

## Informal Sector and Labour Rights

*by Bishnu Rimal*

### 1. Introduction

There is no universal definition of Informal Sector. Generally, we only discuss on more visible segments of economic activities as informal sector. However, there is a limitless boundary of informal sector. Moreover, it is a hidden segment of economic activity with a vast number of labour force.

Many authors have often defamed informal sector in negative sense. According to them, those are informal labourers who are not in "formal" sector, not protected by any labour law, not in formal 'employee-employer relationship' and not getting any benefits entitled to them as employee. Besides, they are hardly recognized as a labourers and not included in the 'economic statistics'.

According to Asian Labour Update, a publication of Hong Kong based regional labour NGO- the Asia Monitor Resource Centre (AMRC), informal labourers are those workers whose method of work is usually through the sale of their labour on a daily or piece rate basis or through self-employment as small producers, vendors or service providers.

The informal sector is not disassociated from the formal sector. There exists a certain type of interdependence through backward or forward production linkages with formal enterprises through contract of labour or services. It is obvious that the definition of informal sector is descriptive one rather than analytical. Some have even used the word "unorganized" as synonym of "informal". One of the Indian writers Sarath Davala has stated that it is really difficult to define the term "informal". He argues that the word "unprotected" would be more suitable to define this sector rather than as "informal" or "unorganized".

An Indian organization SEWA (Self Employed Women's Association) defines the word "informal" in its report of the National Commission on Self-employed Women and informal sector based on the nature of the work they perform. Who are the women labourers in the informal sector? The report includes:

- those doing manual work like agriculture, construction work and other sectors.
- home based producers including artisans and piece rate work
- those engaged in processing of traditional and non-traditional areas
- service providers like garbage pickers and domestic helpers
- petty vendors and hawkers
- all other poor labouring women in the unprotected sector.

An International Labour Organisation (ILO) report has mentioned that “low cost, easy entry and exit. labour intensive with low technical input, small scale and its unorganised nature” are the characteristics of the informal sector.

The Labour Law- 1990 has mentioned informal labourers as those who are working in any establishment in less than Ten person in number with the word "out of enterprise". Likewise, the Trade Union Act- 1992 has mentioned the Trade Union Association registered under its article 4(2) as an association of workers working “out of enterprises”. Though, our Labour Act has not used word informal, but in our reality, it indicates those establishments which employ less than ten people as informal sector. It would be fair if we explained those poor who are out of planned economy as the labour force of informal sector. Though it is sometimes defined as “individual economy”, “unstructured”, “unenumerated”, “low-income segments” etc., experts describes it is not an 'individual' but a collection of economic activities.

## 2. Informal Sector in Nepal

As in other developed and developing world, Nepal's informal sector also has been divided into two major parts. They are: Rural Informal Sector and the Urban Informal Sector.

According to a report- 'The Rural Informal Sector in Asia: Policies and Strategies', published by International Labour Office, Geneva, the term

"rural" is defined to include all places with population under 50,000 where agriculture is the dominant activity accounting for bulk of the income and employment. Such rural informal sector includes both the agricultural and non- agricultural segments.

Among the Nepal's informal sector, agriculture is the single largest sector. In agriculture, there are three main divisions. The worker who works on yearly wage or cultivates a small piece of land as a tenant or somehow self-employed agricultural worker comes under the first category. Mainly wage labourers in agriculture, who perform their work in daily wage or monthly or yearly basis fall within second category. The word Hali (those who plough the land), Gothala (the cattle herders) and Khetala (daily wage labourers) denote such workers in this connection. The forced labour and the bonded agricultural labourers are in the third category of agri-informal workers. The Kamaiyas of western Nepal are the living example in this regard.

According to the Concept-paper of the Ninth Plan, Nepal's underemployment rate is 40 per cent of the total labour force (estimated 8.779 Million by the end of Eight Plan). Major portion of this vast underemployed labour force has been absorbed by the rural agricultural sector. They are extremely poor.

Nepal: An Employment strategy, the report prepared by UN ACC Task Force for ILO has mentioned that 92 per cent of total labour force is in rural area. And it is obvious that the largest percentage of this number is informal. Out of this number, about 81 per cent is active only in agriculture. Besides peasant and the non-wage agricultural worker, there are two categories of agricultural wage labourers.

