industrial activities in our country is to be traced back to the efforts of Indian capitalists and Rana rulers including some of the feudal lords. These elementary efforts in the eve of World War II were stimulated by profit-opportunity because of short supply conditions. Naturally, there was no long-term industrial strategy. Even in the period of political instability after the end of Rana regime, nothing was the outcome in connection with industrialisation. The Panchayat system had been adopted after the limited democratic rights of the people were forcibly snatched in 1960.

During the three decades of the autocratic Panchayat-system, nothing mentionable was done strategically for the identification of suitable industrial base. In the past half a decade, after the vital political change brought about by the mass-movement of 1990, the situation has not changed. A major causal factor is the continuous neglect of the role of the working class in the process of rapid industrialisation. As experiences indicate, Japan's process of economic growth is the outcome of the maximum utilisation of manpower. The Chinese case also supports this.

The process of rapid industrialisation is handicapped by two major factors: firstly, weakness in identifying the national Industries appropriate to our realities and channelling all efforts and resources towards it with a long term strategic view point, secondly, the continuous neglect of vital role of labour in industrialisation. Similarly, the government policy of preferring commercial enterprises to industrial enterprises as well as lack of co-ordination between commercial policy and industrial policy, are also the major factors hindering the process of industrialisation.

In the absence of the identification of national industry, our export trade could not be based on a solid foundation. Initially, it was based on agro-products and raw materials but later it became dominated by leather followed by carpets and garments. Now, the situation has changed and it is clear that carpets and garments can no longer remain the major items of our export. It is imperative to identify and select a stable and dependable base for industrialisation and for export in agriculture as our economy is primarily agricultural. So, the priority should be given to industries based on agro-products, forest-products and available natural resources.

Tea and herb may be put at the top of priorities followed by the plantation sector, tourism and other industries. So we feel it impractical to attract large-scale capital intensive industries based on imported raw materials that will demand numerous facilities and tax rebates but create complicated environmental problems. Therefore labour-intensive technology should be made the focal point and capital intensive technology should be utilised to the extent of creating more job opportunities in its capability to develop side occupations. This is essential in view of widespread underemployment, seasonal unemployment and disguised unemployment in rural areas, and open unemployment in urban areas.

Acute poverty, unemployment and available employment, too, being considerably low with the viewpoint of gainful employment are the characteristic features of present conditions. Thus, industrialisation has to be accelerated as the economic revolution. We feel that first grade priorities should be in the identification of national industries, concentration of efforts and resources on them and in maximum utilisation of human resources. Due attention should be paid to the role of labour. Along with these, adequate combination of other factors may be fruitful. The country is at a transition point where there should be no confusion in objective thinking and in the selection of a right track. On the basis of this analysis, we have come to the conclusion that the present phase of industrialisation has to be accelerated in the form of an industrial revolution.

b) Character of Capital

The considerable influence of capital cannot be denied when industrialisation is looked at in combination with long-term national interest. There are debates and differences on the character of existing capital in Nepal. The tendency of classifying businesses into small, middle level and giant capitalists may hinder the

development of the national economy. It is often found that this type of classification gives inducement to small capitalists who are working against national interest, and harassment to giant ones who are positive for the development of the national economy. It cannot be logical to conclude that small capital-ists should always be supported and large ones opposed by our movement.

Similarly, another traditional categorisation classifies capital into comprador bureaucratic capital, and foreign and national capital. However, in reality, numerous complexities mark the theory. Our responsibility cannot be limited to the general theoretical expression that our move-ment will support the development of national capital and strike force-fully against comprador and bureaucratic capital.

Therefore, we feel that classifying capital into "supportive of national economy" or "supportive of foreign dependent economy" is more ade-quate. Analysis to decide if the national economy is supported has to be based on the use of labour, nature of raw materials, technology and the market. In short, it will be more clear if we describe the existence of "native" and "foreign" capital in our country. A "closed economy" by negation of foreign capital is neither possible nor logical, foreign capital is to be invited and utilised. However, keen observation on whether its activities go against the national economy appropriate pol-icy of tight control or flexibility are necessary. Naturally, the revision of and elasticity in our industrial policy is essential to utilise foreign capital in our national interest and priorities for rapid industrialisation and for higher level of employment.

On the other hand, every segment of native capital does not necessar-ily favour and serve the interest of the national economy. The com-prador and bureaucratic part of native capital sometimes comes into full action against national interest, people and working class, where-as sometimes it becomes slow and harmless. Only by analysing this fluctuation of its character can we adopt the policies of tight control or neutrality. However, our support is for that part of national capital which is supportive of an independent national economy. i.e. to the development of national capital. The industrial policy of the country should be dynamic and elastic in favour of the protection and develop-ment of national capital. We think policy makers should always keep in mind that national capital is the factor inevitable in the process of industrial revolution.

It may be interesting to study what different types of capital are repre-sented by capitalists active in Nepal. It will be useful to carry on stud-ies and research on this topic by concerned institutes/organisations and researchers academicians.

c) Economic liberalisation and structural adjustment programmes

The explanation of the character of capital, and the determination of the degree of response of the trade union movements are not sufficient in a frequently changing world. The outlook, interpretation and analy-se, irrespective of the present scenario of economic liberalisation and SAPs, and the newly established World Trade Organisation under GATT, may not be practical.

The structural adjustment programme introduced by the IMF/WB as an effort to reform monetary and fiscal conditions gradually became attached to economic liberalisation within a few years. Economic liberalisation and SAPs are intermingled with the concept of the open market and free trade. During the 80s, when socialism came into crisis in the former Soviet Union and Eastern Europe, full speed was given to economic liberalisation all over the world, especially by the US and the

West. After the restoration of capitalism in Eastern Europe and the former Soviet Union (especially after the fragmentation of the Soviet Union), economic liberalisation and SAPs are being presented forcibly as if there are no other alternatives. Many examples of imposing SAPs and economic liberalisation with conditionalities by IMF and WB have been observed.

The first phase was the phase of monetary and fiscal adjustments. With the increases in its size and more and more publicity, the inclusion of liberalisation and of the concepts of open market and free trade, may be described as the second phase where privatisation has played the dominant role. It is obvious that these phases were limited to technocratic vision and exercise which absolutely neglected the human element. From the very beginning of the 1990s, economic liberalisation and SAP have come in a new form "with a human face." This is the third phase. Major elements of liberalisation and SAPs are:

- a. Trade and investment liberalisation
- b. Monetary reforms
- c. Market liberalisation
- d. Limiting state responsibilities
- e. Privatisation

It is experienced, the first and second phase of liberalisation and SAP have made wealthy sections of the society richer and the working population poorer. The interpretation that the short period might be difficult but in the long run everything will be okay, has been proved wrong. In the process of market, trade and investment liberalisation, efforts have been made to chase unions out from the labour market and to deprive fundamental human rights of workers, like the right to organise and the right to collective bargaining as witnessed in EPZs and FTZs.

