

Enhancing
Decent Work Agenda
in Workplace

*(Trade Unions' Efforts through
Social Dialogue in Nepal)*

GEFONT

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What we had achieved in decade-long multiparty system?

It's too late already!

By the time when we were completing this report some major changes took place in political atmosphere and resultantly in the world of work.

New National minimum wage set-out, as the one of the highest increment in manufacturing sectors, similar increment took place for workers in Tea State followed by entire agricultural sector. A long-due demand of HRCT sectors'- "Levy 10% service charge on food-accommodations-service in entire HRCT" has been agreed.

Thus the analysis made in this report may not be sufficient to understand- "What's wrong or right now in the world of work?" Here are some additional notes.

We witnessed enthusiasm of the union activists- with a 'towering-morale' boost-up by new change during the preparation of new cycle of CBA negotiation. This however, also contributed to escalate labour militancy. The political change "gifted" us All Nepal Federation of Trade Unions (ANFTU) - a trade union emerged as a by-product of decade long Maoists insurgency, as the 'new player' in the labour market. The existing national centres, with no hesitation gave it a political recognition citing a new power balance in Nepali world of work, made a common Declaration with ANFTU on December 2, 2006. The ILO office in Nepal became witness during signing ceremony at Lahan, perhaps it was expecting this effort shall normalise relationship among the largest unions, which will ultimately contribute positively to on-going peace process in Nepal.

Pitifully, various incidents turned differently.

The ANFTU's wilderness-acts remained continuous: Their "mileage" kicked-off from one of the Indian multi-national Dabur Nepal, which was forced to close on May 20, 2006. The intention and demands behind this action were not made clear. The management was reported in the media as stating that they were forced to close the factory since they were unable to give the Maoist a 'donation of 20 million' rupees. The incident then took a dramatic turn with CPN (Maoist) coming upfront that the factory was closed not by "party" but by a "trade union".

ANFTU added that the particular case was not concerned with 'donation'. It was rather a spontaneous "labour action" by the workers oppressed over years. The following week saw a number of claims and counterclaims of ANFTU and the business community marking a peculiar type of 'love-hate relationship' entrenched in them. And, finally, the issue got settled with demands for contract-based work & outsourcing, elevating the status of temporary and casual workers to permanent positions and pay hike.

Obviously, the CPN (Maoist) tactfully diverted this 'action' of muscle flexing 'fusing' it into popular labour demands such as 'pay hike' and elevation of temporary labourers into 'permanent' positions. This was the first phase of Maoist landing as trade unions following the establishment of *Loktantra*, a phase characterised by Maoists' intrusion into factories and collect extortion in the name of 'maintenance of PLA' and advocating for a 'two-state'¹ theory as per which the implied meaning suggested that they needed money to maintain their 'state'. They adopted the same method to close down factories whether at the *Pathlaiya-Simara* corridor or in *Pokhara* or *Biratnagar*. This anarchy did not support them for long; the open environment was not that supportive to their intentions.

With the start of July (006), the outer cover of their activities changed, but not the strategy of "expanding organisation under the influence of fear". They continued violent attacks on union activists in *Bara-Parsa*, *Pokhara*,

1 Two-state denotes Maoist claim- themselves as 'new state' and the existing as the 'old'

Butwal and *Biratnagar*. Maoist activities in the name of ANFTU continued behind the propaganda of “basic pay of 5 thousand, 7 thousand and 10 thousand classifying trade and industries as category A, B and C respectively”, “permanent appointment for all” and so on. A slogan of ‘revolutionary polarisation’ was uttered to, first, enter the workplace and, then, trap other union members into the rebellious fishing net of “saleable elements”.

Unions with an established history and recognition in the trade union movement were attacked both psychologically and physically. They declared a new “war” on trade unions in the mainstream with the libel published in their mouthpiece²:

“A decisive struggle should be waged against those who claim themselves as genuine and amass dollars from foreign NGOs and INGOs in the name of the workers ... who collaborate with capitalists against the interest of the workers.”

Adopting the colonial policy of “divide and rule”, they decided to “make GEFONT a target of attack, lure NTUC into nothing and threaten DECONT”. The meeting of the Especial Central Command of the ANFTU held on Sept. 11, 2006 adopted the following and circulated it to all its members:

“...It has been decided that within 1 month, 100,000 memberships will be distributed. ... The strategic goal and objective is to ‘sweep out’ GEFONT within 4 months.”³

In meetings, senior leaders often complained and their tone appeared to suggest that they expected to be recognised and involved in common forums and initiatives. But in practice, they followed the Especial Command decision of ‘sweeping out’ GEFONT.

² *Mazdoor bulletin, National Conference special issue*

³ *Unpublished Inter Committee Circular*

- On October 16, 2006, senior leaders of GEFONT were attacked in front of the Central Office of Nepal Airlines Corporation, Kathmandu. GEFONT Chairperson of Koshi Zone was attacked around the same time.
- On Oct 22, GEFONT leaders at Hotel Malla were manhandled.
- On December 4, one of the founding leaders of GEFONT was maltreated in Hotel de' la *Annapurna*.
- Abduction, forceful control of union offices and their smash, organising of events parallel to those of GEFONT's, intrusion into agreements between authentic unions (CBA agent) and management, and introduction of "another set of demands" and "another form of strike" for the purpose of "entering into another agreement" with management irrespective of its quality.
- To silence and control the existing unions in enterprises, "new recruits and former militias" in 'barracks' were mobilised in the name of WT as per the policy of "when there is a need, where there is a need". The responsibility of those mobilised was to create mayhem.

GEFONT colleagues faced such attacks and atrocities that occurred in their hundreds. Such incidences occurred on a massive scale, but the CPN (Maoist) tried to downplay them as "isolated events" pointing only to one or two that drew widespread criticisms. In the eyes of media, this was but "a power struggle between GEFONT and Maoists". Maybe, some unionists also saw it as a "tug-of-war for existence between two left-leaning forces"!

With the emergence of the Young Communist League (YCL), the scenario took a new turn. Now, the Maoists' ANFTU had a reserve army 'to discipline' the workers who would deny following Maoist orders in factories

and communities. With the landing of this megalomaniac bunch, the most unruly of all other CPN (Maoist) outfits, it happened what many unionists had not even imagined that the fire in the jungle would also engulf them.

On Feb 24, 2007, trade union leaders and activists from Carpet industry affiliated with all 3 Confederations were attacked. Some colleagues with NTUC were badly beaten. Trade union activists of 9 trade unions, who were preparing to celebrate the May Day 07, were manhandled right in front of the media. The height of megalomania was exposed when workers in Casinos of Kathmandu were gravely beaten with backup from YCL. Fourteen union leaders of Casino Royal stood to defy this unruly act. And, for their defiance, they were handed in a notice of termination collaborating with the owner of the Casino.

The press statement issued by the ANFTU affiliate in hotel sector termed those terminated as "*Kundale-Mandale-lofar-awara-gunda* (unruly, uncivilised, thugs and stupid)" and claimed that they were terminated by the Casino owner tired of themselves. But this hyper claim did not last even 72 hours. This time the case was not limited only to certain party and trade unions but became a matter of concern of labour minister, home minister and the prime minister.

Failing to unpack the confusion, especially to differentiate between a trade union organisation and a political party, and trade unionism and politics, it hold that mass organisations, like trade unions, should not be different from a political party both in substance and form. If "membership" is "only for party members" and "committee only for party committee", why then a separate organisation is necessary! It seems to be unaware of the pattern of relationship between political party and trade union, and politics and trade unionism developed by well-known trade union centres in the world.

With the rippling wave of globalisation, the site of production has become scattered throughout the world. Today's capitalist production system has left to tend to its "fixed reserve army" that would "dig its own grave".

Modern Capitalism has made the world a big factory. Now, an 'unseen' owner, residing in a corner of the globe, decides within a minute the fate of all workers toiling throughout the world. Whether highly skilled workers with a PhD or unskilled ones, the payment for their labour has started to be determined on the basis of a downward bidding (as less pay as possible).

The workers today have been forced to stand at the crossroads, like the passers-by losing sight of their direction to follow, to auction their labour. Having no security of work, they are compelled to hunt for next piece of work once the one in hand will be finished. Today the 'process of lumpenisation' accompanying the informalisation of the entire workforce has been a big challenge to the trade union movement. In the contemporary world of the work, a lot many things are decided not with the collective strength of the workers in an enterprise but with the "forces of market". A Nepali case in point is the case filed (by a consumer rights group) at the Supreme Court against "10 percent service charges in hotel and restaurant business" which was "bilaterally decided" and "has no relationship of any kind with the rights of the customers".

In today's labour relationship, "production processes" have become "primary" and "physical existence of enterprises, secondary". In terms of the process of production, the world of work has been divided as "organised and unorganised, formal and informal, national and trans-national", and labour as 'regular' (permanent or temporary) and 'irregular' (contract-based, daily-waged, seasonal, part-time, home-based outsourcing, etc). With this division, the universal principle of workers' collectivism that "An injury to one is an injury to all" has been shattered since the workers have to fight each other for their daily survival. In such a scenario, the classical slogan that 'nothing to lose but chain, a world to win', and the present-day ANFTU's hullabaloo of the salary of "5 thousand - 7 thousand - 10 thousand" fall far short of organising the entire workforce for the grand movement necessary for social transformation.

In this changed context we saw a lots of challenges intertwined with the opportunity to achieve decent work agenda in the world of work through social dialogue. Here as well, ANFTU & its leadership are confused as to what kind of labour relationship should be advocated for.

However, this report on the one hand may not address 'theoretical' question which is mentioned above and on the other, the analysis we made on trade unions effort for decent work through social dialogue in last decade may serve as a reference. Even though, some may question the relevancy of this study or even labelled it as a mere post-mortem of a dead body; we argue this report as a documentation of achievement & weakness of our constituency and recommendation & indication in the days to come. We strongly claim that our movement is not at status quo - it is further advancing! The way we used legal instruments during the whole decade were appropriate and their relevancy are not out-dated. Time is expecting its continuity with much modification for promotion & upgrade of our rights! We acclaim, this report is a record of our history and manifestation of hidden pride of social dialogue we carried out indeed.

I on behalf of GEFONT Central Planning Commission offer sincere thanks to **Cetral Research Team** along with entire field research team of this project for their tireless job. Special acknowledgement goes to data analyst Kiran Mali, Mukunda Kattel & B.K. Kattel for translation and the leaders of GEFONT locals. Our special thanks go to Dr. Rudra Gautam, the consultat of this study for his excellent contribution. Let me note special thanks to Brother Pong-Sul Ahn, Senior Specialist on Workers' Activities of ILO-SRO, New Delhi; Brother Shengji- Li, Director, Sister Nita Neupane- Programm officer including entire family of ILO office in Nepal for their excellent cooperation.

Bishnu Rimal
Vice-chairman
(Chief, GEFONT Central Planning Comission)

List of abbreviation

ANFTU	All Nepal Federation of Trade Unions
CBA	Collective Bargaining Agreement
CPI	Consumer Price Index
CPN	Communist Party of Nepal
CTA- SRO	Chief Technical Advisor- Sub Regional Office
DECONT	Democratic Confederation of Nepalese Trade Unions
FGD	Focus group discussion
FGD	Focused Group Discussion
GEFONT	General Federation of Nepalese Trade Unions
GM	General Manager
HRCT	Hotel Restaurant Catering and Tourism
IC	Indian Currency
ILO	International Labour Organisation
INGOs	International Non Government Organisations
IT	Information Technology
MD	Managing Director
MDW	Minimum Daily Wage
Mgmt	Management
MWI	Money Wage Index
N/A	Not Available
NBL	Nepal Bank Limited
NGOs	Non Government Organisations
NRs	Nepali Rupees
NTUC	Nepal Trade Union Congress
OSH	Occupational Safety & Health
OT	Over time
PEs	Public Enterprises
PLA	Peoples' Liberation Army
USD	United States Dollar
WT	Whole Timer
YCL	Young Communist League

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CHAPTER 1

Introductory Chapter

1.1 Background

Workers' rights are a grouping of legal rights and claimed human rights having to do with labour relations between workers and their employers. These rights are usually obtained under labour legislations, such as negotiating workers' wages and benefits to ensure that they have the highest standard of living, and safe working conditions. One of the most basic of these rights is the right to unionise, which ensures freedom of association. Unions allow workers to take advantage of collective bargaining and industrial action to increase their wages and to improve their status & condition. The labour movement initially focused on this right to unionise, but attention has shifted also to other rights (*Wikipedia: the free web based encyclopedia*).

Labour rights are relatively new additions to the modern corpus of human rights. The modern concept of labour rights dates back to the 19th century after the formation of trade unions following the industrialisation processes. Karl Marx stands out as one of the earliest and most prominent advocates for workers rights. His philosophy and economic theory focused on labour issues and advocated an economic system, which would be governed by the workers. Many of the social movements for the rights of the workers were associated with groups influenced by Marx known as the socialists.

The International Labour Organisation (ILO) is emphasising Decent Work agenda in order to promote Declaration on Fundamental Principles and Right at Work, which consists bond of eight ILO core conventions. One of the significant emphasis is given on social dialogue-- the dialogue guaranteed by ILO Conventions 87 & 98 concerning Freedom of Association and Collective Bargaining.

The modern concept of labour rights dates back to the 19th century after the formation of trade unions following the industrialisation processes

Box 1: United Nations Declaration of Human Rights regarding Workers Rights

Article 23

- Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
- Everyone, without any discrimination, has the right to equal pay for equal work.
- Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

- Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Aside from the right to organise including rights granted by core ILO conventions, trade union movement has always campaigned on various other issues that are of course related to workers rights.

**Trade Union
Movement
from North
& developed
world has
been making
a working
week of 40
hours or less**

Globally, trade union movement has campaigned to reduce working hours in the workplace referring to 19th Century's labour movements campaigned for an Eight-hour day. Trade Union Movement from North & developed world has been making a working week of 40 hours or less; a 35-hour work-week was established in France in 2000, although this standard has been considerably weakened since then. Today, workers in various countries may not agree with employers to work for longer particularly in formal economy, however, limited Overtime (OT) is widely accepted with additional pay. In the European Union, the working week is limited to a maximum of 48 hours including overtime⁴.

In Post 1990 Nepal as well, legal working week is limited to 48 hours. There is a limit of 20 hours for Overtime work; further more some of the services such as Public Bank, working week hour is limited to 36 hours.

⁴ *European Working Time Directives, November, 1993, Brussels*

As other labour rights advocates, Nepal's trade union movement is also combating child labour. This exploitative, cruel, and often economically damaging issue along with forced and bondage labour problems and gender, caste and other forms of discriminatory practices are core agendas of Nepali trade union movement. The right to equal treatment, regardless of gender, origin, caste-ethnicity and appearance, religion, is definitely issue of worker's right. Discrimination at work place is illegal in many countries including Nepal, but still the gender based wage gap and wage gap between various groups is a persistent problem.

Social Dialogue, as defined by the ILO, includes all types of negotiation, consultation or exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social issues. It is one of ILO's four strategic objectives in promoting "Decent Work" for all and plays a key role in achieving the ILO's objective of promoting opportunities for women and men to obtain decent and productive work in conditions of freedom, equality, security and human dignity.

