

# POLICY SUPPORT DOCUMENT FOR HOME-BASED WORKERS, NEPAL



**HomeNet South Asia Trust (HNSA)**

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Network of Home-Based Workers in South Asia



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# 1. Introduction

For the last few decades, there has been a continuous and persistent struggle for recognition and visibility of women's economic activity, which includes conceptual clarity to understand the major gaps in the prevailing statistical systems. No less, has been the struggle to understand the relation between women's paid and unpaid work and the overwhelming responsibility of social reproduction. Compounded by new and emerging features of inequality and exploitation, women in production are further exposed to increased and multiple forms of vulnerabilities. In this context, it can be said, that home-based workers (HBWs) are uniquely exploited and marginalised due to their invisibility as their workplace is their home.

Located in the lowest tier of any supply value chain, their invisibility perpetuates poor working conditions, denial of fair/minimum wages, and lack of social security. Women working within homes face the additional concern of

simultaneously managing child care and household responsibilities. In Nepal, home-based workers are engaged in traditional industries like carpet and pashmina weaving, basket-making and embroidery, tailoring, food processing, handicrafts, Dhaka weaving, animal husbandry, poultry, cash crop farming, bead and candle-making, knitting, etc. Home-based workers can be further divided into two categories: **a) Own-account workers or self-employed workers** who are in direct contact with the market. They buy their own raw materials, design their own products and sell them in the market. An example of an own-account worker would be someone who owns a home-based tailoring unit. **b) A majority of home-based workers are piece-rate or sub-contracted workers.** This means, they rely on contractors or intermediaries for work. They are paid for each piece they produce. Piece-rate workers, who are also known as homeworkers, can be found across various industries.

They are the last rung in global supply chains that are an integral part of industries, including garments, footwear, and electronics. They are also an undeniable presence in local markets like in textiles, incense-stick making, and the *bidi* (local cigarettes) industry. Packaging and agro-processing also benefits from the presence of homeworkers<sup>1</sup>.

The **objective** of this paper is to outline the different laws, schemes and policies that homeworkers and informal workers in general can access in Nepal. The paper does not present an in-depth legal analysis of laws governing worker's rights but a comprehensive compilation of existing acts, schemes and programmes aimed at informal workers. The paper also highlights labour laws that are essential to secure protection of workers from exploitation and reduce vulnerability and should be extended to informal workers and specifically to home-based workers.



<sup>1</sup> This definition of home-based workers has been taken from HomeNet South Asia's website. Available at <https://hnsa.org.in/>

## 2. Recognising Home-Based Workers

In recent years the ratio of trade to GDP has been falling, informal employment continues to dominate and gendered occupational segregation has persisted. There is a high share of home-based work in women's employment and official data from Nepal Labour Force Survey 2017/2018, demonstrates that there were approximately 1.01 million homebased workers where 55 % of women home-based workers were in the non-agricultural sector compared to 45% of men<sup>2</sup>.

October 2000 saw the adoption of the **Kathmandu Declaration** at the South Asia region (of which India and Nepal are signatories), which highlighted the need for the formation of a National Policy on home-based workers by each country. However, only Pakistan has passed the Home-Based Workers Act 2018. The Kathmandu Declaration highlighted the need

for providing minimum protection, which would include the right to organise, minimum remuneration, occupational health and safety, statutory social protection, maternity, childcare and skill development.

**The ILO Convention No 177 (1996)** promotes equality of treatment for homeworkers, offers guidelines for policy, although it is yet to be ratified in Nepal. This Convention recognises homeworkers (i.e. sub-contracted home-based workers) as workers who are entitled to just rewards for their labour. It also sets out minimum standards for pay and working conditions for homeworkers (also known as industrial outworkers) that can form the basis for national policy.

Some of its key points are:

a) Homeworkers' right to establish or join organisations of their

own choosing and to participate in the ac

- b) Activities of such organisations;
- c) Basic labour rights;
- d) Protection against discrimination in employment and occupation;
- e) Protection in the field of occupational safety and health;
- f) Basic remuneration;
- g) Statutory social security protection;
- h) Access to training;
- i) Minimum age for admission to employment or work;
- j) Maternity protection.