Experiences of several countries show that they are terribly indebted and the social welfare schemes and projects have been heavily curtailed because of debt-servicing. As a result, the standard of the working population is sloping downward steeply. Not only have unemployment and insecurity of employment increased, but the decline in real wage has become chronic. Casualisation of labour and retrenchment have become common. Even though there are little improvements in the rate of economic growth of many countries, the miseries of the working population are multiplying because of the further disparities in the process of distribution.

It is generally accepted that economic liberalisation and SAPs have been highly successful in Asian tigers - the countries including South Korea, Taiwan and Singapore. However a study of the World Bank in these countries revealed the fact that government interventions have played the dominant role in achieving high growth with equity, and that the government subsidies to the export-oriented industries had been surprisingly large. Because of the horrifying complexities created by liberalisation and SAPs all over the world and the dominant role of state intervention even in these countries where liberalisation is considered a success, the criticism that human element is totally neglected in SAPs and Liberalisation came up also from the capitalist world. Consequently, the IMF and WB have been forced to modify their concepts and analyses and the ILO has contributed them in this respect.

Thus, a new form of liberalisation and SAPs with the inclusion of a human element are being propagated. However, in the absence of a unified resistance through the

collaboration of social organisations, human right organisations, people's organisation, organisations of antipoverty campaigns and the genuine trade union movement, the real treatment of the pains and sufferings caused by liberalisation may not be possible. Otherwise the theoretical advocacy of the human element cannot produce any considerable changes in the situation.

In the South Asian context, the first to implement SAPs was Sri Lanka. In our country, the adoption of SAPs started in 1985, but the process has created multiple problems instead of providing solutions. Since the beginning of the 1990s, His Majesty's Government (HMG) of Nepal started to give public enterprises to foreign capitalists without any deep study and proper homework but merely emphasised the importance of privatisation. This has adversely affected national interest as well as the working class. We are against it. It is quite clear that trade liberalisation in our weak export-base conditions is merely import liberalisation. The fruits of the little improvement in the rate of economic growth have been concentrated in the hands of smugglers, and the masses are suffering from uncontrolled price increases.

In spite of the fact that a small portion of the total labour force are industrial labourers (including the service industries - hotel, transport, tourism), unionisation is more intensive as it is an organised sector, and workers are more aware of their rights and related issues. The labour laws also pay more attention to this sector as international fluctuations first impact this sector. So, the immediate effects of liberalisation, SAPs and privatisation are first visualised in this sector.

The labourers of the industrial sector are heavily burdened due mainly to the minimisation of state responsibilities in the process of economic liberalisation. Privatisation already done or being done under external conditionalities and absolutely overlooking our national realities cannot be accepted. We have witnessed the cases of labour retrenchments. In spite of the increases in foreign investment, the level of employment created by it has declined sharply from 1988 to 1994. Thus, selective liberalisation-privatisation can be accepted when there is a full guarantee of the protection of working class interest.

In fact, we are at a transition point where the old socialist model of absolute state-control has stepped down to a defensive position due to various economic and political causes. Laissez-faire and free trade policies, already proved outdated before World War II, have been pushed ahead through extreme publicity, conspiracy and pressure. Therefore, not only in context of our industrialisation, but also connection with the entire development strategy, a deep analysis of economic liberalisation and SAPs, and the selection of a right track is essential.

In accordance with our realities, selections have to be made from the different modalities of privatisation. Trade unions have to look at policies from the perspective of workers' welfare, not from the profit and growth perspective as technocrats do. So, we should be actively involved in joint-resistance with social organisations, consumer associations and human right activists against the unfair exploitation and misuse of natural resources adversely affecting social welfare. We want to generate movements to pull liberalisation towards measures of poverty-alleviation.

We should concentrate our efforts to increase investments in social security and social welfare. Present market philosophy bends towards comparative advantage and trade by imposing all the burdens to workers. We are in favour of efforts to substitute this trend by creating comparative advantage through productivity,

incentives and managerial efficiency. In short, we will be active in the campaign to lead liberalisation within the limitations of our realities and in favour of an independent national economy and social justice. We emphasise the active role of the state and we are determined to negate privatisation in basic industries and public utility services.

While privatising the enterprises, far-sighted calculations are inevitable and if there are possibilities of technical improvements, increases in efficiency and reforms in employment pattern, working conditions and wage structure, the concerned enterprise should be enrolled in the list of privatisation. Furthermore, the state should utilise the amount derived through privatisation of public enterprises in schemes of employment generation and of social security and welfare. In addition to this, our emphasis is on the full utilisation of the capacity of privatised enterprises and on the guarantee of non-retrenchment. Lastly, we are of the opinion that discussion and exchange of views with trade unions should be given priority in policy formulation and implementation in the process of liberalisation and privatisation.

d) Industrial relations

The type of policy to be adopted on industrial relations depends mainly on the character of capital and the ownership of enterprise. It is natural for trade unions to take a tough stance regarding foreign capital because the dividend of the foreign investment goes outside the country. Furthermore, a major portion of the incomes of the high level managerial staff (mostly foreigners) crosses the boarder as well. Hence, the effort to channel a part of profits towards labourers either in the form of monetary wages or in real wages and facilities is quite natural. The less elastic positions of trade unions in collective bargaining with foreign investors can be justified by the higher earnings and higher capacity to pay of TNCs IMNCs or private individuals.

On the other hand, an elastic policy for the national industries (to be selected strategically as the export base) is natural. However, in connection with comprador and bureaucratic capital, a policy of conflict has to be adopted when its activities are against the welfare of the nation. However, when its activities are harmless, industrial relations should be maintained accordingly. While looking at the experiences of others, diversity can be found on the basis of ownership. The Chinese economy has maintained three types of ownership-collective: public and private. The trade union movement in China generally applies a negotiatory policy in the former two and policy of conflict in the third.

In Nepal, industrial relations have to be determined on the basis of a division between natives and foreigners, and even among the natives, it should be based on subdivisions. A balanced industrial relation is one that is practical and which maintains an adequate distance from both the extremes of "always conflict" and "always negotiations." Maintenance of industrial relations and assistance in the development of tripartism is desirable in our realities where industrial democracy is not yet developed.

With the worldwide expansion of liberalisation, changes in the terms and modes of employment have given way to the use of subcontracting and casualisation of work. The uncertainty of employment has multiplied many times in comparison to previous years. As a result, industrial relations may be affected by changes in the employment policy of employers. We will have to choose the path of hard struggle

when employment policies go against the working class. So the changes in employment policies will have influences in our vision of industrial relations.