In Nepal, since inception of trade union movement in 1947, social dialogue in different forms is being exercised by the stakeholders in the world of work. There are evidences that it has contributed in advancing industrial peace and stability by promoting consensus among the main stakeholders in the world of work. There has been tripartite process, with the effective involvement of the Government in the dialogue. Bilateral process has existed, with or without government in different instances. It has taken place at the national as well as enterprise level.

This study of GEFONT aims at examining the state of social dialogue between employers/management and trade unions at the level of individual enterprises. Further, it aims to identify roles played by unions in different workplace and to analyse a qualitative picture of the state of dispute settlement. Dispute settlement includes clear picture of the practices of social partners concerning individual dispute settlement, collective dispute settlement, and mechanisms

In Nepal, since inception of trade union movement in 1947, social dialogue in different forms is being exercised

of arbitration, mediation, strikes, protest actions and demonstrations. Information also covers on the roles played by various institutions/parties involved, including their legal basis, experiences and effectiveness in solving conflicts and insights for improvement in the changed context. This study has further tried to contribute to find out the actual position of work and employment with the viewpoint of working conditions, review and analysis of labour management relationship at the enterprise level.

1.2 Objective

The primary objective of the study is to examine the state of social dialogue at the level of enterprise. The **specific objectives** are set as follows:

- To give an overview of legal framework for social dialogue
- To provide a statistical analysis of the process/mode of dispute settlements (generally collective including arbitration, strikes, protest, demonstration, etc) at particularly enterprise level over the given period
- To provide a statistical analysis of causes of different disputes⁵ (national issues, wages/benefits, company restructuring, layoffs, closure, working conditions, trade union rights, gender equality issues ...etc.)
- To provide a statistical analysis of the use of arbitration, mediation services in the studied period
- To provide an overview of the conceptions of different actors of social dialogue for the improvement of social dialogue

1.3 Coverage

This study has attempted to cover entire formal labour market, which has performed series of Collective agreement. Geographically, the study has covered entire zones except Karnali.⁶

The study has covered entire zones except Karnali which have more or less labour mobility

⁵ Disputes refer to strikes, protest actions, demonstrations, stoppages etc.

⁶ See Detail list of Zones & District in annex-6

The sample size has been determined to make it statistically correct, and at the same time availability of resources has also been considered. Initially the study aimed to take 700 enterprises as sample for the study. But, this number has significantly been cutdown to 159 due to unavailability of data required for the study. And, finally, the study has been built on the information of 159 enterprises.⁷

1.4 Methodology

The study is based on both the primary and secondary information. The primary information was collected through the key informants interview and interaction in focus group discussion (FGD). An unstructured and open ended checklist was prepared for the interaction. The FGDs were held in about 234 workplaces⁸ where around 3,000 workers and union leaders, both women and men, participated. The FGDs were organised primarily to know the perception of the workers and the leaders towards the collective bargaining and to cross check the information available from the secondary sources.

A survey team⁹ was deployed to the work place in order to collect secondary information. The survey team visited 300 plus enterprises, where they collected Charter of Demands and Collective agreements of last two years covering the period of 2001 to 2004, but received the information only from 159 enterprises useful for the study. Further, the team visited all ten Labour Offices of Government of Nepal and collected registered demands and agreements. The Team also carefully studied minutes recorded in the labour offices, which has also been the basis for analysis.

Basically following information was collected from the enterprises:

- Details on the demands submitted in order to understand the situation & context
- Number and types of informal negotiations to explore the attitude of social partners

The survey team collected Charter of Demands and Collective agreements of last two years covering the period of 2001 to 2004

⁷ List of visited workplaces, annex-2

⁸ List of FGD enterprises, annex-5

⁹ List of Team, annex-1

The Act has also clearly mentioned the provisions of dispute settlements if aroused relating to the demands

- Statistics concerning strikes such as number of strikes, and other forms of protests and demonstrations
- Statistics on strikes with/ without due process to identify Spontaneous vs due process of grievances handling
- Causes of strikes, stoppages, protest actions and demonstrations
- Implementation of agreements to examine workplace democracy & level of honesty
- Differences in two negotiations in order to measure synergy in labour action
- Action on non implementation and adherence in the negotiation to identify state of industrial relation
- Use of arbitration, mediation and conciliation services

Besides, information outside enterprise such as cases of struggles or movements and cases from informal sector also have been collected to further justifies the analysis.

1.5 Legal Provision of Grievances Handling & Dispute Settlement in Nepal

The process of Collective Bargaining, which include different levels, in Nepal has been systematised and regulated by the Labour Act (2048) 1992. The Act has clearly mentioned that the claim relating to collective right, interest and benefits of workers should be submitted to the concerned enterprise-management through their representatives clearly mentioning the claim in writing and signed by at least fifty-one percent workers from the concerned enterprises specifying the names of their representatives. In case the authentic trade unions¹⁰ are functioning in the concerned enterprises, the union prepares the demands and submits them to management through union's representatives.

The Act has also clearly mentioned the provisions of dispute settlements concerning the demands. The provisions are as follows:

¹⁰ Authentic trade union is elected body as the CBA agent in the enterprises.

- After receiving the demands from the unions or through their representatives, the management should hold bipartite dialogue with the union representatives and resolve the dispute within twenty one days. If the problem could not be solved through bipartite dialogue, it should be resolved within fifteen days by holding bipartite discussion in the presence of Labour Offices.
- In case the problem is not solved through bipartite discussion even in presence of Labour Offices, it may be referred to an arbitrator appointed with mutual consent of the management and union. If no such arbitrator could be appointed, the case should be referred to a tripartite committee constituted by the government with mutual consent of both parties comprising therein of equal representation from the workers, the management and the government.
- The arbitrator or the committee constituted following the process should have to give decision within fifteen days. Any of the parties dissatisfied with the decision of the arbitrator or the committee could appeal to the government within thirty-five days from the date of service of notice of such decision. If the arbitrator or the committee does not give its decision within the time-limit as stated above or if the government does not decide the appeal within sixty days from the date of filing the appeal, the workers may go on strike after adopting the procedure enshrined in the Act.¹¹

A notice in writing stating the claims & justification, together with a resolution passed by at least sixty percent workers from among all

However the workers or the unions could not desire to go on strike all of a sudden. For this, they have to submit a notice in writing stating the claims and their justification, together with a resolution passed by at least sixty percent workers and employees through secret ballot thirty days in advance and an information should also be given to the Department of Labour, concerned Labour Office and the local administration and afterwards they may go on strike.

¹¹ See CBA Chart ...

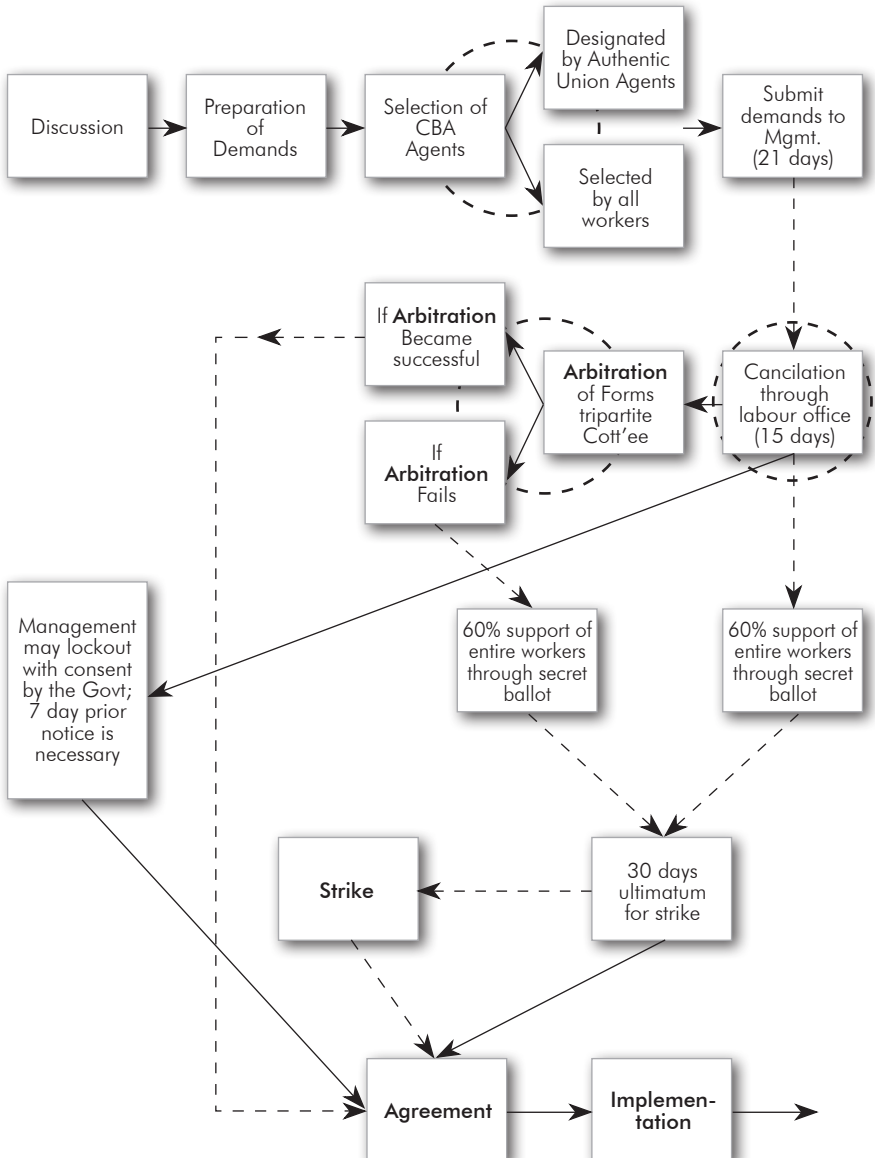
Any
agreement
between the
workers & the
management
in order to
settle the
dispute shall
deem to be
enforceable
as a law

The existing law has equally provisioned right to the management to go for a lock-out of the enterprise against the strike of the workers provided that the management has submitted the justifications with its rationale and obtained prior approval of the government. For this, the management has to fulfil some legal obligation and condition that the enterprise, before declaring the lockout, should issue a notice for the information of all workers and employees at least seven days in advance specifying the effective date of the lock-out. But in case there is a situation with possibility of damage to the company through turbulence, besieging, destruction etc. from the workers and employees during the strike, the management could declare lock-out even without following the process of prior information. If a lock-out is so done in the enterprise, the Labour Office and the Department of Labour should be informed about the lockout with reasons within three days.

It is clear that the government may at any time declare the lockout or the strike of an enterprise as illegal. Any agreement entered into between the workers and the management in order to settle the dispute shall deem to be enforceable as a law from the date of agreement and it remains for two years from the date of its commencement.

Labour Legislations in Nepal are mum on CBA rights for the National Trade Union Centres and the National Federation. The first amendment in Trade Union Act 1992 says-“Three social partners- Government, Employers’ Organisation and Trade Union Confederation and Federations mutually work to resolve labour dispute which has national character”. It has given little room. As Nepal has ratified ILO Convention 98, unions have an understanding that there is no restriction to hold CBA at national level and to organise general strike if necessary even nationally.

Legal Process of CBA as per Labour Act (2048)



CHAPTER 2

Union Based Analysis

2.1 Unions in Collective Bargaining, Nature and Scope of Industry: An Overview

Trade unions affiliated to the General Federation of Nepalese Trade Unions (GEFONT) alone have the stronghold of collective bargaining over 4/5th (82 percent) of the Enterprises selected for the study. Unions affiliated to Nepal Trade Union Congress (NTUC) occupy 11 percent of the Enterprises, where they filed charter of demands and agreed for collective bargaining. The study reveals that the culture of submitting demands collectively to the enterprise management and of promoting collective bargaining is increasing. Enterprises where such practice is introduced covers eight percent of the total. Such culture is found being promoted by the unions affiliated to the GEFONT and NTUC. Involvement of DECONT and other unions in social dialogue was found only about seven percent.

Generally, there is a legal provision to register the collective agreement of the trade unions and the employers to the concerned labour office. But so is not done in many cases.

Looking at the geographical variation, the trend of collective bargaining is predominantly high in the central region (70

Table 1: Charter of Demands and Unions by administrative region

Region	Charter of demands Submitted by unions				Total %
	DECONT %	GEFONT %	NTUC %	Other %	
Central	3	87	5	5	70
Eastern	6	60	34	0	22
Mid Western	0	100	0	0	1
Western	0	92	0	8	8
Total	3	82	11	4	100

Table 2: Demands by Ownership

Ownership	Enterprise (in %)
Joint Venture	4
Multinational	7
Private	81
Public	8
Total	100

percent) where the pressure of industries is high. This is followed by the eastern region by 22 percent (Table 1). Similarly, it is revealed that the fertile area of collective bargaining based on ownership is private Enterprises which occupy 81 percent, followed by public (8 percent) and multinational companies (7 percent) respectively (Table 2).

NTUC is in the leading front of collective bargaining in the service oriented public sectors where the unions affiliated to GEFONT are active in manufacturing side of the public sector. In service oriented public sectors, NTUC has a competition with the unions affiliated to Inter Corporation Employees' Association and Inter Banking Employees' Association. But the bargaining of unions affiliated to the GEFONT is predominately high in the private companies. Presence of DECONT in both the sectors is almost none.

Table 3: Demands and Trade Unions by Industries

Sector	Charter of demands Submitted by				Total
	DECONT	GEFONT	NTUC	Other	
	%	%	%	%	%
Carpet	11	78	0	11	6
Construction	0	100	0	0	1
HRCT (hotel & tourism)	9	65	17	9	14
Manufacturing	1	86	9	3	54
Tea Plantation	6	69	25	0	10
Textile, Garment, jute	0	90	10	0	13
Transportation	0	100	0	0	1
Foods and beverages	0	100	0	0	1
Total	3	82	11	4	100

Similarly, on the sectoral basis, the ratio of social dialogue is considerably high in the manufacturing sector. This alone covers 54 percent which is half of the total bargaining. This sector is followed by hotel and tourism sector (14 percent), garment, jute and textile industries (13 percent) and tea plantation (10 percent) respectively (Table 3).

2.2 Average Number of Workers in the Industries Selected for the Study

Of the industries selected for the study, Fifteen percent are providing employment for more than 500 workers. Similarly, 40 percent of the Enterprises are those where number of workers ranges from 100 to 500. In total, 45 % of the enterprises are small in the sense that the numbers of workers employed is in between 10 and 100.

In the tea plantations, where collective bargaining prevails, the maximum number of workers is 685 where the minimum is 45. The average number of workers working in tea plantation is 220, of which 62 percent are women.

Industries with the workers ranging from 13 to 3500 were selected in Biratnagar for the study. The average figure of which was 660. Of them, only 14 percent were female workers. Comparatively, Biratnagar Juit Mills was the largest industry to provide employment for the highest number of workers though the number of female workers was considerably low.

The garment industries selected for the study in Kathmandu valley included the number of workers ranging from 33 to 160, with the average figure of 72. Similarly, the selected manufacturing industries employed 11 to 400 workers with 106 average numbers of workers, of which the female workers occupy position of 36 percent. Likewise, the star hotel and casino selected for the study employed 495 workers in average where 22 percent were females.