**2030 Agenda for Sustainable Development:** While almost all the Sustainable Development Goals are relevant to home-based workers, SDG 8 which aims to “promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all” is fundamental to their work.



<sup>2</sup> Koolwal, G., Vanek, J., 2021. Home-Based Workers in Nepal, 2017/2018: A Statistical Profile. WIEGO Statistical Brief No. 28. Available at [https://www.wiego.org/sites/default/files/publications/file/WIEGO\\_Statistical\\_Brief\\_N28\\_Nepal.pdf](https://www.wiego.org/sites/default/files/publications/file/WIEGO_Statistical_Brief_N28_Nepal.pdf)

# 3. A Review of Laws, Policies, and Schemes: Nepal

In Nepal, there is no act, law or policy which specifically deals with and protects home-based workers. As HBWs are invisible and underrepresented in the country's national economy therefore they are easily camouflaged within the broader context of informal sector or economy. Although the informal sector of the economy accounts for 94 per cent of the total labour force with hardly less than 10 per cent covered by so called formal and organised sector, yet being highly scattered, unorganised and weak, their voices are hardly heard at the policy level<sup>3</sup>. This reflects on the fact that the government has formulated acts, laws and policies to protect and safeguard the interest of the labour force working in the formal sector of the economy while ignoring the bulk of the informal labour force including HBWs.

The Government of Nepal (GoN) has shown commitment to freedom of association and the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the collective abolition of child labour and the elimination of discrimination in respect to employment and occupations. The task force which was constituted for drafting the National Policy on HBWs, in 2016 had submitted a policy draft for necessary endorsement and approval from GoN; however, no action has been taken.

The seven core ILO Conventions that Nepal has ratified are:

- ▶ Convention No. 182 concerning Worst forms of Child Labour
- ▶ Convention No. 100 concerning Equal Remuneration
- ▶ Convention No. 138 concerning Minimum Age
- ▶ Convention No. 111 concerning Discrimination (employment and occupation)
- ▶ Convention No. 29 concerning Forced Labour
- ▶ Convention No. 98 concerning the Right to Organise & Collective Bargaining
- ▶ Convention No 105 - Abolition of Forced Labour Convention

Though these continue to be in force they have not been implemented in the past twelve months.

The **Constitution of Nepal (2015)** has certain Fundamental Rights and Duties that pertain to informal workers including home-based workers. Some of the Fundamental Rights are:

- a. **Article 16:** Right to live with dignity.
- b. **Article 17:** Right to Freedom including freedom to form unions and associations.
- c. **Article 18:** Right to equality for all citizens including equality before law and none shall be denied equal protection of law and there shall be no discrimination on grounds of origin, religion, race, caste,

tribe, sex, economic condition, language or geographical region, ideology and such other matters. There shall not be any gender discrimination regarding remuneration for the same work and social security.

- d. **Article 29:** Right of protection against exploitation including protection from bonded labour and forced labour and such an act shall be punishable by law.
- e. **Article 30:** Each person shall have the right to live in a healthy and clean environment
- f. **Article 31:** Right to education which includes the right to access to basic education and the right to compulsory and free basic education, as well as free education up to the secondary level.
- g. **Article 33:** The right to employment for every citizen. The terms and conditions of employment and unemployment benefits shall be as determined by Federal law. Every citizen shall have the right to choose employment
- h. **Article 34:** Every labourer shall have the right to proper work practices including the right to appropriate remuneration, facilities and contribution-based social security. Every labourer shall have the right to form trade union, participate in it, and organise collective bargaining.
- i. **Article 35:** Right to healthcare where every citizen shall have



<sup>1</sup> ILO, 2018. *Women and men in the informal economy: A statistical picture (third edition)*. International Labour Office, Geneva.