First covers those wage- labourer whose means of survival is only his wage; whereas second category covers those whose means of livelihood is the wage and their self employment. It is estimated that there are 20 Million wage labourers in Nepalese agricultural sector, where 500,000 families are landless. These families cover 1 million workers. Of the total labour force 8.779 millions, only 7-10 per cent are in formal segments. Thus, it indicates that the remaining number of total labour force is in informal sector.

**Table 1:** No. of household using family members and using wage labour (in percentage)

Type	No. of farm Household	Household using only family members	Household using only daily wage labour	Household using only permanent and daily wage labour	Household using only permanent labour	4+5	Average No. of permanent labour
Mountain	260,712	70.0	27.9	1.1	1.1	2.2	1.9
Hills	1,357,720	69.5	27.7	1.8	1.0	2.8	2.2
Terai	1,117,818	56.9	34.1	7.0	2.1	9.1	2.1
Nepal	2,736,050	64.4	30.3	3.9	1.4	5.3	2.1

Non-agricultural rural informal sector includes various establishment of traditional and non-traditional cottage industries. As stated in FNCCI's publication - Nepal and the World, A Statistical Profile 1997, the traditional cottage industries in Nepal are: hand loom, pedal loom, semi-automatic loom, wrapping, dyeing, printing, sewing, knitting, local carpet, woollen carpet, pasmina, woollen garment, carpentry, wooden handicraft, bamboo and cane goods, materials made from natural fibers, hand made paper, gold, silver, brass, copper work and ornaments, image making, precious and semi-precious stones, honey, big cardamom processing, pottery, leather cutting, drying and village tanning and leather works, jute, babio choya and goods from cotton thread, leather goods, artistic goods from bones and horns, stone carving, stone studded metal goods, painting, pauwa, batik, materials made from hand made paper, incense, dolls, toys and stone studded metal filigree commodities.

Because of the underemployment situation, agricultural workers normally work also in non-agricultural sectors. According to the statistics of National Sample Census of Agriculture- 1991/92, of the total labour force engaged in agriculture, 17 per cent work in non agricultural sectors for some time.

Due to the Nepal's own specific condition, the urban informal sector is not so large. The urban informal sector includes mainly non-agricultural activities. Major portion of the labour force in this sector is active as "self-employed" workers.

In summary, based on the nature of work, rural and urban informal sector in Nepal can be classified as follows:

**1. Agriculture**

semi-peasant, rural poor, hali, gothala, khetala, Kamaiya

**2. Sideline agriculture**

animal husbandry, poultry farming, horticulture and other cash crops, Dairy, Bee Keeping, Sen culture, fishery

**3. Trades**

small retail shop, food stall, street vendors, khoka shops, vegetable and fruit sellers

**4. Service**

electric and electronics repairs, cycle, motor-bike and auto mobile mechanics, barbers, beauty parlour, professionals, garbage cleaners, hawkers, boot polish professionals, domestic helpers and mid-wives, bottle collectors and rag pickers

**5. Construction**

Small scale builders, masons, joiners, brick layers, carpenters, plumbers, house painters, electricians and electrical repairers, road, irrigation and building construction workers, tailors, stone quarry labourers, brick kiln workers

**6. Transportation**

Taxi, bus/mini-bus, truck and load carrier, thela-cart, riksaw-tanga, tractor, loaders

It is to be noted that construction is second largest sector which has been scattered both in rural and urban informal sector.

Nepali informal sector is often considered as a female dominated sector, which absorbs a big number of women workers. Statistics indicates that out of total female labour force, 94 per cent are active in rural areas and 91 per cent are engaged only in agriculture, where as only 4 per cent of the female labour force is in formal sector.

Nepal has severe problem of underemployment rather than unemployment. Of the total population, 35 per cent are getting jobs for only 7 months. In a statistics estimated by the Ninth Plan, out of total

labour force of Nepal, just 46 per cent are in full employment condition. According to that estimate, 14 per cent are totally unemployed and 40 per cent are under-employed. As an instance, if a construction labourer gets job for 2 months, has to wait about one month in the mean time. In this way, it is the informal sector which is badly affected by underemployment condition.