The study reveals tha the higher the numbers of workers in an enterprise, the more and regular is the collective bargaining. It has proved once again that the 'unity is power'.

The average number of workers working in the tea plantation is 220, of which, 62 % are women

CHAPTER 3

Analysis of Charter of Demands submitted for CBA

3.1 Analysis of Demands

The longlist charters of demands were submitted mostly in the private enterprises in terms of number ranging from one to 52 points, excluding the demands submitted in the public enterprises and the banking sector which have further long list. However, the average number of demands in totality is 15.

The study reveals that the charter of demands was normally submitted to the enterprises with the signature of the workers. Where more than one trade union functioned was found submitting their demands jointly. This was most prevalent in Godawari Marbal Industries, Bhrikuti Palp and Paper Nepal Limited and Raghupati Jute Mills.

The study has demonstrated relations among the unions working at the service oriented public enterprises and private owned enterprises. In Private sector, the trade unions have maintained healthy professional relationships amongst them. Putting aside their personal differences, they were found working for professional interest and for a common good of the workers. This was evident from the demands they submitted and the agreements they made with the employers or the managements. But this collective culture was not found among the unions at public enterprises; a sharp competition and some how rivalry can be seen. Nepal Bank Limited, Nepal Telecom, Rastriya Banijya Bank are the examples in this regard.

In some cases it was found that the unions reached into agreements with the owners without submitting any formal demands. In such case, demnads were pushed in a face to face dialogue and agreed in a minute directly. According

Private sectors' unions have maintained healthy professional relationships amongst them

Box 2: Diverse nature of demands

1. Though the charter of demands submitted to the Hotel Hyatt Regency, Kathmandu, was put in public as 30-points, it was of 50 points in reality. The charter, among others, demanded to establish a Welfare Fund and Housing Fund for the workers.
2. The 29-point demands submitted to the Nepal Recreation Centre also included the demands such as representation of union in the workers recruitment process, uniform allowance and provision of separate lockers for the workers. The union, however, entered into six-point agreement with the establishment without any significant achievement.
3. Of the demands submitted to the Hotel Maharaja Palace, the demand 'not to use abusive words for the workers' was worth noting. Similarly, the union submitted demands to the Hotel Soaltee asking for an immediate provision for book allowance for the workers.
4. Demands submitted to the Hotel Blue Bird strongly included the demand for the provision of Child Care Allowance. Similar demand was filed to the Thai Asian Food. Workers of Baba Biscuits, Biratnagar strongly demanded for a guarantee of cycle stand and an immediate formation of Labour Relation Committee.
5. Workers' union of Hotel Eastern Star, Biratnagar submitted a charter of demands to the hotel owners demanding for healthcare allowance instead of health insurance.
6. In some cases, the demands of unions were found quite vague and generic. For example, the demands submitted to the Hotel Summit asked for a provision for grade, house rent, price hike allowance, but did not mention the figure. Demands submitted to the Himalayan City Beverage just asked to continue the facility that the workers were enjoying. Union at Hotel del' Annapurna negotiated on the ground that the amount received by selling kawadi (garbage) goods would be deposited in the welfare fund where the charter submitted to the Hotel Sunset View demanded to deposit the amount in tips box. Similarly, the issues mentioned in the charters of demands submitted to the the Hotel Blue Star with two option together.
7. Some of the demands were out of union's concern. The union in Himali Pipe Co Pvt demanded appointment of General Manager; Union at Aeroma Tea Estate demanded not to change the Manager frequently citing that it caused difficulties in the daily business of the Estate.
8. Workers at Kamar Tea Industry demanded to provide them with house maintenance allowance. Where as union at Giri Bandhu Tea Estate was demanding subsidies shop, water free from chemical and facility of midwife.

to the study, nine percent of enterprises exercise such practice.

Box 3: Diverse nature of Collective Agreement

As the nature of demands varies one company to another, so is the nature of agreement. According to the study, trade unions and the management of Hotel Sangri-la have been negotiating the collective demands on mutual basis, mostly through dialogues since the Year 2000. Workers at Bhaktapur Radha Structure and Engineering have not formally submitted their demands yet. They rather bring their concerns to a dialogue and negotiate. So is the practice at Gaurishankar Himal Gas Industry, Kathmandu, Papermat Industry Pvt. Ltd., Balaju Yantrasala, People's Dental College, and Prakash Cable and Pashupati Biscuit, Biratnagar.

Such practice of agreement is implemented by the M M Plastic Industry, Biratnagar too. Nebico Biscuit Industry and Balaju Rajkamal Spining Union claim that there has not been a formal agreement between the unions and the management mostly after 1998. Whatever agreements are reached, all are verbal and they are much favouring the worker's needs.

The study reveals that following the political change in 1990, understanding between the trade unions and company management have gradually been developed. Protest, strike and other forms of struggles against the management by the unions are less likely to organise to fulfil their demands as the employers and the workers periodically review their agreements and enter into new ones if needed. Such culture is in practice particularly in Triveni Textile Industries, Dugar Food and Beverage, Himilayan Aqua Industries, Gopi Textile Factory-Thankot, Kriti and Samridhhi Textile Pvt. Ltd. and so on.

However, demands of the workers have not always been addressed in a normal course. The unions have suffered number of challenges in a bid to fulfill their demands. As the study unveils, the unions have faced different discouragements in nearly 30 percent of enterprises while struggling for their demands. In manye cases, their demands are met only after the union leaders are expelled from their service.

According to the study, a company has received a charter of 15-point demands in an average. If the date collected from service oriented public enterprises and banks are not accounted, only nine of the total demands are fulfilled. The findings are so surprising that in most of the companies, the agreements are not compatible to the demands. For an instance; in some cases, union had demanded increment of

Box 4: What a Mischievous Manager!

Nepal Independent Food & Beverage Workers' Union of Garg Beverage submitted a charter of demands to the management on last week of April, 2002 (24 Chaitra 2059 B.S). Instead of responding to the demands, the Company Manager Kabita Agrawal sent a letter to the Labour Office stating that the company was closed as per the decision of its General Assembly held on Second week of April (19 Chaitra). However, the minutes submitted to the Labour Office revealed that each time the union submitted the demands, the company used to issue a notice of company closure and when the unions deferred their demands, it reopened.

NRs. 100, however, negotiation was made with increment of just NRs. 1.

The survey shows that there are many unions which have either deferred or withdrawn their demands unfulfilled because of a number of reasons- such as threats & pressures to the unionists, and 'unfavourable' time. In about 26 percent of the enterprises, the trade unions have deferred their demands and negotiated with the management withdrawing it.

3.2 Demands Related to Wages

In the study, the status of minimum wage implementation, wage increment rate, grade, dearness allowance, house rent, night shift allowance, travel allowance, education allowance, over time pay and travel allowance based on leaves were covered under 'demands related to wages'.

Box 5: Minimum wage Increase

During the study period, Nepal Government fixed the rate of Rs 74 as daily allowance for the workers at tea plantation and Rs 90 for the workers in other sectors. Similarly, Rs 1700 was fixed as basic salary and Rs 860 as dearness allowance per month for the workers in enterprises. Such provision of daily allowance was mandatory even for the enterprises employing less than 10 workers. At present, this is reviewed and the scale of daily allowance for the workers at tea plantation is increased to Rs 95 and Rs 125 for other sectors. Similarly, monthly basic salary has been fixed Rs 2200 and Rs 1100 as dearness allowance. Since the legal provision is strangely silent on other than dearness allowance, it can be fixed in mutual understanding.

Box 6: Variation in Minimum wage Payment

Worker at tea estate are subject to low salary compared to the workers in other sectors. In 2003, the basic salary for the workers was fixed at Rs 2083 (Rs1683 and Rs 400 monthly salary and dearness respectively) and daily wage at Rs 74. However the Giri Bandhu Tea Estate and New Giri Bandhu Tea Estate have fixed Rs 2000 as monthly salary of its workers whereas a worker is entitled to receive daily allowance Rs 74 if s/he plucks 29 KG green leaves a day.

A worker at Shrestha Tea has to pluck 25 KG green leaves per day to receive Rs 74 where at Kanyam Tea Estate one is entitled to receive it once who plucks 17 KG. In addition to it, the Estate has a provision to provide Rs 1 as daily allowance for each extra KG. But the provision of allowance in Tokala Tea Plantation and Bansal Tea Estate was found different. In both companies, a worker is entitled to receive the allowance if s/he plucks 27 KG green leaves per day.

Demands related to 'basic wage implementation' alone covers 14 percent of total demands, 38 percent of the enterprises have not submitted demands related to it where about 44 percent enterprises have demanded for 'fair wages'.

Of the enterprises demanding for 'fair wages', 14 percent are found demanding an increment of their wage by Rs 200 per month, enterprises demanding less than it cover 14 percent and the rest are found demanding vague. They have just asked for an increment of wages 'based on percent' not clearly stating the actual ratio.

It is strikingly surprising that unions in 52 percent of enterprises have not mentioned the rate of salary increment in the list of their demands submitted to the management. Seventeen percent of enterprises have received demands of salary increment by Rs 1000 and above per month and only 1 percent enterprise has been asked for the same by Rs 5000 plus per month (Table 4). This has proved that the workers put forth unrealistic demands also.

Discrimination between high salary holder and low salary holder is pervasive at 'star' hotels and casinos. The higher paid workers work less but receive more facilities whereas the low-paid workers toil hard in limited facilities.

Table 4: Demands Related to Wage Increment

Increment in existing wage	Enterprise (in %)
Less than 200	6
Up to 200	10
Up to 500	14
Up to 1,000	11
Up to 2,500	5
5,000 and Above	1
N/A (None of above)	52
Total	100

A female worker at Blue Bird Garment receives Rs 110 as daily wage where a male receives Rs 130 for the same

The workers of majority star hotels and casinos are found receiving only minimum salary as stated in the labour law. They are not entitled to any other facilities or allowances. Of the hotels the study covered, Hotel Zenial, Biratnagar is paying a worker's salary Rs 2200 per month, and in Eastern Star the management is paying just Rs 1000 for helper & Rs 800 for utility workers, which is very low, compared to other hotels¹².

Workers are reportedly suffered from inequality and low wage rate. This is widespread in all enterprises and factories. Data shows that the workers at Bhaktapur Radha Structure are obliged to work under low wage rate; Rs 2400 per month, which is less than national minimum wage. Similar is the story of workers at Nepal Pasmina, Blue Bird Garment, Rajat Gament, Siddhi Binayak Pasmina and Nepal Wayern in Lalitpur, where a worker is paid Rs 1800 per month.

National minimum wage of a worker is Rs 90 per day before its revision on July 2006. But many enterprises are found violating this provision and paying low wage to the workers. In a sheer violation of the provision, Raghupati Jute Mill pays a worker Rs 50 per day, which is almost

¹² Comparing the star Hotels, annex- 4

Box 7: Huge gap on wage & benefit between Low paid and higher paid employees

Difference of monthly salary scale between the General Manager and a worker at Hotel Soaltee is improporionately high. A worker at the hotel receives Rs 5500 per month in an average where the pay scale of a General Manager is 320,000 per month, which is 58 times higher in comparision. Similarly, there is 60 times difference in salary between the posts at Hotel Annapurna, 160 times at Hotel Yak & Yati, 45 times at Hotel Sangrila, 65 times at Everest Hotel and 28 times at Hotal Himalaya.

Difference of salary scale between the highly paid workers and managers is also shocking. The Manager pay scale at Hotel Soaltee is 16 times more, at Hotel d'la Annapurna 9 times more, at Yak & Yati 22 times more, at Hotel Shangrila 15 times more, at Hotel Everest 6 times more and at Hotel Himalaya 10 times more than a workers.

There is difference between Nepali and Non Nepal Workers as well.

The wage scale of non Nepali workers is threefold higher than Nepali workers. A Nepali house keeping manager at Hotel Soaltee is paid Rs 25000 per month where a non Nepali is paid Rs 80,000 for the same post. A huge difference of salaries between the Nepali and Non Nepali General Manager was identified at Hotel Yak & Yati. There, the Nepali Manager receives Rs 60,000 per month but for Non Nepali Manager the salaries scale is Rs 160,000 which is 2.6 fold more than the former. Such difference was identified in other posts as well.

half of the standard rate. Other enterprises stood in the row of violating such provision are Arihanta Multi Fibres, Biratnagar Jute Mills, Pashupati Biscuits, Baba Jute Mills, Quality Biscuits and so on.

The study shows that the dicrimination of wages between male and female workers is equally pervasive at the workplace. A female worker at Blue Bird Garment receives Rs 110 as daily wage where a male receives Rs 130. Likewise, a male worker at Square One Garment is entitled to receive a salary of Rs 4000 per month where a woman draws Rs 3000 for the same. The workers at Curex Pharmaceutical are still demanding for 'equal wages for equal value of works' between women & men.

Exploitation of labour is another burgeoning problem that the workers are facing. Many workers reported

being deprived of overtime allowance, job permanency and appropriate wage facilities. Negligence of employers towards the demands of workers and discrimination in pay scale and wage rate on the ground of gender and positions of job classification are other problems the workers are suffering. This is an utter violation of Labour Act and provisions of ILO Conventions.

3.3 Annual Grade

The study identified three different types demands related to annual grade. They included 'implementation of existing law', 'increment of basic salary by 2 - 5 percent per annum' and 'lump-sum yearly increment in basic salary'. As the respondents reported, 13 percent demands were related to implementation of existing laws, but majority of the demands (62 percent) could not directly specify the rate of annual increment- the grade (Table 5). Respondents at Hotel Malla, Hotel Blue Star, Hotel Summit and Hotel Himalaya revealed that they received lump-sum grade in yearly basis where the workers at Hotel del'a Annapurna, Casino Royal, Casino Anna and Casino Nepal received 10 percent as grades annually.

Box 8: Legal Provision on Grade

Any worker employed permanently shall be entitled to one increment each year and the amount of increment shall not be less than the half of the daily remuneration of the concerned worker or employee.

Table 5: Demands Related to Grade

Grade	Enterprise (in %)
Implementation of existing Law	13
Lump- sum yearly increment in basic salary	6
Yearly increment by 2-5% of basic salary	8
Yearly increment by 5% above of basic salary	11
N/A (None of above)	62
Total	100

3.4 Demands Related to Allowance and Other Facilities

Of the demands, majority (42 percent) were related to house rent, which was found common in each sector. The demand, if analysed in geographical frame, covered 42 percent in eastern region, one-third of the total in western region and 42 percent in the central region. Similarly, demands related to transportation and dearness allowance were almost equal, i.e 39 percent and 35 percent respectively. Demands for other facilities such as allowance for education support to kids and overtime pay correspondingly covered 27 and 29 percent. Rest were related to night-shift allowance (22 percent), minimum wage implementation (14 percent), increment in piece-rate and leave-based travel allowance (Table 5).

Damands related to night-shift were proportionately high in the hotel and garment sectors, where the tourism sector and manufacturing industries dominated the demands related to leave-based travel allowance.