- the right to seek basic healthcare services from the state and no citizen shall be deprived of emergency health care. It also states that each citizen shall have the right to access to clean water and hygiene.
- j. **Article 36:** The right to food where each citizen shall have the right to food and shall be protected from a state of starvation resulting from lack of food.
- k. **Article 37:** The right to housing states that each citizen shall have the right to appropriate housing and no citizen shall be evicted from the housing owned by him/her, or encroached on the housing, except in accordance with law.
- l. **Article 38:** The right of women includes protection from physical, mental, sexual or psychological or any other kind of violence against women, or any kind of oppression based on religious, social and cultural tradition, and other practices. Women shall have the right to access participate in all state structures and have the right to special opportunity in the spheres of education, health, employment and social security on the basis of positive discrimination.
- m. **Article 39:** The right of children includes the right to education, healthcare, nurturing, appropriate upbringing, sports, recreation and overall personality development from family and the State. No child shall be employed in factories, mines, or in any other hazardous works.
- n. **Article 40:** The right of Dalits includes provisions of free education with scholarships for students from the primary to higher level of education as provided for in the law. Special provision shall be made in law for Dalits to pursue higher education in technical and professional subjects. Special provision to be made for providing healthcare and social security to the Dalit community. Further, the Dalit community shall have the right to use, preserve and develop their traditional occupations, knowledge, skills and technologies. The State shall give priority to inducting Dalits into contemporary professions that are linked to their traditional occupations, by providing them with necessary skills and resources. The State shall, according to law, provide land to landless Dalits on a one-time basis. The State shall, according to law, make housing arrangements for Dalits who do not have housing of their own.
- o. **Article 42:** The right to social justice includes socially backward women, Dalits, Adibasi, Janajati, Adibasi Janajati, Madhesi, Tharu, minority groups, persons with disability, marginalised groups, Muslims, backward classes, gender and sexual minority groups, youths, peasants, labourers, the oppressed and the citizens of backward regions, and economically poor Khas Arya shall have the right to employment in state structures on the basis of the principle of inclusion. Citizens who are economically very poor and communities on the verge of extinction, shall have the right to special opportunity and facilities in the areas of education, health, housing, employment, food and social security, for their protection, progress, empowerment and development. People with physical impairment shall have the right to a dignified way of life and equal access to social services and facilities, along with their diverse identity. Each peasant shall have the right to access to land as provided for in law for agricultural purposes, along with the right to choose and preserve traditionally adopted and used endemic seeds and agricultural species.
- p. **Article 43:** The right to social security includes economically poor, physically incapacitated and helpless person, helpless single women, persons with physical impairment, children, persons who cannot look after themselves and the citizens who belong to communities that are on the verge of extinction, shall have the right to social security as provided for by law.
- q. Under Part 4 regarding **State Directive Principles, Policies and Obligations of the State Article 51 (i) regarding policies related to labour and employment** it directs the state to create conditions to ensure employment for all; guaranteeing social security by ensuring the basic rights of all labourers in accordance with the concept of dignity of labour; ending child

labour and all forms of labour exploitation; encouraging the participation of labourers in the management by creating good industrial relationship between employers and employees; regulating and managing foreign employment in order to ensure exploitation free, safe and well-managed sectors that guarantee

labourers' right and employment. Under the same article (j) **policies regarding social justice and inclusion**, it directs the state to make appropriate arrangements of livelihoods by prioritising employment for single women who are in helpless conditions on the basis of skill, capability and merit;

making women self-reliant who are vulnerable, victims of conflict, excluded by family and the society, by making necessary arrangements of rehabilitation, protection and empowerment for them; ensuring the use of necessary services and facilities during the reproductive stage; economically evaluating the works and contribution in regard to child care and care for the family; paying primary attention to the utmost interest of children; rehabilitation of *kamaiya* (bonded labourers), *kamlari*, *haruwa*, *charuwa*, *haliya*, the landless and the squatters by identifying them, and making arrangements of housing, or providing small plot of land or house, employment, or arable land for their livelihoods.

To materialise the Constitutional provision of evaluating the unpaid work of women in the household, the 15th Five Year Plan (2019/20 – 2023/24) has targeted, “Valuating Women’s Household Labour and Family Care Activities for Counting its Contribution to the National Income” by 2024<sup>4</sup>. This also corresponds to the SDG 5: Achieve Gender Equality and Empower All Women and Girls, Target 5.4: Recognise and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate.