### 3. Problems and Challenges

As stated above, informal labour is an unprotected labour. Poverty and underemployment have compelled them to work in whatever terms and condition. Government statistics indicates that 45 per cent of total population in Nepal are below poverty line. Informal sources estimate that the per cent would be up to 60.

Illiteracy and the ignorance is another big problem in this sector. There is a 'harmonious relationship' between our society dominated by the social conservatism and the unaware informal sector's labour force. This is a hindrance in our progress.

Informal labour has been scattered here and there. Because of its scatter nature, it is extremely difficult to organize them. Moreover, after the implementation of liberalization policy, the terms and conditions of contract labour system has further scattered them. 'Contractual arrangement of work often recruits labour through the individual contact rather than by public vacancy announcement. It does not follow any legal formality. Even the employer denies to offer appointment letter. The numbers of employer has registered no where in informal sector and the employees perform their job just in an informal understanding. Due to lack of legal proof during the time of labour disputes, workers are often sidelined and kicked out of the job in an inhumane manner. Thus, 'job security' is an unimaginable notion to them. On the one hand, employers always escape safely by using legal loop-holes, and on the other, because of weak legal basis workers themselves do not expect any legal treatment. Further, the employers and the contractors have been employing workers from their own native places or some of the workers have found such jobs by source-force from their respected honourable. Because of such psychological factor workers hesitate to complain against exploitation of cunning employers.

Trade unions also are facing difficulties by such informal employment relationship. According to Trade Union Act 1991, a worker cannot be

eligible for trade union membership unless he/she is identified as employee of any employer. This has made somehow helpless to the trade union in informal world, since it is too complicated for their identification.

There is contrast between problems of formal and informal sectors. Thus, the experience is not sufficient gained by unions in formal sector. Normally, the grievances of informal sector is hardly solved by dealing with a single employer. We have encountered so many incidents that the workers have frequently changed their employers for more benefits. And, the principal employers have changed different contractors to escape from the legal formalities. Nepal's labour sector has witnessed various incident when legal provisions were misused even by the formal sector.

Labour migration and heavy influx of foreign migrant labour is another big problem of formal sector. An open border with India and privilege to Indian citizens to get any type of work has displaced remarkable number of Nepali labour. Access of Indian Migrant from Terai to High mountain as street vendor to the skilled labour indicates the magnitude of its seriousness.

In addition to this, there are crucial challenges in Nepali labour market. The annual labour force growth rate is estimated as 2.7 per cent. It was 3.5 per cent at 1971-81 and 3 per cent at 1981-91. If we analyse this trend, labour force growth rate has been declining but still high. Ninth Plan targets to create 5.267 millions new job and a perspective plan fit to it. It is believed that the labour force increased every year by 2.7 per cent will be absorbed accordingly and unemployment will be dropped out by 3.1 per cent. By the end of Ninth Plan (2002), a total 8.562 millions people will get employment and unemployment ratio will be dropped by 9.08 per cent. But in our context, underemployment is dangerous challenge rather than open unemployment. Ninth Plan even has yet set new target in what way underemployment would be reduced?

On the other hand, concerned sector is somehow in skepticism by the experience of Eighth Plan, its targets and the result.

#### **4. What is to be done?**

Informal sector is not an isolated sector; it has interdependence with the formal sector. That's why, it is not only surviving, but also increasing day

by day. The word 'informal' has already demanded that we should change it into 'formal' form.

For this, the state should take an initiation first. Country like Nepal, where more than 90 per cent labour force is in informal sector, institutional development of labour force cannot expect with out bringing it into formal boundary. That's why, there should be appropriate legal provision to cover all informal sector.

With the Globalization, the process of informalisation of work has been taken place very rapidly. Keeping it in the view, the WO has initiated few steps already. Among the initiations introduction of Home Work Convention 1996 is a bold step in this regard. Similarly it has introduced Contract Labour Convention, first discussion during its 85th session this year.

Based on this background, we should amend our existing labour laws to protect poor informal labourers. There should be sufficient ground for recognition of Craft Unionism. To challenge hidden condition of labour force in informal sector, there should be proper provisions to cover self-employed workers inside trade union movement.