Finally, liberalisation and the process of industrialisation should march in friendly relation with social justice, social security and the long-term interest of workers and the working population. Otherwise, neither the development of an independent national economy nor growth with equity will be possible whatever be the improvements in the rate of economic growth. The resultant effect will be the concentration of all the returns into limited native and foreign hands. To save our nation and the masses of working people from this unfortunate condition, we are always conscious and active in our responsibilities.

Agricultural workers

Despite having an agriculture-based economy and highly prioritised- largely invested agricultural sector, our country has been forced to import food grains. We were previously a grain exporting nation. This reality reveals what the living standard of peasant and rural community has been reduced to. If agriculture is not commercialised rapidly by changing traditional technologies, the conditions will further deteriorate. Favourable changes in agriculture cannot be created by just the static use of increasing use of imported fertilisers every year, and allocation of more amounts in the annual budget for irrigation. Similarly, without transferring the underemployed and disguised unemployed workers of zero marginal productivity from the total employed labour force in agriculture to the industrial and other productive sectors, agrarian reform is not possible.

Thus, from all the three angles of productivity, distribution and employment, the inevitability of land reform can be justified. In the absence of fully determined programmes for bringing about changes in the present land ownership structure and its effective implementation, commercialisation of agriculture, increase in land and labour productivity, the even distribution of agro-products and the generation of gainful employment in agriculture cannot be achieved. Agriculture should be released from its sickness not only for the sake of food security but also for its potential as a permanent export base. Despite the fact that the economically active population is mainly dependent on agriculture, the peasant movement lacks momentum.

The wrong understanding that the term "labourer" refers merely to factory workers and the word "peasant" represents the landless and also rich framers, is part of the reason why the peasant movement is weak. The peasant movement should be involved in issues of land reform, land distribution, high productivity, HYV and affordable fertilisers, agricultural marketing new technologies and skilled technicians. The wrong idea that the peasant movement of the country can represent the interests of agricultural labourers should be dispelled.

The unorganised agro-labourers have to be brought under the umbrella of the national trade union movement. A portion of workers who are known as 'Kamaiyas' are bonded labourers. Only the tea plantation workers are organised, but bonded kamaiyas, agro-farm workers, Halis--Gothalas-Khetalas (tillers, cattle-herders) landless agro-workers and wage dependent small landholders are still unorganised. A major portion of the total labour force (almost 2 millions) is still outside the periphery of the trade union movement. Therefore, we have become serious for the rapid unionisation of the agricultural sector.

Along with the commercialisation of agriculture, the extension of plantation sector to include coffee, sugarcane, nut, cardamom and pineapple etc. will surely create separate organisation for plantation workers. Only the tea plantation workers are largely organised, the large number of other plantation workers and their giant federation will prove their organised existence in future years to come. We have developed a three union concept for the unionisation of the huge mass of agricultural labourers - one for bonded Kamaiya labourers, another for agricultural workers and the third for unorganised tillers, cattle herders, landless agro-labourers and wage dependent small landholders. We have formed a federation of agricultural workers for the co-ordination and leadership of these three unions.

The issue of minimum wage is as important as the unionisation of the masses of agricultural labourers. However, there are numerous complications in the determination of a minimum wage due mainly to non monetization in rural areas (where payment is in kind). Steps have to be taken not only in the issue of minimum wages but also for the provision of occupational health and safety as workers adjust to the technological changes in agriculture and to increases in skill and productivity. We are serious about bringing them into a comprehensive social security network and we express our commitment to the roles and leadership required.

Wage-policy and related matters

The issue of wages is like two faces of a coin - from the perspective of one face, the income of workers is the primary consideration, and from the other, the primary consideration is keeping cost of production low for producers. Hence, it is important to determine wages by maintaining a proper balance between the reinvestment capacity of employers, and the protection of and increases in purchasing power of workers. There are many theories in connection with wage determination ranging from the most exploitative iron law of wages and wage fund theory to marginal productivity and collective bargaining theories. By analysing the theories, it can be concluded that three forces play dominant roles in the determination of wages - market, institutional and social forces.

If only market forces are moving freely, and other forces are pushed aside, unequal bargaining conditions will strengthen the hands of employers, thereby causing imbalances in the whole economy. Social harmony will also be adversely affected. Thus, the interaction of social and institutional forces are essential. Tripartite interactions of trade unions, employers and the government are believed to represent market, social and institutional forces. Wages cannot be left entirely to market forces and hence, a minimum wage is essential and justifiable.

In our country, there is a tendency for employers to look at minimum wage as the maximum payment. There are four categories of minimum wages fixed separately for: unskilled, semi-skilled, skilled and highly skilled workers. This type of classification of minimum wages is impractical in our analysis. We are of the opinion that there should be one minimum wage although minor regional differences may exist, and sectoral distinction of minimum wages may be acceptable between agricultural and industrial workers.

The conclusions to determine basic minimum wage should be derived by estimating the annual expenditure (in current market prices) for food, clothing, housing, daily consumption goods, medicine, children's education, transportation and entertainment. The estimate should provide for four members of a worker's family.

Once it is decided, the basic minimum wage should be tied up with the consumer price index so that the real wage and real income may be protected from adverse effects of inflation. The preparation and updating of the agricultural labour index, the industrial labour index and the indexation of wages are the major issues at present. At the very least, we need to introduce a salary allowance to cover basic necessities.

A wage policy is dependent mainly on general socio-economic conditions, labour productivity, comparative positions of industries and occupations, and the capacity of employers to pay. Workers should be provided a minimum wage on the basis of working hours the fair wage on, productivity and the incentive earnings on efficiency. But the provisions for a provident fund, gratuities and pensions must be available to all. We have to struggle not only against employers' practice of hire and fire without reasonable cause, but also emphasise the development of skill and competitiveness. In brief, we are committed to take steps for the extension (phase by phase) of fringe benefits and comprehensive social security along with the emphasis on productivity, efficiency and quality.

The government, through wage policy, should redistribute income and wealth. The redistribution process should be labour oriented to bring about changes in distributive shares: policies of taxation and public expenditure must be in favour of the working population. We cannot accept deductions in social expenditures created by the cost of debt-servicing. On the other hand, taxes like VAT, which directly affect the working population, should not be imposed without a well managed back-up system. Naturally, our movement will have to react forcefully if the implementation of such taxes, without a satisfactory follow-up, adversely affects the living standard of the masses.

Child labour

Child labour is considered as a cheap and easily available source of labour supply in labour market. The utilisation of child labour is seen as a low risk venture as children do not collectively bargain. The rampant use of child labour has helped to fuel the large supply of children working in various sectors of production and services. Legally, child labour is prohibited in our country, yet it is quite clear that children are working in different sectors from hazardous jobs in factories, mines, construction and transportation to jobs in agriculture, plantation, hotels/restaurants, tea-shops and home services. So, it is strongly argued that the rate of adult unemployment is increasing due mainly to the use of child labour.