<sup>4</sup> Page 209 of Nepal, 15th Five Year Plan (2019/20 – 2023/24), Accessed on December 2020, Available in Nepali Language at: [https://www.npc.gov.np/images/category/15th\\_Plan\\_Approach\\_Paper1.pdf](https://www.npc.gov.np/images/category/15th_Plan_Approach_Paper1.pdf)



# 3.1 Key Areas of Policy Support

## 1. RECOGNITION AS WORKERS:

**The Nepal Labour Act 2074 (2017)** does not specifically mention home-based workers or informal workers, however, there are some clauses in the Act that may be applicable to informal workers: i) the Act is applicable to all entities<sup>5</sup> regardless of number of workers/employees; ii) where 20 or more employees are engaged, employer shall constitute a Safety and Health Committee; iii) Where 10 or more employees are engaged in the entity, employer shall also constitute the Collective Bargaining Committee as per sec 116 of the New Labor Act; iv) allowed outsourcing of work (which means that homeworkers are recognised, even if nominally); v) all employees are eligible for Provident Fund even if they are not permanent workers. The act has divided employees into four categories: regular employment, task-based employment, casual worker and time-bound workers, including short-term workers and part-time workers. Home-based workers mostly fall into tasks-based employment and as casual workers. The Act, however, does not address problems of sexual exploitation, poor and irregular pay, and contract-less jobs of women working in the informal sector. However, the Act also covers basic social protection measures such as

gratuity, accident benefit, sickness benefit and provident fund, among others. Workers from the informal sector including domestic workers, trainees and part-time workers are entitled to receive these benefits. Legislation against the discrimination in jobs and wages is confined within the Constitution of Nepal.

The **Labour Rules, 1993 amended in 2018** governs employment, Occupational Safety and Health and security of service as well as formation of Collective Bargaining Committees. The Act has made it mandatory for all employees to enter into Employment Agreements apart from workers working as casual workers. The rules have recognised domestic workers but not specifically home-based workers as they also fall within the category of casual workers. Employees entered into employment contracts are mandated to avail social security benefits, leaves and provident funds but these are not specified for casual workers.

**National Employment Policy 2015** builds on the Labour and Employment Policy 2005 by drawing on the lessons learned. It takes into account the Industrial Policy, Agriculture Policy, National Youth Policy, Information and Technology Policy, Labour Act, Trade Union Act and other policy-level issues related

to employment. It focuses on the agriculture, construction, tourism, information and technology and water resources and energy sectors. This policy has added youths, poor and differently-abled persons besides the original target group of the 2005 Labour and Employment policy such as women, indigenous nationalities, Dalits, Madhesis and other marginalised communities/regions to reflect the need of addressing gender inequality and exclusion.

It calls for the adoption of affirmative actions to ensure workforce diversity and gender-friendly working environments regarding maternal safety, security and suitable leave facilities. Target programmes are to be conducted to generate employment opportunities for women, dalits, indigenous nationalities, differently-abled persons, vulnerable and poor groups, or members of their families that are deprived of opportunities of dignified employment through employable skill development and vocational training programmes. In spite of such excellent provisions, the issues of HBWs remain excluded.

## 2. URBAN PLANNING AND HOUSING POLICIES:

**National Shelter Policy, 1996:** The



<sup>5</sup> Entities refer to company, private firm, partnership firm, cooperatives, association or other organizations that are in operation, or established, incorporated, registered or formed under prevailing laws.

National Shelter Policy of Nepal was developed and implemented for the first time in 1996. The policy declares that the Government is not a provider of housing but it is a facilitator and enabler only, where the role of government will be limited to the formulation of necessary acts and regulations together with provision of basic infrastructure services in order to encourage the private sector investment in housing. There is no specific mention of the urban poor except the low-income group, squatters, and homeless urban poor families. The major instruments proposed to improve housing situation in the country are provision of serviced land through land development programmes (such as land pooling, site and services and guided land development programme), promotion of housing finance, development of construction materials and technology, increasing the production of dwelling units and repair and maintenance of the existing stocks, etc. In line with the National Shelter policy 1996, the Government of Nepal enacted the Apartment Act, 1997, Building Act, 1997 and established the National Housing Development Finance Company in 1990 as envisioned by the Seventh Five Year Plan of Nepal (1985-90) for planned housing development in the country and to encourage private sector investment in the housing sector. The National Shelter Policy, 1996 was revised in 2012, to address the new challenges of slums, rental housing and housing for internally displaced and that

of the Economically Weaker Section. The Government has been implementing the 'People Housing Program (PHP)' also known as '**Janta Awas Karyakram**' which provide housing by constructing low-cost modern housing for marginalised poor families.