According to the survey, the Jute Mills, in Biratnagar provides house rent allowance to its permanent workers. Such practice was also identified at Koshi Metal Craft, Hulas Metal, Pashupati Biscuit Factory and some other enterprises. Instead of house rent allowance, Kulayan Battery and Arihanta Multi Fibres provide quarter facility to the workers.

Of the demands, 42% were related to house rent, which was found common in each sector

Table 6: Demands Related to Allowance and Other Facilities

Demands	%
Demand of minimum wage implementation	14
Dearness allowance	35
House Rent	42
Night-shift allowance	22
Transportation cost	39
Educational support to kids	27
Overtime	29
Increment in piece-rate	12
Leave-based Travel allowance	12

The Asian
Thai Foods
Company run
by Chaudhary
Groups put
16-point
conditions
to agree the
11-point
demands of
the workers

Legal Provision Relating to **Overtime Work** says- "Where any worker or employee is caused to be engaged to work for more than eight hours in a day or forty eight hours in a week s/he shall be paid overtime wages at the rate of one and half time to the ordinary rate of wages. Provided that no worker or employee shall be compelled to work overtime. While deploying any worker or employee to work overtime, generally the duration of overtime shall not exceed four hours per day and twenty hours per week."

Ironically, the workers are compelled to demand for lawful overtime pay, not to push to work total 20 hours in a week and to follow legal provisions effectively (29%).

Transgression of labour law was found common amongst the enterprises while collectively negotiating with the unions and the workers. Indulgence of largest enterprises in such act was more visible. For example, the Asian Thai Foods Company run by Chaudhary Groups put 16-point conditions to agree the 11-point demands of the workers. Among others, the condition of 'compulsory over time work' was unabashedly imposed upon the workers, completely violating the labour act. Similarly, the company also segregated the workers into two groups as 'registered' and 'non-registered' and also the facilities accordingly. Those 'registered' could enjoy the facility of sick leave and casual leave where the second category workers deprived

Box 9: What a Collective Negotiation!

The management of Kiran Shoe Manufacturer, Maharajganj, Kathmandu, negotiates with its workers in every two years. But the negotiation is typical compared to other companies. A comparative detail of the negotiation is as follows:

Area	Deamnds to increase	Negotiation Increased by	after Two years
Tiffin allowance	Rs 15 from Rs 8	Rs 1	Rs 1
Night shift allowance	Rs 8 from Rs 4.25	Rs 0.25	-
Medical Allowance	Rs 500 from Rs 202	Rs 18	Rs 15
Bonus	annually 60 days	annually 40 days	annually 40 days
Dearness allowance & House rent	-	-	Rs 40 & 20 respectively

Table 7: Major 17 Demands

Issues (Demand)	%
Increment in existing Grade without specifying figure	62
Increment in existing wage without specifying figure	52
Permanency	48
Medical treatment cost	47
Clothing/Uniform	44
House Rent	42
Dashain Allowance/ Transportation cost	39
Bonus/Dearness allowance/ Provident Fund	35
Union office	30
Overtime	29
Life insurance	28
Educational support to kids	27
Home leave/ Loan facilities	26
Compassionate leave	25
Sick leave/ Other leave (not specified)	23
Night-shift allowance/Physical management of union office	22
Job Classification	20

of it. The company also imposed condition on workers for 'completing five year regular work' to be qualified for the bonus facility.

It is to be noted that there is no provision as such in the Labour Act -1992 classifying workers as so-called registered and non-registered and there is provision which suggests to award permanent status to those having crossed a continued working period of 240 days.

3.5 Demands Related to Facilities

The survey analysed the facilities related to Dashain allowance, emergency advance, bonus, quarter facilities, long service incentives, school facility, clothing/uniform allowance, rest room and canteen facilities and so on under this theme. The finding shows that majority (44 percent) of the demands are related to clothing/uniform allowance where demands for Dashain allowance covers 39

Box 9: Legal Provision Relating to Bonus

Bonus is a share of workers in enterprise's benefit. Each company shall provide 10 percent bonus to the workers or employees from the total benefit. Any worker or employee worked for more than 180 days during the period of one year shall be the claimant of the bonus.

percent. Also the bonus and loan facility related demands are simultaneously high with 35 and 26 percent respectively. Demands related to rest room and school facility occupy 14 percent each of the demands (Table 8). Pressure of demands for clothing allowance is predominantly high from garment-textile and hotel sectors.

The survey identified that some of the Enterprises such as Hotel Blue Star, Shree Ram Refine Oil Industries, Kankai Pathibhara Tea Estate and some other provide Dashain

Table 8: Demands Related to Facilities

Facility/ Benefit related	%
a. Dashain Allowance	39
b. Loan facilities	
Housing loan	4
Emergency loan	4
Advances	18
c. Bonus	
Profit-based	9
Lump-sum	26
d. Clothing/Uniform	44
e. Quarter facility	
Maintenance cost	6
Electrification demand	1
Drinking water & Sanitation	4
f. Long-service incentives	5
g. Demand of own product (Eg; tea grain)	11
h. School facility	3
i. Rest Room	14
j. Canteen	14

allowance to its workers, Him Electronics and some other enterprises share the bonus based on profit every year.

Some enterprises have negotiated to provide school and loan facilities and also maternity allowance to their workers Employees' Welfare Fund. Some of such enterprises include Reliance Spining Mills Biratnagar, Triveni Simpax, Nepal Boards Limited Simara, Pokhara Foods. Facilities other than mentioned above are also found being provided to the workers. Such facilities include picnic allowance, birthday facility and funeral rites allowance. For example, the Sagarmatha Gas Industry organises picnic for workers every year, Hotel Sangrila provides a birth day cake to workers in the birthday and Hotel Himalaya provides Rs 25000 as funeral rites allowance to the family of the workers if the latter died in -service. Hotel del'a Annapurna provides one day salary of all employees from GM to Guard to the berieved family and also offer substitute job if any one of the family members likes to join hotel as the employee.

Box 10: What changes could we derive within 17 years? A comparison

GEFONT affiliate- Nepal Independent Hotel Workers union is the longest serving authentic union in Hotel del'a Annapurna since 1990. It has made numbers of collective agreements with the management. In 2005, NTUC affiliate Nepal Hotel and Tourism Workers Union won the election for the first time. However, it has not done any agreement with management yet. Following chart tells comparative story of achievement within 17 years:

Issue	In 1990	Now, 2006
Lowest scale of wage	Rs 532	Rs 6100
Annual Grade	Rs 15	10% of Basic Salary
Allowances		
• Dearness Allowance	-	Rs 1100
• House Rent	-	Rs 850
• Medical facilities to family members	-	Rs 500/ month
• Local Transportation	-	Rs 400/ month
• Night-shift allowances	-	Rs 300/ month
• Food facilities	Subsidised food in canteen	One time free food in duty time
• Leave based travel allowance	-	Rs 4200/year with 6 days paid leave
Overtime	-	150% of basic salary

Issue	In 1990	Now, 2006
Permanency	Almost all 475	Almost all 300
Clothing facility	Uniform	Uniform
Festival Allowance (Generally in Dashain)	One month basic pay as advance	One month gross salary
Bonus	Almost all 475	as per law
Provident Fund	10+10 %	10+10 %
Insurance	In duty Accidental insurance	In duty Accidental insurance
Leave Facility		
• Annual leave	18 days	30 days
• Public holidays	-	15 days
• Casual	-	6 days
• Sick leave	-	15 days
• Compassionate leave	15 days	15 days
• 8 March	-	For only women
• Special leave	-	2 months with 75% salary
• Maternity leave	As per managements' wish	90 days
Union office	-	Yes
Physical materials for union	-	Yes
Loan Facility	-	Upto Rs 100000 for treatment of family members
Recreation/entertainment	-	All in-door games available
Long service incentives	-	15 gm gold coin during retirement
Gratuity	Maximum 10000	As per law, counting by latest salary; 2 months extra for those who has service period of 10 years & more
Medical treatment	loan deducting by salary @ 2.5 % regularly	100% pay for employees in all level
Medical check-up	occasional	regular
Leave for training/seminar	-	Full pay for International programme, mutual understanding for local
In workers death	-	One day salary collected by all, from GM to utility worker
Job in Substitute	-	Job for 1 of the family member of the worker concerned
Cheque-off system	-	@ Rs 30 per month by all workers (distributed 60% to the authentic union and 40% to the next union)
Duty time Facility to union officials	-	Consideration based on mutual understanding

Unlike this, GEFONT affiliate was the authentic till to 1997; then the seat was taken by NTUC affiliate at Hotel Yak & Yeti. Later on again GEFONT union re-elected. Following chart exhibits what was in departure point, what gains was made within 1977 and what happened after election of NTUC union:

Issue	In 1990	In 1997	Now, 2006
Lowest scale of wage	Rs 691	Rs 1700	Rs 3150
Annual Grade	Rs 20	10% of basic salary	Rs 100
Allowances			
• Dearness Allowance	Rs 200	Rs 750	Rs 1350
• House Rent	Rs 600	Rs 750	Rs 1200
• Local Transportation	–	–	–
• Night-shift allowances	Rs 8	Rs 15	Rs 35
• Food facilities	In duty Free food	In duty Free food	In duty Free food
• Leave based travel allowance	–	Rs 600 per year with 1 week paid leave	Rs 1500 per year with 1 week paid leave
Overtime	–	150% of basic salary	150% of basic salary
Permanency	<	Almost all 495	243 person (40% irregular basis)
Clothing facility	Uniform	Uniform	Uniform
Festival Allowance (Generally in Dashain)	One month basic pay	One month basic pay	One month basic pay
Bonus	–	2.5 months salary	–
Provident Fund	10+10%	10+10%	10+10%
Insurance	Duty time accidental insurance	Duty time accidental insurance	Duty time accidental insurance
Leave Facility			
• Home leave	18 days	30 days	30 days
• Public holidays	12 days	15 days	15 days
• Casual (including Sick leave)	15 days	15 days	15 days
• Compassionate leave	13 days	13 days	13 days
• 8 March	–	–	–
• Special leave	–	–	–
• Maternity leave	45 days	60 days	70 days
Union office	–	Yes	Yes
Physical materials for union office	–	Yes	Yes
Loan Facility	–	40000 for motorbike purchase; 20000 for ritual work for kid; 30000 for marriage	–
Recreation/entertainment	–	–	–
Long service incentives	–	1 tola gold for 15 years service holder	–

Issue	In 1990	In 1997	Now, 2006
Gratuity	Maximum Rs 8000	Additional 9 months salary for those employed before 1990- as per old law- for 20 year service periods, additional 6 months salary; for 15-18 year service periods- those employed after 1990 as per existing labour legislation	Employee prior to 1993 maximum Rs 80000; after 1993 as per existing labour legislation
Medical treatment	Total pay of bill of spouse and 2 kids	General treatment up to Rs 15000; in case of hospitalised upto Rs 60000	General treatment up to Rs 12000; in case of hospitalised upto Rs 60000
Medical check-up	-	every six months	-
Leave for training/seminar	-	-	-
In workers death	-	-	-
Job in Substitute	-	-	-
Cheque-off system	-	-	@ Rs 20 per month by all workers (distributing 60% to the authentic union and 40% to the next union)
Duty time Facility to union officials	-	-	-

3.6 Social Security

Under this theme, demands related to gratuity, provident fund, insurance, medical treatment, maternity benefits were discussed. Of them, demands related to insurance are considerably high- 48 percent. Demands for life insurance cover 28 percent of the total followed by accidental insurance (16 percent) and health insurance (4 percent). Though the demands are filed considering the benefit of the workers, unions have not been found consciously bargaining while negotiating on them. This is evidently true in the case of negotiation with United Brewery where agreement was reached between the management and the trade unions only on condition that 'a worker who has served the company for 10 years receives Rs 75,000 as life insurance

only after his retirement.’ Such agreement does not seem practical and worker-friendly. Likewise, insurance policy of Braj Fashion Trade has also violated the Labour Act. The company made accidental insurance of maximum Rs 50000; the law says ‘such insurance should not be less than that of 5 years salary of a worker’. Bottlers Nepal Terai Ltd; the plant which bottles the soft drink of coca-cola brand has provision- if any employee dies, management add double to the collected sum of all workers 1 day wage and provides to the family.

Box 11: Legal provision concerning Gratuity and the Provident Fund

Section 23 of Labour Rules 1993 deals with Gratuity. In the event that any permanent worker of the enterprise who has completed three years or more of service retires because of age or after having her/his resignation approved, or leaves the service of the enterprise in any other way, s/he shall be entitled to gratuity in a lump sum at the rates- (a) for each year of the first seven years of service, half of the monthly salary drawn by worker in the year concerned; (b) for each year between seven and 15 years of service, two-thirds of the monthly salary drawn in the year concerned; (c) for each year of service exceeding 15 years, one month’s salary drawn in the year concerned.

Gratuity payable to workers of enterprises under the 1963 Factories and Factory Workers Rules for the period before the commencement of Labour Rules 1993, action shall be taken pursuant to the 1963 Rules.

There is a provision of Gratuity fund as well, which provisioned- (1) For the purpose of depositing the amounts of gratuity payable to workers, each enterprise shall establish a separate gratuity fund with separate accounts clearly showing the amounts of gratuity to which each worker is entitled.

There is a controversial provision of “Right to choose between compensation and gratuity” too. This provision says- Any worker who is laid-off under section 12 of the Act may choose either the compensation payable under the said section or the gratuity payable under section 23 of these Rules.

Practice of Provident Fund: According to labour regulation, ten percent of the total salary of a worker will be deducted for the provident fund where the establishment will add another ten percent. The amount should be balanced either in Employees Provident Fund or Commercial Bank. But the practice of provident fund is different at tea plantation where only five percent is deducted from a worker’s salary and similar amount is added by the establishment.

Demands relating to provident fund facility cover 35 percent of the total. Though some enterprises have provisioned this facility, the problem lies in the management of the fund. In most of the cases, the fund is misused by the managers or the company owners instead of depositing it in the provident fund office. Such problems are evident in Hotel Sangri-la', Hotel Everest, Hotel Himalaya and the various tea plantations.

According to the survey, other 21 percent of the demands are directly related to gratuity. Of the gratuity related demands, 8 percent are related to gratuity fund establishment and rest others to increment of gratuity scale. Though gratuity provision is in practice in some hotels and tea plantation, many other enterprises lack it. Interesting is the fact that, many workers at tea plantation having gratuity provision are short of knowledge regarding it.

3.7 Demands related to sickness and treatment

This section discusses the demands related to leave, medical treatment, ambulance facility, first aid, regular health check up and doctor facility. Such demands are found 23 percent

Table 9: Social Security

Social security related	%
a. Gratuity	
Count from latest salary	8
Removal of ceiling	1
More than legal provision	5
Gratuity fund establishment	8
b. Provident Fund	35
c. Insurance	0
Life insurance	28
Accidental insurance	16
Health insurance	4
Other	1

Box 12: Compensation in the law

About compensation, Section 15 of the Labour Rules 1993 details - In the event that any worker of the enterprise sustains any physical injury while discharging duties assigned to him by the establishment, the general manager must pay in the form of compensation the entire expenses required for his treatment according to the recommendation made by a physician recognised by the Government. The worker or employee is unable to resume work immediately and is required to undergo treatment at a hospital or at his own home according to the recommendation of the physician, the general manager must pay, in addition to the compensation payable under subsection (1), full remuneration for the period of his stay in the hospital if he has been hospitalised for treatment, or half of his remuneration if he has undergone treatment at home, for the period of such treatment, provided that in the event it becomes necessary to undergo treatment for a period exceeding one year, the general manager need not pay any remuneration for the excess period.