Child labour is the reflection of existing acute poverty and the exploitative socio-economic relations in the country. The existing social system based on inequalities has further aggravated the close association among poverty-illiteracy-unemployment and child labour. In the past few years, various activities for the elimination of child labour have been conducted, and child labour and child rights have become a national priority. Social awareness campaigns and child workers' welfare and rehabilitation programmes are being conducted through GOs, NGOs and trade unions. However, without a clear concept and vision on child labour exploitation, not only will the campaign of elimination become impossible, but a number of difficulties will arise within the entire labour movement. Therefore, it is necessary to develop a clear vision, a realistic concept and strategic programmes through in-depth analysis of the child labour problem.

A number of provisions like restrictions on employing children under 14 years of age, prohibition of trafficking children for occupational and sexual exploitation, prohibition of kidnapping for slavery, prohibition of using children at risky and hazardous jobs etc. have been included in our constitution, laws and rules and regulations. However, obviously, child labour cannot be stopped at once. The two extreme views are either be passive because it would take too long a time to solve the problems or to declare a boycott of the related third world export items for an abrupt elimination of child labour. However, we feel that a gradual and progressive elimination is more realistic and the following strategies may be more effective:

Preventive strategy - education, literacy and awareness campaigns as well as the extension of income generating and productive activities.

Functional strategy - rescue of children at risk, welfare programmes for working children and planned and phase-wise effort for child labour elimination from hazardous and light works jobs.

Rehabilitative strategy - liberating children from loans and bonded conditions, medical rehabilitation for sick and helpless child labourers, operation of temporary relief centres etc. As in the past, GEFONT, with its commitment towards social transformation, will be active with energetic spirit through its pressurising, protective and creative roles.

Female workers

It is well known that the condition of female workers is bad in Nepal. Due to the existing social system, woman workers have also been victimised by the discriminations imposed on them from birth. The traditional concept like 'may it be delayed, but let it be a son' reflect how women are treated in our society. So, the contemporary women's movement of our country has rightly put all kinds of exploitation such as child marriages, polygamy, parental property rights, gender discrimination and sex trade as the top priorities of their struggles. The national trade union movement has always raised its voice on equal opportunity for education, capacity development and promotion, equal remuneration, sexual harassment and rape, night shift work, maternity leave and mother-child welfare, child care centre and workplace conditions as major issues concerning women workers.

Our labour policies have to emphasise the issue of equal remuneration for women workers. The thinking that women must exhibit humility, and the overemphasis on protection are the outcome of the assumption that women are comparatively inferior in every field. We feel it is urgent to get rid of this societal belief. 'Equal wage for equal jobs' has to be associated with efforts to increase productivity and efficiency of women workers. Absolute equality has to be made common in minimum wages on the basis of working hours. Fair wage and incentive earnings have to be based on productivity and efficiency. For this, technical and skill-development training have to be provided without discrimination so women can have equal opportunity with high competitiveness in all types of works.

Other issues concerning women workers have also to be solved in a scientific manner. Our trade union movement ought to concentrate on the demands of women workers for those facilities which have already been used by women from other class-origin in our society. However, there are limitations in the work trade unions can do for the social problems faced by the mass female population. In

order to tackle the problems of women workers, working women from various industries and occupations have been organised under the Central Women Worker Department. Our aim is to enhance leadership capabilities and develop women as trade union leaders. We are of the opinion that occupational problems of women workers have to be solved through this department and the concerned trade union, while for other social problems, joint efforts with the country's women movement will be effective.

Foreign employment

The effect of increasing unemployment within the country is the increasing attraction towards foreign employment. It is well known that Nepalese workers used to go to India to work as gatemen and home servants. There also exist a tradition of joining foreign military services by Nepalese young men. However, the trend in the last decade has been the outflow of Nepalese workers towards East Asia, the Middle East, Germany and Australia. This trend is rapidly increasing. The situation is severely exploited by both registered and non registered so-called foreign employment agencies and a few individuals.

Nepalese young men who are imported by these so-called agents to foreign territory face untold miseries and extreme difficulties. Nepalese labourers in South Korea face unusually extreme conditions and insecurity. The same situation exists in the Middle East. Nothing is being done by the government for their protection.

Nepalese workers in South Korea transfer their savings with the help of illegal agents as they are deprived of the facilities of remittance through banks. The urgent need is to give them protection. We have established a "Migrant Workers' Section" in order to organise them in foreign lands, to associate them with the trade union movement of the country where they work and to make them capable of protecting their interests through collective efforts. It is also: equally urgent to regulate and control the exploitative agencies. Therefore, the participation of recognised national trade union centres in the process of policy formulation is essential.

In the context of the acute problem of unemployment, it is impractical to look at foreign employment with a blind nationalistic view and to oppose it. Labour export to a wider range of occupations is natural as the scope of foreign military service decreases. The roles of tourism and labour export are crucial because of the cross-border capital mobility, rapidity in technology-transfers, ever increasing imports while exports are dependent on very few items. The contemporary reality indicates that third world countries have to balance the capital-technology export of first world by exporting their unemployed work force. At the same time, vigilance over a brain drain and skill-drain is equally important. The state should create an environment of maximum utilisation of high-skilled manpower through its policies, because brain drain cannot be controlled and minimised merely on the basis of legal barriers.

The trafficking of Nepalese girls mainly to India for prostitution is very rampant and escalating. For its absolute control, highly effective measures are urgently needed. We will participate actively in programmes jointly launched in collaboration with social organisations and others who have been working against it. Similarly, the displacement of local labour within our national boundaries is taking place mainly because of free entrance and the penetration of foreign labour. The displacement of the native labour force by foreign labour is against national interest and self-

dependence. A work permit system and its effective practice is needed in this situation.

Self-employment

The mass of self-employed engaged in traditional technical skills, services and related occupations has its own importance. These independent workers of varying nature engage in a range of skills from carpentry to handicrafts and from boot-polish-boys to footpath sellers. They can be included in the trade union movement. However, craft unionism is decreasing day by day while industrial unionism is increasing. Thus, it is really fruitful to utilise the role of craft-unionism for wide coverage and for strengthening the trade union movement in an economically backward country like Nepal. So it is essential to organise these self-employed "employers cum workers" in accordance with their craft and nature of the service they provide. We have thought of working for protection of their interest, for the improvement of the quality of their products and services, for the development of their skills and training, and for the upliftment of their living standards.

Workers' participation in management

Two aspects of enterprise are ownership and control. Control refers to management. Ownership and control used to be inseparable in early ages, but in the present environment they have become two distinct entities. Shareholders of a company these days are just the owners and do not exercise any control over the processes of management or decisions of the company. A distinct class has evolved which controls and manages, although the managers cater to the interest of owners. In these circumstances, the question is whether the labourers can become owners or not, whether they should participate in management and control or decision-making processes. These are contemporary issues and create many debates.