Agricultural sector, which covers 81 per cent of total labour force has been still ignored to increase productivity of agriculture, right to organize and collectively bargain for agricultural worker should be guaranteed. Besides, land reform should be the major agenda in our policy. We should seek negative lesson by previous reform activities in this regard.

It will be incomplete if we do not address forced and bonded labour system in the agriculture. With the agenda like commercialization of agriculture, we should relate elimination of all form of unfair labour practices including Kamaiya System.

Numbers of Female is increasing day by day in the agriculture. Keeping it in our mind, a comprehensive perspective package should be prepared to empower women economically with appropriate program and technology.

Employment should be the first economic objective for Nepal. Expert opinion is that, an employment target should not be less than 3 per cent to meet such objectives. To generate employment and to attract direct

foreign investment, an additional and interlinked policies should be pursued.

Open border with India should be regularized to protect Nepali labour displacement by the heavy flow of Indian Migrant labour. Nation should be saved by brain drain and skill drain.

Informal sector can be protected by proper package of social security. Till now, we do not have such scheme. Thus, we should urgently take steps towards this direction.

**Table 2:** Ninth Plan, its target and estimates

Total Labour Force in the beginning of the Plan	8.779 Millions
Full Employment	46%
Full Unemployment	14%
Underemployment	40%
Targeted new jobs	5.267 Millions
Total Labour Force at the end of the Plan	9.425 Millions
Total Employment at the end of the Plan	8.562 Millions

**Table 3:** Eight Plan, its target and estimates

Total Labour Force in the beginning of the Plan	7.542 Millions
Total Employment at the end of the Plan	6.927 Millions
Targeted new jobs	1.449 Millions
Forest	0.861 Millions
Industry & Mining	0.181 Millions
Electricity & Gas	0.002 Millions
Construction	0.035 Millions
Trade, Hotel & Restaurant	0.068 Millions
Transportation & Communication	0.069 Millions
Finance & Hose/Land	0.010 Millions
Social Services	0.223 Millions
Real Job Creation at the end	0.628 Millions

These days, working condition of informal labour has been deteriorating rapidly. The condition is further worst in terai region. Planners say, the choice for Nepal is "Now or Never". It cannot be denied that it will create new challenges if Nation would go on 'low-wage strategy' based

on 'low-level of productivity.' It would be a short-sighted approach which will ultimately increase poverty only.

Job creation and the direct foreign investment is a great concern both for the formal as well as informal sectors. It is obvious that there is less possibility of foreign investment if they feel 'means of production in Nepal is not cheap'. On the other hand it would be great mistake if we try to destroy rampant structure and permit to limit labour right for foreign investment. It is a dilemma and it is also a reality.

**Source:**

1. NPC: Concept paper of the Ninth Plan 2054 B.S.
2. NPC: Agricultural Perspective Plan (Summary). 2052 B.S.
3. AITUC: Commission Report on Unorganised Labour, 16-20 October, 1997
4. SEWA-India : Sramashakti I Report of the National Commission on Self-employed Women & Women in Informal Sector, 1987
5. AMR C, Hong Kong: Asian Labour Update, No.24, 1997, Hong Kong
6. GEFONT/AMRC: Strengthening Pro-worker Trade Unionism, 1996, Kathmandu, Nepal
7. ILO, Geneva: The Rural Informal Sector in Asia, Policies and Strategies, November 1994
8. ILO, Geneva : The Urban Informal Sector in Asia, Policies and Strategies, November 1994
9. CA W, Hong Kong: Asian Women Workers' Newsletter, Vol.15, No. 4, 1996
10. ILO, Kathmandu : Country Objectives (1996/99), April 1997
11. ILO Nepal: An Employment Strategy, January 1997
12. Statement by Trade Unions, National Workshop on the Nepal Employment Strategy, January 23, 1997
13. Sarath Davala (edited) Unprotected Labour in India (Issues and Concern), 1994
14. FNCCI: Nepal and the World: A Statistical Profile- 1997
15. Dr. Shiva Sharma: *Nepali Krishi Sramik Sthiti Parichaya* (a paper on GEFONT/ILO Training cum Seminar on Agricultural labour, Sept. 19-22 1996, Kathmandu, Nepal
16. CBS: National Sample Census of Agriculture-1991/92
17. Labour Act-1991
18. Trade Union Act - 1992

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