The provision of Compensation in the event of physical disability due to accident is mentioned as- 'the general manager must pay a lump sum equal to five years of remuneration calculated at the rate of remuneration being drawn by him if his physical disability is found to be 100 per cent on the basis of the percentage of physical disability referred to in the Schedule relating to physical disability. Under this section in consideration of his physical disability, the amount of compensation payable according to the percentage of physical disability as mentioned in the schedule shall be determined on a proportionate basis by taking five years' remuneration for 100 per cent disability as the basis.

Compensation in the event of death is equal to three years' remuneration calculated at the rate of remuneration being drawn by worker concerned shall be paid in a lump sum to the nearest heir as compensation.

There are some sections determining of percentage of physical disability and circumstances when compensation is not paid

in total with the dominant of demands relating to medical treatment cost followed by sick leave and regular health check-up (Table 10).

Demands related to maternity protection was analysed on the basis of six different points. Of them demands of maternity leave is highest (15 percent) and breast feeding time (1percent) and nutritious food to child (1 percent) is the lowest amongst all. Eighty five percent of the workers did not respond for the maternity leave because of not they were receiving the facility but because of they were the

Table 10: Demands related to leave

Sickness related	%
Sick leave	23
Medical treatment cost	47
Ambulance	5
First Aid	13
Regular Health check-up	15
Regular Physician facility	9

male, and it indicates that the issue of maternity is solely left on the female.

Demand of light work is the right of women worker during her pregnancy. However, such demands were not found being filed in the enterprises studied under this survey. This unveils the level at grass roots of gender knowledge of unions.

Provision of maternity leave in different enterprises seems different. Papermat Pen Industry has provisioned maternity leave for 52 days following the establishment of trade union in 2003. On the other hand, Nepal Baryan Electronics deducts rightfully 2 days home leave regularly and does not provide sick leave if one enjoys maternity leave. Similarly, Biratnagar Jute Mills does not provide the leave

Table 11: Demands related to Maternity Protection

Maternity Protection	%
Maternity Leave	15
Paternity Leave	6
Workload during pregnancy	0
Breast feeding time	1
Governess training	4
Nutritious food to child	1

Box 13: Issue of Maternity Protection

The Maternity Protection Convention of ILO has provisioned as: “the period of maternity leave shall be at least twelve weeks, and shall include a period of compulsory leave after confinement.” However, the period of maternity leave in Nepal is different in different sectors. The law says- A pregnant woman worker shall be granted maternity leave with full pay for a total of 52 days before or after delivery. Such leave may be obtained not more than two times during the entire period of service, provided that in the event two children of a woman who has already utilized maternity leave twice do not survive and in the event that she becomes pregnant again, she may obtain maternity leave under this section upon the birth of two more children. The women working in civil service and education sectors are entitled for two months of maternity leave, but the workers at tea plantation limited to for only 45 days. There is no legal provision of paternity leave in Nepal.

to the temporary staff where the permanent ones enjoy for sixty days. As a result of the collective negotiation, Hotel del’a Annapurna has provisioned the maternity leave for 90 days which is the highest of all followed by Hotel Soaltee (72 days).

Regarding ‘other leaves’; one fourth of them is related to compassionate leave. Twenty six percent of others have demanded for an increment in home leave closely followed by compassionate leave - 25 percent. Demands for leave to training/ seminar is, only two percent (Table 12).

Table 12: Other Leaves

Other leaves	%
Paid leave	13
Substitute leave	7
Home leave	26
Casual leave	7
Unpaid leave	3
Compassionate leave	25
Training/seminar leave	2
Others	23

Box 14: Legal Provision on Leave

Categories of leave for workers in the labour rules is mentioned as: (a) public holidays; (b) home leave; (c) sick leave; (d) mourning leave; (e) special leave; and (f) maternity leave.

Workers or employees shall be granted 13 days of public holidays with full pay each year; at the beginning of each year, the labour relations committee shall determine public holidays to be granted to workers or employees and inform the workers or employees immediately. In the event that an establishment has no labour relations committee, public holidays shall be determined through mutual agreement among the representatives of the general manager, workers and employees.

Every worker of the enterprises shall be granted home leave with full pay at the rate of one day's leave for every 20 days' work. The concerned worker or employee must obtain approval for such leave in advance. The home leave may be accumulated for not more than 60 days. In the event that any worker leaves the service by resigning voluntarily, or retires from service in any other way, s/he shall be entitled to a lump sum amount calculated at the rate of the most recent wage drawn by him in lieu of his accumulated home leave.

All workers who have completed one year of service in the enterprises without any interruption shall be granted sick leave with half-pay for not more than 15 days in a year. While sanctioning sick leave for any worker for more than three days, the management may ask the concerned worker to present a certificate issued by a physician recognised by the Government. In the event that any worker falls ill suddenly and thus needs sick leave, s/he must inform the general manager accordingly through the quickest available means.

All workers who have completed one year of service in the enterprises without any interruption may obtain mourning leave (Compassionate leave) for not more than 13 days if they must remain in mourning themselves according to their family custom. All workers who have obtained mourning leave shall be entitled to full pay for the period of such leave.

In the event that any permanent worker who has no leave due needs leave for special reason, he may obtain special leave for a period not exceeding 30 days a year after having it approved in advance. Workers who have obtained special leave shall not be paid remuneration for the period of such leave. The total duration of special leave shall not exceed six months during the entire period of his service.

One of the warning clause is also mentioned in the law- which was much criticised by the trade union movement, which says- "Leave is not a matter of right; It is only a benefit." Thus the authority empowered to approve leave may reject the application for leave, postpone it, reduce its duration, or postpone leave which has already been approved according to the requirements of the work of the establishment while referring to the reason for such a decision.

While looking at the leave provision, the study revealed that Prakash Cable has enforced the provision of public leave for 21 days, home leave for 30 days and sick leave for 12 days annually. Hotel Soaltee provides 18 days as funeral rite leave where Himalaya Rent, Ilam has a provision of 10 days home leave and 8 days sick leave per annum. Leaves in total are high in the Hotel del'a Annapurna .

The legal provision of leave for the workers at tea plantation is different than those in other sectors. This is obviously true in the case of maternity leave and home leave. Legally the workers in this sector are entitled for 12 days home leave. The tea plantations have their own provisions of compassionate leave which are discriminatory. Tokala Tea Plantation, for example, has provisioned three days for indigenous nationalities where the practice at Bansal Tea Estate for them is 10 days. The women workers at Himalaya Gudrik, Jhapa enjoy such leaves only for five days. This clearly signifies that the practices are gender and ethnicity biased and they need timely amendment.

Hotel del'a Annapurna has provisioned the maternity leave for 90 days which is the highest of all

3.8 Occupational Safety and Health

Though the issue of occupational safety and health has been hotcake of the contemporary trade union movement, demands of collective bargaining for the safety of workers are not paid due emphasis in Nepal. Of the demands submitted, demands relating to clean drinking water and toilet facilities occupy the highest number where demands for protection of workers from chemical hazards, management of dust and smoke pollution and sewage and sanitation are in low priority (Table 13). Lack of protection measures from the possible risk has been a threatening challenge to the safety of the workers.

The industry provided all treatment costs including 1 million and also job for his wife

Many incidents have been reported occurred in manufacturing industries due to the lack of safety equipments, where a number of workers were injured. In some cases, the injured victims have been provided with the treatment costs, in some others they are deprived of it. Ram Thapa a worker at Nepal Paint Industries was injured in a chemical blast in 1994 where he lost his both eyes. The industries provided him all treatment costs including

Table 13: Occupational Safety and Health

Occupational Safety & Health	%
Drinking Water	14
Toilet	10
Protection by chemical hazards	3
Machine/ tools	4
Safety equipment	16
Sewerage & sanitation	1
Weapons to security guard	1
Management of dust & smoke pollution	3
Other OSH related issues	3

one-million compensation and also managed a job for the victim's wife at the industry.

Similarly, a worker of United Dairy Industry, Panauti, who was ambushed to death by the Maoist was compensated by Rs 1.5 million and the industry also provided Rs 15000 each for both of his sisters as marriage allowance. But on the other front, a victim injured while fitting machines at Sanghai Plastic Factory was deprived of both the compensation and treatment cost. These are just examples.

There are many other enterprises which are both providing and depriving such facilities to the workers. Raghupati Jute Mills, Biratnagar Jute Mills, Arihanta Multi Fibres, Hulas Mills are some of few examples having provision of treatment facilities and medical allowance to the workers. Hotel Hyatt Regency has been the only example for providing life insurance facility to the workers for round the clock.

Workers mostly deprived of the treatment facilities were from the tea plantation sectors. They are always in the risk of snake and scorpine bite. Though the New Giri and Giri Bandhu Tea Estates provide treatment facilities, where as tea estates like Bansal, Kanyam, Nakalbanda, Naj and many others do not have such provisions. Workers at Tokala Tea Eastate are subjected to get medical treatment in case they are suffered only from snake bite.

Box 15: Legal Provisions Relating to Health and safety

The management shall make the arrangements in the enterprise as mentioned below:

- (a) to keep each enterprise clean and tidy by cleaning daily with germicidal medicines also if so required necessary and arrangements of proper drainage and painting or white-washing from time to time and preventing from bad odour;
- (b) to make arrangement for adequate supply of fresh air and light as well as proper temperature in the working rooms;
- (c) to make arrangement for removal and disposal of solid waste and sewage outcoming from production process;
- (d) to make arrangement for prevention of accumulation of dust, fume, vapour and other impure materials in working rooms which might affect the health adversely;
- (e) to make arrangement for necessary preventive personal devices for protection of health from adverse effects of noise emanating during work process or from any other source, and make provisions which would produce less noise in accordance with the nature of the work process;
- (f) to make arrangement for avoiding any congestion in the work-room or work place leading to injurious to the health of workers or employees and to make available the working space to each worker or employee, considering the nature of work generally fifteen cubic meters per person and, however the height above four meters from the floor surface shall not be considered for such purposes;
- (g) to make arrangement for sufficient supply of pure potable water during the working hours and to make arrangement for sufficient water in the enterprise where chemical substances are used or produced which may cause hazards to the health for the purpose of extinguishing fire or washing and cleansing during emergency situations;
- (h) to make arrangement for separate modern type toilets for male and female workers at convenient place;
- (i) to declare as non-smoking zone in all or some parts of the enterprise according to the nature of its works; and
- (j) to cause to conduct compulsory health check-ups of the workers or employees at least once a year in the enterprises where the nature of works is likely to affect the health adversely.

Protection of Eyes: Necessary protective means shall have to be arranged for the protection of eyes of the workers and employees from possible injuries likely to be caused by dust or pieces to be exhausted from production process while working in the enterprise where glass, lead, mercury, magnet, plates, iron, concrete, cement, lime, stone and explosive substances are used.

Arrangement for Safety against Fire: The Establishment shall have to make arrangement for necessary modern equipment for safety against fire in each enterprise.

Hazardous Machines to be fenced: Strong fences or bar shall have to be placed around every part of hazardous machines, instruments and equipment to be operated by energy. In case it is required to do inspecting, lubricating or adjusting any part of hazardous machines during its operation, only experienced and well-trained adult worker or employee shall have to be engaged to perform such works.

Lifting of Heavy-weight: No worker or employee shall be engaged in the works of lifting, loading or transporting any load likely to cause physical injury or harm to the health

3.9 Demands Related to Recruitment and Employment

The unions have highly prioritised the demands related to recruitment and employment. Of the total, about 48 percent are directly related to permanent recruitment followed by the demands for job classification covering 20 percent. Similarly, 19 percent of demands address for timely promotion where 9 percent focused on getting identity cards (Table 14).

Looking at the implementation of Labour Act by region, Biratnagar area was identified as employing workers in irregular basis. Such workers are found working under

Table 14: Recruitment and Employment

Recruitment and Employment related	%
Permanency	48
Temporary employment	3
Permanency against contract & casual	12
Priority to family member of workers	7
Identity card	9
Replacement of non-Nepali	9
Job Classification	20
Promotion	19
Transfer	4
More recruitment as of job availability	4

contractor on daily wage basis. In an average, only about 23 percent of the workers are permanently employed in Biratnagar; which is reflected in following chart:

Company	Total Workers	Permanent Workers	%
1. Biratnagar Jute Mills	3500	1140	32.57
2. Arihanta Multi Fibres	3500	906	25.88
3. Raghupati Jute Mills	3200	550	17.18
4. CM Jute Mills	1000	250	25.00
5. Baba Jute Mills	1000	200	20.00
6. Ami Aparels	900	104	11.55
7. Swastik Jute Mills	600	20	3.33
8. Pragati Textile	500	100	20.00
9. Kwality Biscuits	400	47	11.75
10. Mayur Biscuits	150	29	19.33
11. Dugar Spices	47	5	10.63

3.10 Demands Related to Unions

As the study shows, many workers are conscious about unionism and its proper management. Of the workers collective demands, 30 percent are concentrated to the management of union office in each company where other 22 percent for infrastructure support for union office.

Box 16: Legal Provision relating to Recruitment

While appointing any worker or employee, the Enterprises shall publish an advertisement for the purpose of selecting worker or employee and such worker or employee so selected shall be caused to be engaged after providing letter of appointment. The worker and employee shall remain on probation period until s/he completes the continuous service of one year (240 days) and s/he shall be appointed permanently on the basis of efficiency, sincerity, discipline, diligence towards works and regularity at the same period, while so appointing, the letter of appointment shall be given to her/him stating thereon the name of the post of the worker or employee and her/his remuneration and conditions of service. It shall not be allowed to engage any non-Nepali citizen at any post.

In case any Nepali citizen could not be available even after publishing the advertisement in national broadsheet newspaper for the post of skilled technician, the Enterprise may submit an application together with the evidence thereof to the Department of Labour for the purpose of obtaining permission to appoint any non-Nepali citizen.

Table 15: Demands Related to Unions

Union Related issue	%
Union office	30
Implementation of Cheque-off system	7
Paid leave to union officials	13
Less working hour to certain officers	5
Stationary facility to union	7
Physical management of union office	22
Other union related	8

Nepal Bank provides annually Rs 500,000 to all of the unions in the enterprise

Responding to the workers demands, some enterprises have provided office support for the unions. The Reliance Spining and Modern Packaging Industries provide the workers' union with Rs 1500 and Rs 500 per month respectively. Similarly, Universal College and Research Sciences, Bhairahawa has agreed to infrastructure support. In this connection public sector enterprises are bit ahead; Nepal Bank provides annually Rs 500,000 to all of the unions in the enterprise along with providing fulltime to the union officials for union work. Facilities not exactly same but quite significant compared to the private sector are granted to the unions of other PEs namely Nepal Telecom, Nepal Electricity Authority, all public sectors' Bank and so on.