There is a concept of "Employee Stock Ownership Plan" propounded by Louis Kelso who believes that workers are natural shareholders, not natural managers. This plan of collective ownership by purchasing the shares of the enterprise through loans from banks and financial institutions has gained popularity in USA. Under this plan, workers do not have any role in management or the system of control. On the contrary, successful workers' co-operatives in many countries have also proved that workers can play an active role in management as well as ownership.

The idea that participation of workers in management is inevitable in the process of decision-making in the smooth functioning of industrial democracy has gained much strength. This is due to the realisation that labour is not only a factor of production but also a sensitive human element; the concept of workers' participation in management had been given high importance during World War I because of the necessity of a larger production during a national crisis.

Although the concept was pushed aside after the war, later it gained momentum. Looking at the present scenario, provisions like works committee, joint-management council and nomination of workers' representatives in managing committee, have been included in the labour laws of various countries. Even in our country, effort to have workers' participation in management is emphasised in the form of labour management committees within the provisions of the labour law.

Participation in management has good impacts in the context of struggling for workers' interests immediate effect arises mainly in the improvement of working conditions. Negative experiences on the question of workers' interest have also been found when the workers' representatives behave like managers. In our context, we feel that demand for participation in management should be raised in order to bring about transparency in managerial activities, and to strengthen the psychology of labourers as labour-investors of equal status. The participation will produce positive results in connection with productivity and distribution of bonus. To sum up, the issue of workers' participation in management has to be raised in lieu with the promotion of industrial democracy.

The concept of workers' co-operatives was first generated in 1844 AD by unemployed young men in England. As time passed, co-operatives were utilised for the fulfilment of diverse objectives. Somehow co-operatives" have been regarded as collective companies and the role of social responsibility has been neglected. Co-operatives with more emphasis on social concerns and labour investment rather than the number of shares, are also in operation.

We can find co-operatives of three distinct characters - government controlled, operated for the benefit of certain concerned individuals and co-operatives dedicated to worker interests. The co-operatives managed by labourers fall into two categories, co-operatives formed through workers' take-over due to threats of closure and those initially established by workers.

We have felt it appropriate to conduct a co-operative campaign on the basis of world-wide patterns of capital flow which causes displacement of the working community. Therefore, we would like to advocate the policy of co-operative operations by trade unions for the protection of labourers victimised by retrenchment and displacement, and for those forcefully dismissed from their jobs without any reasonable cause. It is essential to give initiatives and mobilise resources for enterprise-level trade unions and national federations to establish workers' co-operatives.

Workers' education and training

No one can deny the significant role of trade union education, workers' education and training in countries like ours where the trade union movement is recently developing. National level seminars and short-term training programmes have often been conducted by national and international institutions including the ILO. Our leaders and workers from different national federations have been actively participating in the programmes. Similarly, we have also participated in such programmes outside the country because of our fast-growing international linkages.

The opportunity of participating in long-term training abroad has also been provided to our confederation. Some comrades of our organisation have gained good knowledge and expertise in some aspects of the trade union movement. However, no responsible trade union can regard this training as sufficient and neglect the urgent need for education and training for the working masses. Naturally, we have been induced mentally and technically by such training to expand the programmes of trade union education, workers' education and training in wide ranging fields for the working class. It is our responsibility to equip the working class with systematic information and knowledge of contemporary situations.

Therefore, we should put serious efforts into giving details of the changing policies in the world. of the resultant positive and negative consequences. its serious impacts on our working community, and the measures for the protection of our interests. Trade union education campaigns started in 1993 (recently we began mobile trade union schools). We believe it will have tremendous impact on workers' con-sciousness and will give new heights and dimensions to the pro-work-er trade union movement.

In the coming years, we have decided to launch a campaign of provid-ing basic courses on labour law. tactics and processes of collective bar-gaining, working conditions, health hazards and safety measures in order to extend workers' education. We will also be active and respon-sible towards skill-training, on the job training, training to adjust work-ers with technological changes, vocational training and training for the development of self-employment opportunities. It will enhance verti-cal as well as horizontal mobility.

The result will be an increase in the quality of labour. Moreover. The col-lective bargaining strength will be multiplied. and the benefits of a higher income and a higher level of employment can be expected. Thus, our role on education and training will cover both pressurising and creative roles. We will work effectively not only in programmes of our own and in collaboration with others, but also in programmes con-ducted by the government and employers as a result of pressures from our campaigning.

Conclusion

Institutional efforts for labour studies and research and for the crucial task of highlighting contemporary labour issues are lacking. Thus, the National Labour Academy has been established. We have actively par-ticipated with a keen interest in it. We hereby like to emphasise the urgent need for funding and institutional efforts by the government sector for human resource development, labour-research and related activities. The major issue in this connection is the need for over all change in education policy, which is passive for the development of technical education and is used to pay undue emphasis to general edu-cation. Along with this, effective public health policy is also essential.

In conclusion, a National Labour Policy should be formulated and declared, and equitable distribution of burdens and sacrifices have to be guaranteed. The wealthy elite should not be given continuous opportunities to accumulate wealth and power at the expense of the working population. Labour policy makers and national development strategy formulators must not minimise the human aspect of develop-ment. We believe development should not be viewed merely with tech-nocratic eyes in the statistics of production, but it should be associated with the welfare aspect of distribution and stable as well as continuous improvement in the quality of life of the general people.

The First Labour Conference

The first National Labour Conference has been concluded recently in Kathmandu in 23-25 Nov., 1997 jointly organised by Ministry of Labour and International Labour Organisation. The conference, actively participated by government, employers and workers-the social partners, has also adopted and issued a declaration in order to provide an adequate guideline to formulate a concrete labour policy in Nepal. Organised for the first time in the history of Nepal, the labour conference was highly significant also in the sense that the conclusions of the deep discussion were accepted as the common consensus by all the social partners - workers, employers and the government.

Inaugurated by Fatte Singh Tharu, the Minister of Industry, the conference was addressed by former labour minister Com. Mukunda Neupane, ILO Senior Adviser Mr. J. Locollo and Chairman of employers' council Mr. Chandi Raj Dhakal including various trade unionists.

During first two days, papers on different crucial issues were presented and the third day was dedicated to group discussions. The papers were - 'Existing position of labour in Nepal' by U.P. Mainali, 'Informal sector and labour right' by Bishnu Rimal, 'competitive balance in labour management' by P. D. Pant on behalf of FNCCI, 'Poverty, wage structure and social security' by Umesh Upadhyaya, 'Employment promotion strategy in Nepal' by Dr. Shiva Sharma and 'Globalization and labour market of Nepal' by Dr. Y. R. Khatiwada. Similarly, papers on 'unfair labour practices' by Gauri Pradhan, 'Active partnership policy and promotion of International labour standard' by J. Locollo, 'Labour empowerment, productivity and workers' education' by Dinesh Chapagain, 'Workers' protection and social security' by Bharat Khanal on behalf of NTUC, 'Labour disputes and industrial relation' by Hari Lamsal of Decont and 'Labour law in present context' by Kashi Raj Dahal were also presented.