**The National Urban Policy, 2007** is expected to serve as a road map to this sector in order to address the challenges posed by the haphazard urbanisation in the country. The urban development pattern in the country has remained imbalanced due to excessive investment mostly in favour of the Kathmandu Valley thereby resulting in a Kathmandu-centric urbanisation process. This has become a major cause for the imbalance in the national urban structure leading to an increasing trend in migration from rural areas and small towns to large urban centres, in general, and the Kathmandu Valley, in particular, causing informal settlements such as slum and squatter settlements to rise. Many homeworkers are residents of these informal settlements. Therefore, the major thrust of the urban policy is to achieve a balanced urban structure through industrial development and provision of low-cost housing, housing finance, and income generating activities and development of urban infrastructure to the urban poor.

National Urban Water Supply and Sanitation Sector Policy (2009) provides for target levels and guidelines for urban water supply

and sanitation services. The Solid Waste Management and Resource Mobilization Center was created as an autonomous body under the Ministry of Local Development, contrary to the decentralisation policy adopted by the LSGA, which came later. To clearly define the roles and responsibilities of each agency involved in solid waste management and remove the present overlaps and confusion between them, the Ministry of Local Development has drafted a new comprehensive solid waste management bill. For improved and effective environmental management in urban areas, the government, with the Ministry of Environment taking the lead, is preparing urban environmental management guidelines. Municipalities and district development committees are expected to play a key role in enforcement.

### **3. RIGHT TO A MINIMUM WAGE:**

The Government of Nepal, Ministry of Labour, Employment and Social Security has prescribed the minimum remuneration/wage of the worker/employees under Section 106 of the Labor Act, 2017 (2074). The Ministry has prescribed separate minimum remuneration/wage for the workers/employees working (a) other than tea estate ("Minimum Wage Other than Tea Estate") and (b) in the tea estate ("Minimum Wage Tea Estate"). The hourly, daily and minimum wage for workers 'other than tea estate workers' are NPR 69/-, NPR 517/-

and NPR13,450/- respectively<sup>6</sup>. Nepal Labour Act 2017 does not differentiate between informal and formal workers. The application of minimum wage to home-based workers thus remains a challenge.

#### 4. DECENT WORKING CONDITIONS:

The Government of Nepal passed the **Bonded Labour (Prohibition) Act (2002)**, which prohibits labour or services provided by a person to his creditor without any wages or at low rates of wages to repay loans (Kamaiya labour). All persons working as Kamaiya labourers at the time of the commencement of the Act are ipso facto freed from that labour. Loans do not have to be repaid. The Act establishes Freed Kamaiya Rehabilitation and Monitoring Committee in districts. In addition, Welfare Officers are to be designated to assist freed Kamaiya labourers.

According to **Labour Act, 2017** all enterprises with more than 20 employees must establish a Health and Safety Committee with representation from the workers. Enterprises with more than 50 employees are required to provide a break room and canteen, whereas a child care centre is mandated, either by itself or jointly with another, for companies that employ more than 50 female workers. Despite these provisions, decent work for home-based workers remains excluded from the Act.

#### 5. PROHIBITION OF CHILD LABOUR:

Nepal enacted the **Child Labour Act 1992** and ratified the ILO Conventions no. 138 and 182, making child labour a criminal offence. The Act prohibits employment children who have not completed 14 years of age. It also prohibits employment of children below 16 in any risky job or enterprise mentioned in the Schedule. It also prohibits employment of children as labourers against their will by luring or misleading them or by subjecting them to any allurements or fear, threat or pressure, or through any other means.