Though many enterprises are supportive to the unions, many others are found acting on anti-union trend. The study identified such an exemplary unaccommodative company as Dhana Laxmi Synthetics that terminated 17 of its workers from their jobs at a time on the ground that they were favouring union. Everest Fibres, Curex Pharmaceuticals, Sanghai Plastic Industry, United Dairy Industry- Panauti, are few examples opposing unionism. Dabur Nepal, one of the Indian multinational companies is much defamed on its anti-worker character¹². It is known by the observation that Dabur prefers to pay what ever price in the cost of no existence of union in its enterprise.

¹² Thanks to the April Uprising 2006, Dabur Nepal has started recognising unions since June 2006.

CHAPTER 4

Nature of Agreement and Time frame

4.1 Process of Agreement and Timeframe

Normally, the existing Labor Law has made provision of three different terms of negotiations between the workers and the management after the submission of collective demands:

- First, dispute settlement on mutual understanding between management and workers within 21 days
- Second, dispute settlement between the management and workers in involvement of Labour Office within 15 days, and
- Third, dispute settlement on the ground of industrial action and mediation

Also the negotiation processes are related to these legal provisions. As soon as the negotiations are made, it should be registered in the labour office and implemented accordingly for the benefit of workers. But only 33 percent of the Enterprises studied have implemented this provision (Table 16).

Despite such legal provision, there are a number of instances of agreements where the labour laws are not fully respected. Of the enterprises surveyed, the period of negotiation after submitting demands are not clear in 19 percent and enterprises that normally take more than 35 days for negotiation are extremely high (59 percent). Slightly more than 14 percent enterprises are identified as fulfilling demands of workers within 21 days of submission.

Of the agreements, 58 percent are made through bipartite dialogue where about one-third (29 percent) of agreements are reached between the parties under labour office

There are a number of instances of agreements where the labour laws are not fully respected

Table 16: Negotiation and process

Process	%
Through Bipartite dialogue	58
Under Labour office witness	29
Through arbitrator	5
After strike	6
After lockout	2
Other intervention	3
Registration of Agreement in Labour Office	33

involvement. Similarly, enterprises where agreements are reached only through arbitration and other intervention cover eight percent (Table 16).

After the promulgation of Labour legislation in 1992, many labour disputes are found being settled through social dialogue and negotiation. The study reveals that the number of general strike has been drastically decreased after the enactment of Labour legislation in 1992. There are some instances to justify the fact. For example, the latest strike called by the workers at Hotel Blue Star was in 2000 where such strike was called at Casino Royal in 1997. After then there were not such strikes recorded.

Before the implementation of new labour law, tourism sector was badly suffered from the lockout and strike where Hotel Yak & Yeti was recorded as an enterprise inviting frequent labour disputes.

There are different faces of collective bargaining and agreements. Some major are as follows:

- When Pashupati Soap Industries was put into liquidation in the time of collective bargaining, the union agreed with the liquidator in presence of labour office.
- Both the parties, the management and the union of Him Electronics, jointly wrote to the Labour Office informing to resume their dialogue at the company in presence

of Labour Office representative. But the Labour Office declined the venue and correspond both the parties to be present at the Labour Office for the dialogue.

- The nature of agreement at Ashok Textile was different. For example, the workers could take home leave and sick leave but they could no longer be entitled for bonus and dashain allowance.
- It was revealed that the union at Modern Slipper Industries Pvt. Ltd. submitted a charter of demands in every two years simply demanding for “an increment in salary” without specifying figure. The employer on the other hand “fulfilled” their demands increasing their salary Rs 100 in an average in every two years.
- Union at Narayani Oil Industries Refinery demanded for chemical allowance rather than ‘protection measures’ from hazardous chemical.
- The study identified the transgression of Labour Act by the employer and the union of the Nepal Western Electrics while they were reaching into agreement. The agreement explicitly mentioned the clause that the agreement would be effective for four years from the start of the agreed date and no activities would be organised causing direct effect on company.
- Nikki Jute Mills laid a condition that the workers should submit their citizenship certificates to the management to be a permanent staff. The Mills also agreed to appoint 10 workers on recommendation of union but they should work on daily wages.
- The collective agreement reached between the management and the union of Bhagawati Steel Industries Pvt. Ltd. also reinstated the sacked workers to their jobs.
- The study revealed that the management of Nepal Pashmina Industries used to make a separate agreement with the employees working as Waryan, Melder,

Interesting was the case of tea plantations where even single demand was agreed for many times

Box 17: Some incentive observed

Some Enterprises are found providing attractive schemes for the workers to motivate them towards work. For example, Hotel Sangrila confers Best Employee of the Month award to a best worker every month. Similarly, Hotel del'a Annapurna rewards with a prize of 15 gram gold coin to the workers serving for 15 years and above while retirement. Hotel Soaltee Cowne Plaza has a practice that all workers are entitle wrist watch worth Rs 5000 for 5 years complete service; racks worth Rs 7000 for 10 years complete service; goods worth Rs 10000 or the cash for 15 years complete service; TV worth Rs 20000 or cash for 20 years complete service; Rs 250000 for 25 years complete service and extra pay equals to 5 months salary for 30 years complete service during their retirement. Such practice is also promoted by the Thai Air International.

Helper, Handloom, Drafter and Binder, but the reason was undisclosed.

- The workers at Pokhara Foods submitted 24-point demands in 2001 and the parties agreed in 44 points. Similar was the case at Pokhara Noodles where agreement was reached in 31 points though the demands were of 25 points.
- Interesting was the case of tea plantations where even single demand was agreed for many times.

CHAPTER 5

Some Important Facts Traced by FGD

Swastik Jute Mills, Biratnagar was founded in 2001. Workers of the company formed their union in 2003 where 600 workers have been affiliated to date. Of the workers, 20 are permanent and the rest are working in contract basis renewable in every three months. The union submitted a charter of demands to the mill owners in 2003 where the latter agreed to provide the permanent workers with Dashain allowance equal to 20 days. This facility was limited to just permanent 20 workers.

Wool Dying Services, Koteswar agreed to increase the salary of workers by 20 percent as a result of demands submitted by the workers in 2004. Similarly, the company also agreed to provide Dashain allowance and annually 15 days paid leaves. Though the workers had also demanded for appointment letters, the agreement was silent on it.

A total of 27 workers temporarily working at Thai Airways International since 1988 demanded for permanent job status in 2001. Efforts were made to negotiate over the demands in presence of labour office but failed until 2004. Later the Airways agreed to provide a permanent appointment to the workers with other facilities such as gratuity, leave and so on. Just opposite to it, the Indian Airlines have defied the demands of workers for permanent appointment. Though the Airlines have reportedly said that it would act on the workers demands, it has never materialised.

When the Manager of New Giri & Sons Tea Estate fled, the workers negotiated with the employer to manage the company themselves. Following it, the workers formed a seven-member company management committee comprising 4 workers, 1 administrative staff and 2 employers and fulfilled all the demands of the workers

Thai Airways
agreed to
provide a
permanent
appointment
to the workers
with other
facilities such
as gratuity,
leave facilities
and so on

including provision of provident fund, regular salary payment, and leave facilities and so on. The company is smoothly operating these days. Similar process was applied to Loknath & Sons Tea Estate. The committee was dissolved after the demands of the workers were met.

There are diverse practices in various tea estates in eastern Nepal. For example four different unions at Barne Tea Plantation jointly submitted a two-point demand and made an agreement to continue the workers' facilities which they had been enjoying. Through a collective negotiation at Budhakaran & Sons Company, 19 workers received permanent appointment letter with a provision of provident fund. However, in case of paternity/maternity leave, quarter and other facilities, the agreement contained dual-meaning words which were quite puzzling and ill-intentioned.

Interestingly,
all PEs in
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union till
today

Trade unions of Bara, Parsa and Rautahat districts formed a Protest Committee in coordination of GEFONT and submitted demands to the Labour Office in 1999 demanding for implementation of the Labour Act (amendment) 1997, Transportation Management Regulation 1994, annulment of clause 111 of Company Act, end of labour exploitation & privatisation and for other facilities for the benefit of workers. To discuss the demands, meetings between the representatives of labour office and the trade unions were held for four times on different dates. Finally the Labour Office agreed to implement the Labour Act and fulfil other demands of the workers as submitted to the Office.

Trade unions came into function only after the political change in 1990 in National Commercial Bank- **Rastriya Banijya Bank**, though it is one of the the oldest PEs in Nepal. Trade unions separately or jointly submitted a number of demands related to education allowance, Dashain allowance, banking and tiffin allowance, life insurance, health insurance, loan facilities, gratuity increment and so on. Such demands were submitted in 40-point; whereas agreements were made on 28 points covering the major demands as mentioned above. The agreement also increased the retiring age of employees to 60 years from 58.

Interestingly, all PEs in banking and financial sector have not hold election of authentic union till today. Thus, there was bit competition between two unions in the company to submit their collective demands. Another set of demands submitted to the bank on 2003 by other union mostly focusing on amendment of Employees Regulation, transparent recruitment of staff, provision of reward to the best employee, budget allocation to the union, increment of uniform allowance, provision of computer loan, increment in funeral rite allowance, health facility and so on. After the series of meetings, the bank management made an agreement with both of the unions fulfilling all demands on early June of 2004 (26 Jestha 2061), which guranteed the enforcement of cheque-off system as well.

Similar stories are linked with **Nepal Bank Limited** and **Agricultural Development Bank** as well. There were a number of demands forwarded in NBL through the charter of demands; however, after fulfilling demands on wage increment (they had demanded increment by 80%) all other demands such as off-duty leave to union officials, paternity leave, health insurance, fuel cost to those employee who have bought vehical through bank loan were left out.

As the study reveals, the latest agreement was reached between management and trade unions at Agriculture Development Bank late September 2004 (3 Asoj 2061). The agreement mainly addressed the demands of the workers related to financial and loan facilities, allowance and grade increment, health insurance, package programme for the self retirement, funeral rite leave, welfare fund, representation of union in bank management committee and so on.

Nepal Telecom is the state owned PE recently converted to Comapny. Demands submitted after 1994 were mainly focused against the government policy to privatise the company. It was identified that a 10-point agreement was made between the company and the unions on early August 1996 (21 Shrawan 2053) where the company addressed the demands of the union related to autonomy of company, competent human resource, facility to workers, and

The provisions of the Labour Law are hardly respected by some hotels and various companies

representation of trade union in the company management and so on.

A lot of problems are seen in effective implement of **Labour Law** at work place in Nepal. The provisions of the Labour Law are hardly respected by some hotels and companies. Nepal Paint and Sakh Steel Industry, Curex Pharmaceuticals, Sanghai Plastics, Godawari Marbles, Lucky Collection and Bottlers Nepal are some of the examples where labour laws are not implemented.

In some cases, some enterprises have provisioned public holidays for the casual/ daily-wages workers too. Raghupati Jute Mills, for example, provides public holidays only to those who have served the company for one year regularly. The company does not permanently recruit to the workers above 45 years of age though they are qualified. The Mayur Biscuits and Everest Match, on the other front, have recruited child workers ageing below 14 years, violating the ILO Conventions.

The survey identified that the daily wage rate for a worker in Tea Plantations was fixed at Rs 74, but the workers normally were paid Rs 65 only. Since there are not established **labour inspection** mechanisms to check whether the legal provisions are implemented, the fate of workers has been

Box 18: Labour administration itself violates Labour Law!

During the survey, many instances of collective bargainings were reported transgressing labour laws where the labour administration seemed mute observer. For example, the agreement between the workers and the management of Bagmati Plastic Company, Biratnagar was reached in presence of labour officer. The agreement recruited the workers who were serving the company for years, for a probational period but laid a condition that only the permanent staffs were eligible for enjoying the facility stated in the agreement. The labour officer, instead of opposing the condition, was a silent spectator. Similar was the case of Shibalaya Metal Industries, Biratnagar where the company agreed to recruit 11 out of 22 workers, who were already in service, for a probational period in witness of labour office. The labour Administration just chewed the gum. It indicates that the administration has only one intention, i.e; pacify labour discontent for the time being instead of ensuring justice to them.

let at the companies' disposal with high chances of labour exploitation.

From the analysis, it is clear that nature and level of collective bargainings vary from one company to another. In most of the companies, the trade unions are functional and the issues they have raised and demands they submitted are almost similar in many points as well, but focused always for the benefit and betterment of the workers. In many of the enterprises, all trade unions are found working collectively, which is the positive sign to promote a culture of collaboration and to strengthen union movement.

The nature and characteristics reflected by the collective agreements made by the trade unions for the dignified work can be summarised as follows:

1. After the promulgation of Labour Act 1991 and Trade Union Act 1992, the trade unions have been found making collective agreement through social dialogue. Such initiatives being promoted by the trade unions have scaled down the practice of sporadic strike and untimely submission of demands to the managements. The management, on the other side, have been found tricky towards the demands of workers, aiming to obstructing them from exercising their rights. For instance, the agreement reached between the union and the establishment of Kiran Shoes Manufactures in 2003 (Box 9; page 24).
2. Even single charter of demands submitted to the enterprises found an open ended list of demands (from 1-point to 52-point), which are not compatible to the theory of CBA as well. Catagorising the demands and to give a concrete shape while drafting a charter of demands is an absentee part of the process. Thus, it is quite difficult to differentiate the demands put strategically and in a real sense. Also, many unions are in dilemma to take stand over the demands while negotiating.

The agreements made by the GEFONT are progressive and result oriented with additional achievements but the agreements made by other trade unions are not resulting the same

other trade unions are either making verbal agreements without submitting demands to the enterprises or they are not active at the local level.

3. Most of the demands are related to financial aspect. This depicts that if such demands are fulfilled, the unions are losing other demands unmet. The top listed 17 major demands are the example in this regard.
4. There is a vast difference of salary between the high-wage earner and lower level employees. This could be the result of dissatisfaction of workers and the establishments over the financial demands.
5. Major portion (82 percent) of the collective bargainings has been covered by the GEFONT (Table 1). This shows that other trade unions are either making verbal agreements without submitting demands to the enterprises or they are not active at the local level.
6. Following the enactment and implementation of the Labour Law, the workers are enjoying rights with minimum hinderances. However, the negotiating approaches of all trade unions are not of the same nature. For example, the agreements made by the GEFONT are progressive and result oriented with additional achievements but the agreements made by other trade unions are not resulting the same. This is evident from the negotiations reached in with the Hotel del'a Annapurna and Hotel Yak & Yati.
7. Agreements made by the trade unions are not much responsive and sensitive to the broader mass of the workers. Though the unions include the demands of casual, temporary and seasonal workers with due concerns while submitting to the enterprise, such demands are always escaped while negotiating.
8. Number of collective bargainings is varying according to the number of workers. Where the number of workers is high, the collective bargaining has been regular, where the number is low, so is the bargaining.
9. Though the unions have highly prioritised the demands related to social security, they have not

reflected in the collective agreement. This shows that the unions are unaware of social security.