Participants were divided into different groups so as to conduct discussion and collect valuable recommendations in order to have basic guideline for the formulation of labour policy. Finally, based on the conclusion of the group discussion, a Declaration was issued as an outcome of the consensus among the social partners. The Declaration was presented in the closing session of the conference by FNCCI- representative PD Pant and it was adopted unanimously by all the participants.

It is to be noted that the concept and idea of the National Labour Conference was formulated when Com. Mukunda Neupane, the GEFONT-Chairperson, was the labour minister.

The Conference Declaration

We social partners-Trade Unions, Employers and Government representatives including Labour experts, Labor NGOs and political party representatives altogether 122 actively participated in the first National labour conference jointly organized by Ministry of Labor(MOL/HMG) and International Labour Organisation(ILO) in 23-25 November 1997.

We feel it essential to have discussions and interaction through the conference in the existing situation of confusion in Nepalese Labour sector where the current issues of welfare have not achieved any solution based on any system.

In fact, only the MOL among the existing 27 ministries is such a ministry, which has to play an active role for the workers' interest. But MOL has been restricted by financial sources, legal jurisdiction and other national policies of the government.

Considering the present situation and difficulties of the ministry, we mentioned 'Dignity of Labour, Harmony and Productivity' as the main theme of this conference. Deep and highly useful discussion on following papers representing the main theme of the conference have been carried on:

1. Labour Law and the Present Context
2. Unfair and exploitative labour relations
3. Employment promotion strategy in Nepal
4. Poverty, wage structure and social Security
5. Labour empowerment, Productivity and workers' education
6. Informal Sector & trade union Rights
7. Globalisation and Nepalese Labour Market
8. Present Labour Condition in Nepal & Policy formulation
9. Workers protection & Social Security
10. Labour Disputes and Industrial Relation
11. Competitive Balance in Labour Management relation
12. Active Partnership Policy and Promotion of International Labour Standards

The papers have reflected the entire situation and current issues of labour in Nepal. The discussion and interaction among we participants have added some modifications and additional points, too. After sufficient exercise to identify the problems and to indicate the way out. we have accepted the existing situation as follows:

- Poverty is worldwide as a complicated socio-economic problem. It is almost equivalent to 43 % in South Asia and is diminished by 2 % compared to 1987. Poverty is in the state of diminishing percentage in our neighborhood, but the case is different in Nepal, so it is clear that the problem of poverty is more complicated in Nepal.
- Rural nature of poverty and emerging serious unemployment as well as under employment higher than 40% is the complication dominant in the labour market of Nepal.
- Annually a new workforce at a rate of 3% of the ten million workers enters labour market in Nepal, whereas the additional employment opportunity is available to only 0.15 million that too not gainful in the real sense. The bitter reality of our labour market is the increasing pressure of migrant workers on the one hand and brain drain as well as skill drain on the other hand.
- Very low productivity is a problem highly visible in our context.
- The misconception that TNCs and Joint collaboration create larger employment opportunities has also been proved wrong by the fact that 374 such companies have created 1 employment at a rate of an investment of Rs. 0.5 million and that the SCI's at a rate of Rs. 10, 000 only. Besides, the

assumption of the policy-makers that the privatisation of public enterprises will have positive impact has become questionable in the light of the fact that unnatural price rise, no improvement in the working conditions and job loss of 50% of the workers have been observed in the privatised enterprises.

- Wage structure in the labour market of Nepal is highly inconsistent and without based on any system. The major portion of the total workforce is out of the system of minimum wages. The minimum wage based on adhocism is ineffective even in the organised sector. In connection with social security, neither the state nor private sector has taken any form step.
- Self employed workforce covers 78.59% of the total employment, of which 90 % are in informal sector, but it is unfortunate that they are not accepted as labourers nor covered by the economic statistics.
- Unfair labour practices of diverse nature are still existent even after the re-inception of the democracy. The practices like labour bondage under Kamaiya system, exploitation of child labour, exploitation of harassment to the women workers and the misuse of official workers fully in personal services by prestigious portion of the society are some of the tendencies under continuation.
- A number of employers have continued the process of unfair exploitation based on the superstitious approach of the society & ignorance of the workers. In order to rescue the Nepalese labour market from this condition, efforts have been frequently carried on by different organisations, but state has not yet established a system of workers' education programme.

Existing labour law has covered limited areas. The provisions on the one named are confusing and illusive and on the other hand their implementation is very weak because of weak labour administration and enforcement mechanism In connection with industrial relation, equal status of the workers and employers as the social partners is not recognised in practice and hence harmonious relation has not yet gained any momentum.

Nation has ratified seven ILO-conventions and has become the first in Asia in ratifying convention No 138. However, the revision of laws and effective enforcement are not in resemblance with the conventions and labour standards.

Therefore, we participants of this conference are of the opinion that a clear and systematic labour policy should be formulated on the basis of the conclusion that the labour policy formulated by an expert team and recommended by a tripartite mechanism should include with due imphasis the following points.

1. The tendency of blind privatisation is to be put to an end and reformative process before privatisation along with corruption control, managerial reform and checking over staffing have to be emphasised.
2. Extension of wage employment and making the existing employment gainful. the extension of non farm self employment should be included in the priority list the possibility of gainful foreign employment should be utilised as well.
3. In order to minimise the poverty widespread among working population, effective land reform is to be accelerated

4. Use of new economic policy based on selective approach only in favour of national economy and workers interest and identification and elimination of negative aspects of the policies.
5. No promotion to the informalisation of formal sectors through the misuse of subcontracting and labour in contract.
6. Rejecting the application of the concept of FTZ and EPZ, if they violate fundamental labour rights.
7. Determination of permanent criteria for minimum wages and establishment of a reliable system of national minimum wage determination.
8. Stable system of wage indexation and construction updating of the labour price and indices.
9. Productivity movement in agriculture, industry and services
10. Formulation of social security act and establishing fund in order to operate various social security schemes. Rejecting the old method of leaving whole liability of social security promises to employers. Efforts for the wide coverage of working class into social security network.
11. Developing an independent national labour institute for Human Resource development and for intensive workers' education programme.
12. Planning a long term campaign against gender discrimination.
13. Adoption of progressive elimination strategy for child labour and focusing the policy towards the main source of child labour i.e. rural and agricultural families rather than urban centers.
14. Commitment to abolish the kamaiya system through effective tripartite campaign.
15. Reform in labour law in order to protect labour rights from the increasing threat of de-unionisation in labour market as an outcome of expanding liberalisation.
16. Protecting the rights of workers engaged in sales and promotion services by covering them under labour law.
17. Ratification of fundamental ILO-conventions No 29, 87 and 105 and social security convention No 102 as well as convention No 141 concerning rural and agricultural workers.
18. Formulation and amendment of labour laws through a tripartite consensus based on the principle of one-act-several rules.
19. Since workers are the builders of the history, prestige of this class in society should be given due emphasis and dignity of the workers representation should be raised equal to other social partners
20. Emphasis on border regulation and possible diplomatic efforts for the control of the pressure of migrant workers
21. Adequate policy concerning occupational safety and health.