The schedule of risky employment includes housing, motel, hotel, casino, restaurant, bar, pub, resort, skiing, gliding, water rafting, cable car complex, pony trekking, trekking, mountaineering, hot air ballooning, para-sailing, golf course, polo, horse-riding and other enterprises connected with tourism; workshop, laboratory, abattoir, cold storage and other service-oriented enterprises; public transport and construction enterprises; cigarette and bidi manufacturing, carpet weaving and dyeing, wool cleaning, textile weaving, washing, dyeing and printing, leather processing, cement production and packing, production, sale and supply of matches, explosives and other inflammable products, production of beer, liquor and other beverages, production of soaps, bitumen,

pulp and paper, slates, pencils, insecticides, arid, lubricating oils, collection and processing of garbage, electroplating, photo processing, and functions relating to rubber, synthetic, plastic, lead and mercury; activities relating to the generation, transmission or distribution of energy from water resources, air, solar power, coal, natural oil or gas, bio-gas, and similar other sources; activities relating to the excavation, processing and distribution of mines, minerals, natural oil or gas; rickshaws or pushcarts; functions such as those relating to cutting machines; functions which are to be undertaken underground or underwater or at high altitudes; functions requiring contact with chemical materials, and other risky jobs prescribed under current law. Risky employment within the garment/textile and leather sector includes carpet weaving and dyeing, wool cleaning, textile weaving, washing, dyeing and printing, and leather processing.

#### 6. RIGHT TO COLLECTIVE BARGAINING:

The **Trade Union Act, 1992** includes workers who are engaged in various industry, trade, profession or service in enterprises or outside enterprises on permanent, temporary, agreement, daily wages, piece-rate or contract basic or working self-employed. Those working in the informal sector and the self-employed can also form a union if



<sup>6</sup> On May 4th 2021, The Ministry of Labour, Employment and Social Security announced the increase of minimum wage of workers by 11 percent from mid-July 2021. The raised Salary would be NPR 15,000 per month; NPR 517 per day and NPR 69 per hour.



they have at least 500 members working in the same nature of occupation. Informal workers and particularly women remain scattered and are concentrated at the lower end of the market and in occupations that are invisible, which reduces their capacity for collective bargaining and increases their exposure to exploitation. Moreover, commodity prices are determined by the traders/processors/exporters including quality parameters, because producers have low bargaining power to set market prices. This is all the more pronounced as there is limited practice of collective production and marketing among producers.

In Nepal, 11 National Trade Unions are registered with the Department of Labour. Among them 10 National Trade Unions are affiliated to Joint

Trade Union Coordination Centre (JTUCC). JTUCC is the umbrella organisation of the Nepalese trade union movement whose objective is to bring together the various trade unions to work together for Nepalese workers' rights. The membership of these trade unions span representation from garment, rikshaw, barber, casino, transport, agriculture, construction, beauty parlours, brick factory, etc. Although as individuals, HBWs may be members of these trade unions, there is no specific HBWs union. The following Trade Unions with a total membership of 17,64,490 are actively pursuing worker's rights. They are:

General Federation of Nepalese Trade Unions (GEFONT) with a membership of 4,40,712; Under GEFONT, a separate association was established in 2013 known

as the Home Workers Trade Union of Nepal (HUN) catering to home-based workers and domestic workers from diverse fields with a membership of over 3000, Nepal Trade Union Congress (NTUC) with 4,25,014 members; All Nepal Federation of Trade Unions (ANTUF) with 4,10,115 members; Confederation of Nepalese Professionals (CONEP) with 2,53,163 members; National Democratic Confederation of Nepalese Trade Unions (NDCONT) with 32,500 members; Inclusive Nepal Trade Union Confederation (INTUC) with 37,500 members; National Democratic Confederation of Nepalese Trade Unions-Independent (NDCONT-I) with 40,00 members; National Democratic Federation of Nepalese Trade Unions (NDFONT) with 42,110 members; Madheshi Trade Union (MTUC) with 40,100

members; and Trade Union Confederation Nepal (TUCON) with 43,276 members.