10. Findings show that the employers are not sincere towards the demands of unions. This is evident from the same demands repeatedly submitted and from the demands for implementation of previous agreement.
11. Both the employers and the government are reluctant towards the effective implementation of Labour Legislations. This can be gauged from the laxity of employers and the government to implement the agreements reached with the unions.
12. Even the Labour Office has been reported to violate the provision of Labour Laws. This shows that the labour administration has been acting to soothe labour dissatisfaction, rather than institutionalising labour rights. It exposes the absences of Government commitment towards labour rights and welfare.
13. Still the behaviour of some companies reflects a full-fledged anti-union character of early days of industrial revolution. As an example, Dabur Nepal has been unpopular amongst the workers for its anti-union policies. Workers are of the view that the company is ready to pay everything in the cost of union.
14. Public companies are in the frontline of subsidising unions. All unions registered in the Nepal Bank Limited receive Rs. 500,000 every year from the management. Such facilities though vary in the figure, have also been provided by the Nepal Electricity Authority, Nepal Telecom and some other commercial banks of the public sector to the unions.
15. All agreements are not coherent. They are bias and discriminatory. Nikki Jute Mills has laid a condition that a worker should submit her/his citizenship certificate to the management for a permanent recruitment. It indicates that the management is fully aware that all of the people in plain area are not

awarded citizenship certificate, and the management is using this as the opportunity to exploit overhead cost of the workers if they would be guaranteed permanent appointment. Similarly, the company has agreed to recruit 10 workers on recommendation of union, but such workers should work on daily wage basis. This is an impracticable and disgraceful agreement where the rights of workers are grossly transgressed.

16. Some demands are really surprising. For example, demands related to request for timely payment of salary and deposit of the amount of provident fund in bank are worth citing of this type. Delay in wage payment linger up to six-seven months in some cases and 5-10 days in most of the cases may be considered as some sort of sadistic behaviour of management & employers. On the other hand, misuse of Provident Fund amount by the employers instead of timely deposit definitely indicates towards corrupt practices.

The particular demand is related to the apparent policy and effective communication of information amongst all unions

Some Recommendations for trade unions

1. Trade Unions are unvoiced on the issues such as price-hike which directly impact the workers. This reflects that the unions need to sensitise on the issues of workers' concerns. Similarly, the National Confederation and the federations should workout strategies to properly disseminate information to their member unions.
2. Many local union leaders are unaware whether they should advocate political issues. The central office should orient their members on it and their activities should relate to the trade union politics.
3. The workers at local levels are of the demands that the leaders and the senior members of the trade unions should interact with the members of local trade union members and know their problems. Their particular demand is related to the apparent policy and effective communication of information amongst all unions. Local level trade union members are in the dire need

of education programmes which should be fulfilled by the federations.

4. The trade unions should pressurise the government to effectively implement the labour inspection system to monitor whether the provisions of labour legislation are respected by the companies. Naturally it indicates towards urgent need of practical inspection mechanism at local level and also towards proper sensitisation and basic training to the human resource concern. No doubt it will pressurise the companies, employers and management for effective implementation of labour laws and collective bargaining agreements raising the degree of responsiveness.

ANNEX 1

Enhancing Trade Unions' Capacity for Decent Work in Nepal

RESEARCH TEAM

Central Research Team

1. Bishnu Rimal
2. Binod Shrestha
3. Umesh Upadhyaya
4. Hari Datt Joshi
5. Binda Pandey
6. Ramesh Badal
7. Bidur Karki

Filed Research Team

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 - Arjun Adhikari
 - Ramesh Giri
 - Laxmi Thapa
11. Textile Garment Sectoral Team
 - Binda Pandey
 - Keshav Duwadi
 - Gyan Bahadur Thapa
 - Arjun Sharma
12. Food and Beverage Sectoral Team
 - Pemba Lama
 - Krishna Rimal
 - Harsha Maharjan
13. Carpet Sectoral Team
 - Bal Ram Khatri
 - Tulsi Siwakoti
 - Sita Lama
 - Dil Kumar Sunwar
14. Tourism Sectoral Team
 - Jitendra Shrestha
 - Sarki Tamang
 - Suman Parajuli
15. Miscellaneous Sectoral/
secondary info collection Team
 - Tulasi Siwakoti
 - Khadga Adhikari
 - Dilli Rana
 - Beli Maya Ghale

Consultant: Dr. Rudra Gautam

ANNEX 2

LIST OF THE SAMPLE WORKPLACE/ENTERPRISES

1. Aero-tech (P) Ltd
2. Agrani Aluminium
3. Annapurna Textile
4. Annapurna Wool dying
5. Apollo Steel
6. Arihanta Multyfiber
7. Aroma Tea State
8. Ashok Textile
9. Asian paints
10. Asian Thai Foods
11. Atlas Pet Plus
12. Baba Biscuits Products
13. Baba Jute Mills
14. Bagmati Plastic
15. Banaspati Ghee Industry
16. Barne Tea Kaman
17. Bhadgaon Ullans
18. Bhagawati Steel
19. Bholanath Narayan Carpet
20. Bhrikuti pulps & papers
21. Bhu Dev Khadya Udyog
22. Birat Leather
23. Blue Bird Departmental Store
24. Bottlers Nepal (Terai) Limited
25. Bottlers Nepal Limited
26. Budhkarana & Sons Tea State
27. Butwal Spining Millis
28. Casino Nepal
29. Casion Anna
30. City Cable
31. CM Jute Mills
32. Colgate Palmolive
33. Dhana Laxmi Synthetics
34. Dugar Food and Beverage (P)Ltd
35. Ekikrit Dugdha Tatha Krihi Utpadan L.
36. Estern Textile
37. Fari Carpet
38. Fast Food Nepal
39. Gainda Wild Life Camp
40. Gauri Shankar Gas Industry
41. Gerg Beverage
42. Giri-bandhu Tea State
43. Gopi Kapad Udyog
44. Gorkarna Golf Resort
45. Gorkha Bruary
46. Gupta Tea State
47. Hetaunda Cement
48. Highland Distilleries
49. Him Electronics
50. Himal City Beverage
51. Himalayan Tent Pvt. Ltd.
52. Himali Pipe
53. Himgiri Textile
54. Hotel Blue Star
55. Hotel del'a Annapurna
56. Hotel Eastern Star
57. Hotel Everest
58. Hotel Hyatt Regency
59. Hotel Jeniel
60. Hotel Maharaja
61. Hotel Malla
62. Hotel Sangri-la
63. Hotel Soaltee
64. Hotel Summit
65. Hotel Sunset View
66. Hotel Yak & Yeti
67. Hukum Pharmaceutical
68. Hulas Motors
69. Hulas Steel
70. Indu Shankar Sugar Mills
71. Jayamaa Confectionary
72. Jyamir Gari Tea State
73. Kankai Pathibhara Tea State
74. Kathmandu Kastha Udhyog

75. Khadya Uddyog P Ltd
76. Khamsung Carpet
77. Kiran Shoes
78. Koshi Metal
79. Krishna Oil
80. Kulayan Battery
81. Lotus Peper Craft
82. Lovely Collection
83. Lumbini Gas Company
84. Luna Nepal Chemicals
85. Machhapuchre Metal
86. Mahasakhti Apperalrs
87. Mahasakti Soap
88. Marcopolo Business Hotel
89. MIC Garment
90. Mittal Tea State
91. Modern Packaging
92. Modern Sleeper Industries
93. Memento Apparel
94. Mount Everst Bruary
95. My shop Industries
96. Naaj Tea State
97. Nakal Banda Tea state
98. Namkha Carpet
99. Namokar Cable
100. Nanglo Restaurant
101. National Soap
102. Nawayug Cooperative
103. NEBICO (P) Ltd
104. Nepal Bitumin and Barel Udhog
105. Nepal Board
106. Nepal Gas Industries
107. Nepal Hastakal Utpadak Shangh
108. Nepal Lube Oil
109. Nepal Paints Industries
110. Nepal Pasma
111. Nepal Recreation Centre
112. Nepal Tent and Tarpolin
113. Nepal Tobacco
114. Nepal Wyren Electronics
115. New Giri & Sons Tea State
116. Nikky Jute Mills
117. Nirvan Banaspati Industries
118. Orient Fashion
119. Padhma Furniture
120. Pashupati Khadya Tel (Oil mill)
121. Pashupati Soap Industries
122. Paudyal-Banhu Tea State
123. Pharmaceutical company of Nepal
124. Pokhara Foods
125. Pokhara Noodles
126. R R Metal
127. Rainbow Camara Industry
128. Rajat Garment
129. Rana-Ambika Eye Hospital
130. Reliance Spinning mills
131. Riddhico Tile Udhog
132. Rijal Tasi Industries
133. Sagarmatha Gas
134. Samriddi Plastic
135. Sattighatta Tea State
136. Sega Carpet
137. Shree Ram Refinery
138. Siddhi Binayak Pasma
139. Sitaram Gokul Mills
140. Sivalaya Metal
141. Star Fashion
142. Sujan Foods
143. Sundar Furniture
144. Surya Nepal
145. Swastic Jute Mills
146. Tarkari Phaful Dhuwani
147. Tea Development Board
148. Thai Airways International
149. Tokla Tea State
150. Tribeni Garment
151. Trivani Simpax
152. Triveni Synthetic Yarn
153. Udaypur Cement
154. Unilever Nepal Ltd
155. United Bruary
156. Universal Medical College of Sciences
157. Venus Footwear
158. Vikash Fashion
159. Yatayat Majdur Bhalai Kosh Butwal

Total 159

ANNEX 3

General Federation of Nepalese Trade Unions (GEFONT)
ENHANCING TRADE UNIONS' CAPACITY
 FOR DECENT WORK IN NEPAL

CHECK LIST

Name of Enterprises:

Date of establishment:

A. Union wise information

Who submits Charter of Demands?

1. **Authentic union**
 - a. GEFONT ()
 - b. NTUC ()
 - c. DECONT ()
 - d. Others (); specify name _____
2. **Common Team of Unions** (*in the place not having CBA election*) ()
3. **By workers representative** (*in the place having No-unions*) ()

Location wise information

1. **Name of the development Region**
 - a. Eastern Region ()
 - b. Central Region ()
 - c. Western Region ()
 - d. Mid-west Region ()
 - e. Far West Region ()

Sector wise information

1. Identify the sector of the enterprises
 - a. Textile, Garment, Jute ()
 - b. Transportation ()
 - c. Carpet ()
 - d. HRCT (hotel & tourism) ()
 - e. Tea Plantation ()
 - f. Construction ()
 - g. Garbage Cleaners ()
 - h. Service Industries
 - Bank/Finance ()
 - Telecom ()
 - Media ()
 - i. Manufacturing ()

Ownership wise information

1. Public ()
2. Private ()
3. Joint Venture ()
4. Multinational ()

Number of workers working

1. From 10-25 ()
2. From 26-50 ()
3. From 50-100 ()
4. From 101-250 ()
5. From 251-500 ()
6. 501 above ()

Date of Deal

1. Demand submitted at:
2. Negotiation done:

Demands submitted and fulfilled

1. Number of demands submitted
2. Number of demands fulfilled
3. Number of demands hold
4. Number of demands withdraws

B. Content of Demands

1. Wage related
 - a. Demand of minimum wage implementation ()
 - b. Increment in existing wage
 - i. up to NRs. 200 ()
 - ii. up to NRs. 500 ()
 - iii. up to NRs. 1,000 ()
 - iv. up to NRs. 2,500 ()
 - v. NRs. 5,000 and above ()
 - c. Grade
 - i. Implementation of existing Law ()
 - ii. Yearly increment by 2-5% of basic salary ()
 - iii. Yearly increment by 5% above of basic salary ()
 - iv. Lump-sum yearly increment in basic salary ()
 - d. Dearness allowance ()
 - e. House Rent ()
 - f. Night-shift allowance ()
 - g. Transportation cost ()
 - h. Educational support to kids ()
 - i. Overtime ()

- j. Increment in piece-rate ()
- k. Leave-based Travel allowance ()
- 2. Facility/Benefit related
 - a. Dashain Allowance ()
 - b. Loan facilities
 - i. Housing loan ()
 - ii. Emergency loan ()
 - iii. Advances ()
 - c. Bonus
 - i. Profit-based ()
 - ii. Lump-sum ()
 - d. Clothing/Uniform ()
 - e. Quarter facility
 - i. Maintenance cost ()
 - ii. Electrification demand ()
 - iii. Drinking water & Sanitation ()
 - f. Long-service incentives ()
 - g. Demand of own product (Eg; tea grain) ()
 - h. School facility ()
 - i. Rest Room ()
 - j. Canteen ()
- 3. Social Security related
 - a. Gratuity
 - i. Count from latest salary ()
 - ii. Removal of ceiling ()
 - iii. More than legal provision ()
 - iv. Gratuity fund establishment ()
 - v. 'Interest' in sum of gratuity ()
 - b. Provident Fund ()
 - c. Insurance
 - i. Life insurance ()
 - ii. Accidental insurance ()
 - iii. Health insurance ()
 - iv. Other ()
 - d. Sickness related
 - i. Sick leave ()
 - ii. Medical treatment cost ()
 - iii. Ambulance ()
 - iv. First Aid ()
 - v. Regular Health check-up ()
 - vi. Regular Physician facility ()
 - e. Maternity Protection
 - i. Maternity Leave ()
 - ii. Paternity Leave ()

- iii. Workload during pregnancy ()
 - iv. Breast feeding time ()
 - v. Governness training ()
 - vi. Nutritious food to child ()
 - f. Other leaves
 - i. Paid leave ()
 - ii. Substitute leave ()
 - iii. Home leave ()
 - iv. Casual leave ()
 - v. Unpaid leave ()
 - vi. Compassionate leave ()
 - vii. Training/seminar leave ()
 - viii. Others ()
- 4. Occupational Safety & Health
 - a. Drinking Water ()
 - b. Toilet ()
 - c. Protection by chemical hazardous ()
 - d. Machine/ tools ()
 - e. Safety equipment ()
 - f. Sewerage & sanitation ()
 - g. Weapons to security guard ()
 - h. Management of dust, smoke pollution ()
 - i. Other OSH related issues ()
- 5. Recruitment and Employment related
 - a. Permanency ()
 - b. Temporary employment ()
 - c. Permanency against contract & casual ()
 - d. Priority to family member of workers ()
 - e. Identity card ()
 - f. Replacement of non-Nepali ()
 - g. Job Classification ()
 - h. Promotion ()
 - i. Transfer ()
 - j. More recruitment as of job availability ()
- 6. Union Related issue
 - a. Union office ()
 - b. Implementation of Cheque-off system ()
 - c. Paid leave to union officials ()
 - d. Less working hour to certain officers ()
 - e. Stationary facility to union ()
 - f. Physical management of union office ()
 - g. Other union related ()

C. Agreement process & duration

1. Duration of agreement after submission of demands
 - a. Within 21 days ()
 - b. Between 21-35 days ()
 - c. Above 35 days ()
2. Number of meeting
3. Process
 - a. Through Bipartite dialogue ()
 - b. Under Labour office witness ()
 - c. Through arbitrator ()
 - d. After strike ()
 - e. After lockout ()
 - f. Other intervention ()
4. Registration of Agreement in Labour Office ()
5. Condition on agreement ()