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Social and economic development of whole people of the country is essential for the overall development of nation. For this purpose, it is necessary to improve the life standard of mass population and mobilise hidden talent and energy in the working field by evoking them. In developing country like Nepal, National Labour Policy should concentrate into the mobilisation of scarce means and resources tactfully making its maximum utilisation into productive sector for the development of human resources. Thus, in this highly competitive era of entering into twenty first century announcing open market economic, liberalisation and privatisation for complete development of country it is necessary to be activated the Government and NGOs in a planned way as a complement of each other to develop warm relationship between capital and labour section which is essential and fundamental element by maintaining working unity between the government, management and labour in addition to face the obstacles of development of productive capacity as a key element of development of labour-force.

1. Objectives

1. By developing the industrial relation as a complement of liberal and open market economic policy, special attempts shall be made to make dynamic and firm the bilateral mechanism, which are stabilised to develop continuous working unity between labour and management.
2. Labour standards determined by the International Labour Organisation with respect to the health, social security and welfare of labour will be implemented according to the situation of the country.
3. The provision to employ the native labour in the national enterprises to the extent possible, shall be implemented effectively.
4. The entrepreneurship and enterprises that help to increase the employment of woman and handicapped persons shall be encouraged.
5. Encouragement shall be provided to operate the activities that help to increase reputation, value, assumption, competitiveness, absorbent, productivity of labour.
6. In context to increase national income and productivity, attempts shall be made to bring in balance the relationship between the demand for and supply of labour by making human resources full of technical skill, capable, absorbent and multi-skilful for the maximum mobilisation of labour of the country to develop human resources according to the demand of labour market by the expansion of technical and vocational training including industrial and apprenticeship training etc.
7. For the promotion of labour welfare activities, the united co-operation of trade union, domestic and foreign NGOs, local bodies and employer and Government sector shall be encouraged.
8. For the development in industrial relationship and human resources, different programmes of research, training seminar, labour education etc. shall be conducted for the trilateral participants associated to labour administration on the subject like labour administration, industrial relationship increment and management of labour productivity etc.
9. The institutional development of labour market communication system shall be made by doing research of the national and international labour market and in addition, employment exchange service shall be activated.
10. Bonded labour and child labour eradication programme shall be conducted as a movement.
11. By providing continuity to foreign employment service profession, special attempts shall be made for its institutional development.

2. Policy

Industrial Relation:

1. To make industrial relation healthy, liberal, and transparent in a sustainable way, tri-lateral relationship shall be activated in addition help shall be given for the continuity to make the relationship between the labour and management in the working field by establishing essential mechanism.
2. Environment shall be created for the development of the labour related legal, procedural and organisational side favourable to labour and investment.
3. To make labour administration more effective, and to carry on the amendment of legal provisions as demand by the time labour rights shall be secured according to the relative Act and labour standards passed by the international Labour Organisation.
4. National Labour Advisory committee and salary determining concept of labour shall be activated.
5. The rights of labour shall be secured by making social security system stronger.
6. Trade unions shall be developed as the organisation to protect professional rights.
7. Occupational health and security provisions shall be developed and made stronger in the enterprises timely.
8. Child labour eradication programme shall be conducted in national level in a planned way by mobilising the help of national and international organisations.

Employment Promotion, Training and Human Resources Development

9. By the appropriate education and training, developing and the skill and ability of human resources located in the country and using it into production and construction, the objective of poverty alleviation programme of the 9th plan shall be supported by creating the environment to participate into sustainable economic and social development programme.
10. By the view point of demand of labour market, national production and productivity shall be increased by developing skilled shall trained human resources according to the country's necessity.
11. Essential programme shall be conducted to mobilise skilled human resources; in addition, technical and vocational training shall be co-ordinate and cause to co-ordinate through the study and research of national and international labour market.
12. The problem of unemployment and semi-employment shall be solved by mobilising human resources effectively in the opportunity of paying and self-employment.
13. Special programmes shall be conducted for the skill development of women and handicapped persons and shall be encouraged to associate them into employment according to their skill and ability.
14. The technical capacity of labour shall be increased to make ahead the programme to increase production and productivity in the file of agriculture, industry and service through the participation of private sector.
15. To increase foreign employment and to make reliability on it, appropriate changes and amendment on prevailing foreign Employment Act and Policy to encourage foreign Employment Company shall be adopted.

3. Working Policy

1. Labour Act and Trade Union Act shall be made appropriate as the medium to increase trilateral co-ordination.
2. The environment shall be created so as to solve the working level disputes in the same level in a reasonable way by establishing bilateral mechanism in each institution.
3. The policy and programmes to increase the participation of labour in the management shall be implemented in an effective way.

4. To make the living style of labour simple, attainable, comfortable salary shall be revised in addition wage determination contemn shall be made permanent.
5. To make labour administration strong and effective, its organisation structure, efficiency, and working style shall be improved and in consequently, policy and programme for the welfare of management and labour shall be drafted and assisted for employment development through the participation of concerned organisation and institutions.
6. Plans of social security for the welfare of labour like pension programme, social insurance, welfare fund shall be emphasised to implement.
7. Wide publicity and effective implementation of labour education shall be made on the combined effort of trade union women-in-work.
8. Policy provisions shall be made to give the tax-free facility to encourage the institutions that provides employment opportunity to increase women participation in the employment.
9. Policy provisions shall be made to give the facilities like tax free to the institutions that provides the employment to the blind and handicapped persons of the society according to their ability.
10. By creating the environment to be organised for the labour working in unorganised sector, the legal procedure shall be strengthened by improving it.
11. By strengthening the relationship with labour related national and international institutions, multi dimensional programmes shall be conducted through its medium in a co-ordination form.
12. Encouragement shall be given to labour oriented enterprises professions.
13. The programme to increase the skill of worker shall be conducted to make able for employment through the medium of training. Skill shall be provided to unskilled unemployed persons in addition.
14. For the protection of rights and security of Nepalese Workers in foreign country, diplomatic missions of Nepal, to the countries where the greater possibility of foreign employment exists and other government agencies shall be mobilised and in addition labour attaché shall be kept according to necessity.
15. For the expansion of foreign employment and increment of the reliability of its business, a high level advisory committee shall be constituted with the participation of ministry of Labour, Home, Finances and National Planning Commission and foreign employment entrepreneurs organisations.
16. For the development of foreign employment, if necessary, foreign employment institution shall be established, with the participation also of the private sector.
17. To encourage the skilled human resources to the self-employment or foreign employment, the programme to expansion the self-employment and foreign employment shall be proceeded as campaign by providing loans at the concession rate without security.
18. Essential provisions shall be made to include the rural and urban. Working power into the opportunity of employment and self-employment through the basic training according to the need of labour market.
19. Considering the changing, technology and the attitude of need emphasis shall be to curriculum improvement of research to improve the procedure of training by amending the current subjects of training.
20. The training institutions shall be made well equipped and in addition, special priority shall be given to effective study by frequently monitoring the quality of training and provision of quality determination of training and standardisation thereof shall be made from one and the same institution.
21. Necessary steps shall be to eradicate child and bonded labour system and to conduct various programmes with the co-ordination of government and governmental and non-governmental institutions.