In 2000, the Democratic Confederation of Nepalese Trade Unions (DECONT) organised home-based workers to highlight their issues and concerns. In 2007, NTUC and DECONT merged as NTUC. NTUC has launched skill development training in the areas of teeka and candle-making and carpet weaving. NTUC, GEFONT, HUN and ANTUF are organising home-based workers and focusing on their issues. These three trade unions are focusing on workers' registration at the local level and advocating for the ratification of ILO Convention 177 and elimination of child labour, social protection of HBWs, skill development training, support for market and finance, minimum wage as per government rules and regulations, support to organise awareness on occupation safety and health including protection of their children.

## 7. SKILL UPGRADATION:

Current efforts by the Government are focused on skill and vocational training and promotion of micro-finance and micro credit activities. Indeed, very few welfare programmes are in operation. These initiatives have been launched through the Ministry of Labour, Employment and Social Security; Ministry of Industry, Commerce and Supplies; Ministry of Women, Children and Social Welfare and

the Ministry of Agriculture and Cooperatives. Under the Ministry of Labour, Employment and Social Security, there is Vocational and Skill Development Training Center (VSDTC) that provides skill development trainings to women. In the area of vocational training, the Council for (CTEVT), under the Ministry of Education, Science and Technology, is providing training facilities in several locations of the country. The training institute under the Ministry of Industry, Commerce and Supplies along with non-governmental, trade unions and private agencies have been providing technical education and vocational training to those engaged in the informal sector including home-based workers in Nepal.

## 8. CREATING SECURITY THROUGH RIGHT TO WORK:

The government's major plan for poverty reduction is the **Poverty Alleviation Fund Act, 2063 (2006)**: It mandates the Nepal government to offer programmes relating to income generation, skill development, employment creation and growth and production growth such as agriculture, livestock, aviculture, sewing, cottage and small industry based on local resources and raw materials by identifying economically or socially backward persons, household or communities who are living below the poverty line for uplifting their economic and social status by enhancing their capacities. It also

offers provision for programmes relating to primary health, literacy, technical education, employment training for youth, small irrigation, small bridge, suspension bridge, drinking water, sanitation, rural road, rural energy and environment to render support for poverty alleviation as per necessity and construction programme for small scale infrastructures identified by the community. These provisions are accessed by the poor and vulnerable population which includes home-based workers<sup>7</sup>.

**Single Women Security Fund Regulation, 2070 (2014)** has been established for the welfare and protection of economically weak and single women for the following purposes: (i) provide education and skill development trainings and education; (ii) generate employment; (iii) support medical treatment; (iv) support rescue, relief and rehabilitation efforts; (v) provide legal assistance; (vi) assist single women in organisation of cooperatives; (vii) conduct awareness campaign for transforming discriminatory social norms against single women; (viii) implement programmes for empowerment of single women; and, (x) monitor the effectiveness of interventions. This provision is applicable to all women including women home-based workers.

## 9. SOCIAL SECURITY

There is no direct social and economic security scheme targeted exclusively for informal workers.



<sup>7</sup> More information can be found at: [http://www.pafnepal.org.np/resources/archive-11.html?lang\\_id=](http://www.pafnepal.org.np/resources/archive-11.html?lang_id=)



Some of the existing security arrangements are common to citizens. The social security allowance (SSA) under **The Social Security Act, 2075 (2018)** is the largest of the social assistance programmes in Nepal which includes old-age pension, single woman's pension, the child grant, disability and endangered ethnicity allowance as well as some common security measures include senior citizen allowance, health care, economic and social assistance. Only one form of allowance, if eligible can be applicable to citizens. The following Nepali citizens shall have the right to get social security allowance:

**Senior Citizen Allowance:** Dalit and single women senior citizens, after completing the age of sixty years, and other senior citizens, after completing the age of seventy years, shall get the senior citizen allowance of NPR 1000 monthly. The Local Level shall distribute the social security allowance on the basis of the identity cards.