Comment on agreement & charter of demands based on your observation

SN	Post	Soaltee Crown Plaza	Radisson	delta	Yak & Yeti	Hyatt Regency	Sangrila	Everest	Godawari Village Resort	Fulbari Resort	Casino Nepal	Casino verest	Casino Rad	Casino Anna	Malla	Sangrila Village	Fish tail	Himalaya
13	Security Manager			30	25									16				
14	Front Office Manger			40		30												
15	Purchase Manager			40	35 75 IC													
16	IT Manager			40														
17	Project Manager				35 75 IC						30							
18	Sales Manager	80 IC			25 50 IC		25		24	30								
19	Administrative Officer																	
20	Marketing Manager										20	75	40	14		25		28
21	Director		100															
22	Room Division Manager				45 60 IC													
23	Personal Manager						30				25			22	12	15		50
24	Asst. Financial Controller							35										
24	Front Office								20							10		
25	Floor Manager										20	45	32	18				
26	MD Office Executive										75							200
27	Chief Accountant													21				50
28	Chief Operation Manager													24				

ANNEX 5

LIST OF FGD ENTERPRISES

Mechi

- | | |
|--|-----------------------------------|
| 1. New Giri Tea State | 9. Surya Tea State Pvt Ltd. Jhapa |
| 2. Giri Bandu Tea State Pvt Ltd. | 10. Mangaldham Tea State Pvt Ltd. |
| 3. Momento Apparels Pvt Ltd. | 11. Aroma Tea State Pvt Ltd. |
| 4. Shrestha Tea State Pvt Ltd. | 12. Naaz Tea State Pvt Ltd |
| 5. Tokla Tea Kaman Pvt Ltd. | 13. Nakalbanda Tea State Pvt Ltd |
| 6. Baisal Tea State Pvt Ltd. | 14. Raj Tea State Pvt Ltd. |
| 7. Kanyam Tea State | 15. Sattighatta Tea State |
| 8. Himalaya Range Tea State Pvt Ltd.
Ilam | 16. Bardashi Tea Estate |
| | 17. Himalaya Gudrik |

Koshi

- | | |
|-------------------------|--|
| 1. Pasupati Biscuit | 25. Baghwati Carbide |
| 2. Arihant Maltifibre | 26. Golden Battery |
| 3. Reliance Spinning | 27. Everest Match |
| 4. Baba Floor Mill | 28. Hotel Xaniel |
| 5. Swastik Jute Mill | 29. Hotel Eastern Star |
| 6. Dhan Laxmi Synthetic | 30. M.M Plastic |
| 7. Pragati Textile | 31. C.T Cable |
| 8. Kulayan Batteries | 32. Nobel Dairy |
| 9. Quality Biscuit | 33. Judda Match Enterprises |
| 10. Asian Thai Food | 34. Bagmati Plastic |
| 11. Baba Biscuit | 35. Tadi adhesive |
| 12. Ami Apparels | 36. Annapurna Fixtures |
| 13. Bhawani Tea Chest | 37. Hulas Motors |
| 14. Rijal Tasi Industry | 38. Himalaya Towels |
| 15. Everest Fiber | 39. Ragupati Jute Mill |
| 16. C.M Jute Mill | 40. Biratnagar Jute Mill |
| 17. BaBa Jute Mill | 41. Hulas Metal Craft |
| 18. Anapurna Niting | 42. Koshi Metal Craft |
| 19. Hulas Wire | 43. Baalaji Footware |
| 20. Guheswori Twain | 44. Nepal Plastic |
| 21. Mayoer Woollens | 45. Estern Sugar Mill |
| 22. Dugar Spices | 46. Itahari Municipality Garbage
Cleaners |
| 23. Nepal Jute Mill | |
| 24. Jayashree Company | |

Sagarmatha/Janakpur

1. Udapur Cement
2. Janalpur Cigarette Company Ltd
3. Everest Paper Mill

4. Maruti Textile
5. Indu Sankar Sugar Industry
6. Luv-Kush Food Industry

Narayani

1. Aeroteck Pvt.Ltd
2. Agrini Aluminium
3. Arniko Processing
4. Ashok Steel
5. Asian Paints
6. Banaspati Ghee Industry
7. Birat Ladder
8. Bottlers Nepal Terai Ltd.
9. Colgate Palmoliv
10. Eastern Textile
11. Enviro-Plast Nepal
12. Food Industry Pvt. Ltd.
13. Ganpathi Vanaspati
14. Hetuda Cement
15. Himal Oxygen
16. Him-Ganga Textile
17. Hingiri Textile
18. Hulas Steel
19. Krishna Oil
20. Mahashakti Soap
21. Mayour Woollens
22. Megha Woollens Mill
23. Mount Everest Brewery

24. Nandan Ghee oil
25. NarayaniLadder Manufacture
26. Narayani oil Refinery
27. National Footwear
28. National Polyplant
29. National Soap
30. Nepal Bitumen & Barrel
31. Nepal Board
32. Nepal Lub.Oil
33. Nepal Pharmaceuticals
34. Nepal Tobacco
35. Nepal Wire and Cables
36. Nirupati Dying
37. Pharmaceuticals Company
38. Puja Soap & House Hold
39. Rhino Wild Life Camp
40. Supreme Rubber Industry
41. Surya Nepal
42. Tara Slipper Industry
43. Trivani Sympack
44. Trivani Synthetic
45. Unilever Nepal
46. Union Footwear

Bagmati

1. Annapurna Wool Dying
2. Bhadgaun Woollens
3. Blue Bird Garment
4. Casino Anna
5. D Distillery
6. Fast Food Nepal Industry
7. Hiland Expedition
8. Himalayan Kasmir
9. Hotel Blue Star
10. Hotel Malla
11. Hotel Summit
12. Internet Pvt. Ltd.
13. Kathmandu Travels

14. Khamrung Carpet
15. Lotus Paper Crafts
16. Mordern Packaging
17. Namkha Carpet
18. Nepal Pasma Pvt.Ltd.
19. Nirvan Banaspati Industry
20. Rajat Garment
21. Rock Wire
22. SiddhiVinayak Pasma
23. Thai Air ways
24. Venus Footware
25. Sakh Metal
26. Gauri Sankar Gas kavre

27. Godavari Marble lalitpur
28. Prakash Cable
29. Balaju Auto Works
30. Radha Structure
31. Asian Thai Food
32. Bhadrakali Services
33. Botlers Nepal Ltd.
34. Casino Nepal
35. Dugad food and Beverage
36. Gopi Cloths factory
37. Himal City Beverage
38. Himchuli Treks
39. Hotel Everest
40. Hotel Sang
41. Hotel Yak and Yeti
42. Kathmandu Dairy
43. Kathmandu Wood Industry
44. Krishna Garment
45. Lovely Collection Pvt.Ltd
46. Multi Food
47. Nebico Biscuit Pvt Ltd
48. Nepal Tent and Tarpaulin
49. Padma Furniture Thimi
50. Rajkamal Spinning
51. Samriddhi Textile
52. Sita Ram Gokul
53. Tiger Mount
54. Him Electronics
55. Nepal Metal
56. Sagarmatha Gas kavre
57. Nepal Wiren Electric
58. Nepal Gas
59. Peoples
60. Brighter Industries Pvt Ltd.
2. Butwal Nepa Cleaners
61. Barun Beverage
62. Bhaktapur Brick Tile Factory
63. Braj Fashion Trade
64. Casino Royal
65. Fari Carpet
66. Hiland Distillery
67. Himalaya Aqua Industry
68. Hotel Annapurna
69. Hotel Himalayan
70. Hotel Soaltee
71. Indian Airlines
72. Kathmandu Maida
73. Khadya Kirana
74. Kriti Textile
75. Malla Travels and Tours
76. MyShop SanoThimi
77. Nepal Handi Craft Producer
78. Nepal TravelsAgency International
79. Prasuma Product
80. Rhidiko Tiles
81. Seja Carpet
82. Sita world Travel Nepal
83. United Milk and Agriculture Production Ltd
84. Papermet Pen Industry
85. Samriddi Plastic
86. Curex Pharmausticals
87. Shanghai Plastic Industry
88. Balaju Yantrashala
89. Dental College
90. Namokar Cable

Lumbini

1. Bhirkuti Pulps & Paper Nepal
2. Butwal Nepa Cleaners
3. Butwal Thread Industry
4. Gorkha Bruary Ltd.
5. Hotel Hilson
6. Lumbini Gas Pvt.Ltd.
7. Lumbini Rana-Ambika Eye Hospital
8. Nepal IEDO & Electric Pvt.Ltd.
9. Transportation Workers' Help Fund
10. Universal Medical College of Science
11. Western Transportation Committee

Gandaki

1. Agriculture Market of Veg & Fruits
2. Annapurna Hotel
3. Bhagwati Biscuit
4. Blue Bird Hotel
5. Fewa Bread
6. Fish Tail Lodge
7. Fulbari Hotel
8. Gorkhali Rubber Industry Pvt. Ltd.
9. Goushali Cloths
10. Goushali Print Pack
11. Jai Ma-Laxmi confectionary
12. Pokhara Municipality Cleaner
13. Pokhara Noodles
14. Purna Furniture
15. Sangrila Metal & Machinery Works
16. Shiv Shankar Biscuit
17. Sigdel Mudranalaya
18. Sujal Fruits Pvt.Ltd.

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ANNEX 6

LIST OF THE ZONES AND DISTRICTS
COVERED BY THE STUDY

- | | | |
|-----|-----------------|--|
| 1. | Mechi Zone | : Jhapa and Ilam |
| 2. | Koshi Zone | : Morang and Sunsari |
| 3. | Sagarmatha Zone | : Udaypur, Saptari and Siraha |
| 4. | Janakpur Zone | : Dhanusha, Mahottari and Sarlahi |
| 5. | Narayani Zone | : Bara, Parsa, Rautahat, Makwanpur & Chitwan |
| 6. | Gandaki Zone | : Kaski, Tanahu, |
| 7. | Dhaulagiri Zone | : Baglung |
| 8. | Lumbini Zone | : Rupandehi, Nawalparasi, Kapilvastu |
| 9. | Rapti Zone | : Dang |
| 10. | Bheri Zone | : Banke and Bardia |
| 11. | Seti Zone | : Kailali |
| 12. | Mahakali Zone | : Kanchanpur |
| 13. | Bagmai Zone | : Kathmandu, Lalitpur, Bhaktapur & Kabhre |



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ANNEX 8

SOME RELEVANT TABLES RELATED TO WAGE

Table 1
Minimum Monthly Wage of Manufacturing Workers by Skill Category, 1965-2006

Year	Category of Workers					MDW	Difference between Higher & lower wages (%)
	Unskilled	Semi-skilled	Skilled	Highly skilled			
1965	110	137.5	206.25	309.38	-	181.25	
1966	110	137.5	206.25	309.38	-	181.25	
1973	150	173	228	320	-	113.33	
1978	250	280	340	440	8	76	
1980	310	349	427	557	10.4	79.68	
1983	375	415	502	648	13	72.8	
1985	475	515	602	748	17	57.47	
1987	582	632	740	923	22	58.59	
1989	850	900	1008	1191	32	40.12	
1992	1150	1200	1310	1500	40	30.43	
1995	1450	1500	1610	1800	50	24.14	
1997	1800	1850	1960	2150	63	19.44	
2000	2116	2166	2276	2466	74	16.54	
2003	2560	2610	2720	2910	90	13.67	
2006	3300	3350	3460	3650	125	10.61	

- Wage rate includes dearness allowance
- MWD stands for minimum daily wage.

Source: Department of Labour, Government of Nepal.

Table 2
Average Monthly Minimum Wage of Nepalese Manufacturing Workers, 1965-2006

Year	Monthly Average Money wage rate in (NRs)* (Weighted)	Change over the years (%)	Average Wage in US \$**	Change over the years (%)
1965	157	-	20.44	-
1966	157	No charge	20.44	No charge
1973	190	21.02	17.92	-12.33
1978	296	55.79	24.46	36.5
1980	370	25	30.58	25.02
1983	440	18.92	30.14	-1.44
1985	540	22.73	30.34	0.66
1987	663	22.78	29.08	-4.15
1989	931	40.42	33.73	15.99
1992	1232	32.33	28.79	-14.65
1995	1532	24.35	30.07	4.45
1997	1882	22.85	32.84	9.21
2000	2198	16.79	31.22	-4.9
2003	2642	20.2	35.31	13.1
2006	3382	28.01	47.9	35.67

Note: Weights 4,3,2,1 have been assigned on the basis of number of workers for unskilled, semi-skilled, skilled and highly skilled categories of workers respectively.

Table 3
Real Wage of Manufacturing Workers in Nepal, 1965-2006
Base Year 1965=100

Year	Consumer Price Index (CPI)*	Money Wage Index**	Real Wage Index***	Monthly Average Money wage in (NRs)* (Weighted)	Real Wage in NRs
1965	100.0	100.0	100.0	157	157
1966	101.8	100.0	98.2	157	154
1973	157.3	121.0	76.9	190	121
1978	222.1	188.5	84.9	296	133
1980	378.4	235.7	62.3	370	98
1983	507.0	280.3	55.3	440	87
1985	611.4	344.0	56.3	540	88
1987	769.0	422.3	54.9	663	86
1989	912.0	593.0	65.0	931	102
1992	1319.6	784.7	59.5	1232	93
1995	1674.0	975.8	58.3	1532	92
1997	1960.2	1198.7	61.2	1882	96
2000	2311.7	1400.0	60.6	2198	95
2003	2591.3	1682.8	64.9	2642	102
2006	3053.3	2154.1	70.6	3382	111

Source: Calculated from table 2.

Table 4
Change in Real Wage of Manufacturing Workers 1992-2006
Base Year 1992:100

Year	CPI	MWI	Real Wage in Percentage	Average Money Wage in NRs	Real Wage in NRs
1992	100.00	100.00	100.00	1232	1232
1995	126.90	124.35	97.99	1532	1207
1997	148.60	152.76	102.80	1882	1266
2000	175.25	178.41	101.80	2198	1254
2003	187.69	214.45	114.26	2642	1408
2006	231.47	274.51	118.59	3382	1461

Source: Calculated from table 2.

Table 5
Real Monthly Wage of Minors in Manufacturing Sector
and Tea Estate Workers, 1992-2006
Base Year 1992 = 100

Type of Workers	1992	1997	2000	2003	2006
Minor (Manufacturing)					
Money wage in NRs	900	1400	1644	2029	2615
Real wage in %	100.0	104.7	104.2	120.1	125.5
Real wage in NRs	900	942	938	1081	1130
Tea Estate (Adult)					
Money Wage in NRs	950	1438	1738	2083	2660
Real wage in NRs	950	968	992	1110	1149
Real wage in %	100	101.86	104.39	116.82	120.97
Tea Estate (Minor)					
Money wage in NRs	725	959	1275	1527	1952
Real wage in NRs	725	645	728	814	843
Real wage in %	100	89.02	100.35	112.22	116.32
Agriculture (Daily)					
Money wage in NRs			60	60	60
Real wage in NRs*			60	53	45
Real wage in %			100	89.15	75.70

* While considering the present increment in the daily wage of the agricultural workers at present it will be about 75 rupees at the price of 2000.