4. Field-wise Working Policy

4.1. Regarding to wage and discipline:

1. With the consent of nation wise established trilateral minimum wage determination committee, and by classifying the enterprises on the basis of nature of the industry and geographical situation environment shall be created so as to determine minimum salary and facilities.
2. The salary and facility more than minimum salary may be provided on the basis of working capacity associated with productivity and achievement.
3. Salary shall be indexed and for this purpose, system shall be developed to draft and correct the labour price index time to time.
4. Bilateral agreement relating to the welfare and other service facilities and conditions concluded in enterprise level shall be accepted for the certain time period and provision shall be made not to put any other demand within the time period of agreement.
5. Strike and lock-off of on the enterprise against the rules and regulation shall be discouraged, and for this purpose, labour related legal provisions should be implemented enthusiastically.
6. To secure the rights of agricultural labour and other labours of unorganised sector, essential infrastructure shall be made and applied for the determination of minimum wage rate.

4.2. Training, Employment and Skill development:

1. The participation of private sector shall be encouraged to make training facility easily available for poverty alleviation and increment of productive of industrial and professional sector by the development of human resources.
2. For the purpose of increase the opportunity of waged and self-employment, by making qualitative and quantitative reformation and expansion of existing skill development programmes, non-Nepalese workers shall be replaced by producing skilled labour according to the demand of labour market.
3. Provisions shall be made and applied making the labour market capable and liable information centre, determining the subject and programme of industrial and vocational training according to the need of labour market, drafting the related curricula and revising it update.
4. In the context of resolving the unemployment problem of the country, rural employed youths shall be made capable to involve in the wage receiving and self-employment opportunity by providing skilled training on the basis of the study of labour market, in addition,

Employment exchange service programme shall be made more universal and effective.

5. To increase the skills of the working personnel of the enterprises. The programme to provide training shall be encouraged in the enterprise level itself. For this purpose, training fund shall be established with the contribution of management and working personnel at the enterprise level. This fund shall be utilised to conduct the training on the subjects related with the enterprise.
6. For employment increment, training programme shall be conducted in the rural and urban areas with the participation of local bodies to expand it on the basis of local necessities.
7. Self-employment oriented training and employment shall be provided to the target group laid under the poverty line by conducting the mobile training on each constituency as a rural training for the rural poor.
8. Training loan shall be easily provided for persons having poor economic condition and that loan shall be refunded after getting employment after training. Training intuitions

from private sector shall be encouraged to conduct such programmes by giving various rebates and facilities.

9. Self-employment women programme will be continued for the economically and socially backward rural women gr9 up of all over the country.
10. On the context of expanding tourism industry as a principle sector to provide employment, governmental and non-governmental level institutions providing training so and produce human resources so as per the demand of this industry shall be encouraged. In addition, special priority shall be given to woman at the time of providing skill development training related with the tourism industry.
11. The policy shall be adopted to eliminate gender discrimination on employment and to include women into technical and skill full educational and training programme.
12. To create environment to send Nepalese worker in maximum number to maximum countries for employment by expanding foreign employment worker, for this purpose, the programme of sending Nepalese worker in the foreign employment as skilled labour shall be given, in addition private sector shall also be included into training programme.

4.3. Provisions regarding the rules and regulation:

1. On the basis of consultations of trilateral advisory committee, the plans to update the labour related laws by reviewing it should be continued.
2. Emphasis shall be given to establish bilateral labour relation committee in the enterprise level as provided in the Labour Act and Rules.
3. Importance shall be given to trilateral campaign to expand the opportunity of employment, production and productivity by maintaining strong, sound and developed industrial relation.
4. Legal procedures shall be made to provide permanent, temporary contract and on piece-rate employment by institutions on the basis of nature of Work.
5. Each institution shall be encouraged to implement the condition of service and other service-related subject by making its own by-laws subject to the Act and Rules.
6. Timely improvement and expansion shall be made by altering the structure of the labour court.
7. In case of non-availability of Nepalese human force Policy to give labour permit to foreign labour shall be taken imposing the conditions.
8. By making essential improvement on labour related rules efforts shall be made also to include the labour of unorganised sector.
9. Essential standard shall be prepared and implemented for the proper administration of health and security of labour working in institution level and programme to increase the public awareness shall be encouraged.
10. As the good industrial relations is obtained not only from legal procedure but also from public awareness level, public awareness activities shall be conducted for industrial peace and in addition education and communication system shall be encouraged.
11. For export oriented industry, separate legal procedures regarding to labour shall be made.
12. The working place of the enterprise shall be made free from political and other external effect.
13. The existing provision in the law relating to close or postponed the production totally or partly by giving compensation to the working personnel, by the management of the enterprise, shall be continued.
14. By making effective the industrial trainee's training Act, addition to other having industrial trainee training program shall be made universal to substitute the foreign labour by native labour.
15. Priority shall be given to ratify the important conventions amongst the Conventions passed by the International Labour Organisation.
16. Programme shall be mobilised effectively to eradicate the bonded existed as unreasonable tradition with the co-ordination of other governmental and non-governmental institutions.

17. For the abolishment of child labour, by making improvement on existing rules and regulations, special programmes related with preventive reformat of child labour will be conducted and the participation of the non-governmental sector shall be increased on it.

4.4. Social Security:

1. For the welfare of labour special emphasis shall be give to implement the plans of social security like pension, social insurance, welfare fund etc.
2. Laws relating to social security shall be enacted and various programmes relating to social security shall be conducted by establishing the social security fund and labour class is included in the formulation and implementation of provisions of social security.
3. Management shall be motivated to adopt various means for the increment of productivity by developing the working culture to the workers of working place.
4. Special programmes shall be conducted for security of workers to go to the foreign country for foreign employment.
5. Programmes relating to the security shall be conducted by revising the rules and regulations from time to time for the immunity and security of socially and economically backwards rural due to illiteracy, poverty and backwardness etc. e.g. rural women, Kamaiya cow-boy, plough-men, who are compelled to survive as bonded labour and also for the children who are compelled to live as child labour.