**Helpless Single Women Allowance:** The government distributes NPR 2,000 (every month) as security allowance to single women who are 60 years or older with no source of income or income lower than the minimum wage. The lump sum amount is distributed once every four months. The concerned local government shall give identity cards in the prescribed format to the persons entitled to get the social security allowance. The Local Level shall distribute the social security allowance on the basis of the identity cards.

**Destitute Citizen Allowance:** The destitute citizens shall get the destitute citizen allowance in a sum as specified by the Government of Nepal. The concerned Local Level shall give identity cards in the prescribed format to the persons entitled to get the social security allowance. The Local Level shall distribute the social security allowance on the basis of the identity cards

**Incapacitated and Helpless Allowance:** The citizens who are incapacitated and helpless shall get the incapacitated and helpless allowance in a sum as specified by the Government of Nepal. The concerned Local Level shall give identity cards in the prescribed format to the persons entitled to get the social security allowance. The Local Level shall distribute the social security allowance on the basis of the identity cards.

**Child Nutrition Allowance:** The children who are extremely destitute, or malnourished and such children who have not completed the age of five years as specified by the Government of Nepal should be awarded NPR 200 a month. The concerned Local Level shall give identity cards in the prescribed format to the persons entitled to get the social security allowance. The Local Level shall distribute the social security allowance on the basis of the identity cards

**Tribe on the Verge of Extinction Allowance:** The citizens belonging to the tribes on the verge of extinction shall get the social security allowance of NPR 1000

a month. The concerned Local Level shall give identity cards in the prescribed format to the persons entitled to get the social security allowance. The Local Level shall distribute the social security allowance on the basis of the identity cards.

**Care Allowance for Those Who Are Unable to Take Care of Themselves:** The citizens who are unable to take care of themselves shall get the social security allowance specified by the Government of Nepal. The concerned Local Level shall give identity cards in the prescribed format to the persons entitled to get the social security allowance. The Local Level shall distribute the social security allowance on the basis of the identity cards.

**Full Disability Allowance:** Allowance for those who cannot go about daily life even with help from others and have obtained red ID cards from the District Office of Women and Children are to be awarded NPR 1000 per month.

**Partial Disability Allowance:** Allowance for those who can go about daily life with help from others amounting to NPR 300 per month. The concerned Local Level shall give identity cards in the prescribed format to the persons entitled to get the social security allowance. The Local Level shall distribute the social security allowance on the basis of the identity cards.

HBWs are yet to be formally recognised as a specific category to benefit from the social protection floor. They are bereft of any social



security guarantees that would have provided access to healthcare and basic income security. In the absence of sex-disaggregated data on HBW, it is not clear how many of those working as HBWs are members of various groups such as the single women's groups, co-operatives, disabled, senior citizens and other social groups wherein they would be benefiting from the allowances provided by the State. In the context of the COVID-19 pandemic, anecdotal incidents indicate that they have been impacted adversely with no recourse to safety nets having little savings of their own to fall back upon during these trying times.

## 10. OCCUPATIONAL HEALTH AND SAFETY:

The Labour Act 2017 makes provision for medical insurance and accident insurance which was not covered in the previous act. The new Labour Act specifies that there should be coverage of at least NPR 1,00,000 per year for every worker as part of the medical treatment cost. Similarly, there should be coverage of at least NPR 7,00,000 for every worker as workplace injuries related treatment cost. The premium for medical insurance is paid half by the employer and half by the employee, but the premium for the accident insurance is fully borne by the employer. Other OHS-related provisions included in the new Labour Act are:

- ▶ Preparation of Safety and Health Policy applicable to each workplace and such policy

should be registered with the Labour Office.

- ▶ Formation of Safety and Health Committee where 20 or more workers are engaged in any workplace.
- ▶ Employer's duties towards the workers which include making appropriate safety and health arrangement, arrangements ensuring no adverse effect on workers from use, operation, storage or transportation of chemical, physical or biological materials, disseminating necessary notice, information, and training related to safety and health, etc.
- ▶ Authority delegated to the workers on stopping work anytime, in case of the immediate threat of any injury or adverse health effect or damage to the equipment in the workplace.
- ▶ Prevention of Communicable Diseases by barring the workers from joining their regular duty until the treatment is completed.
- ▶ All the expenses for the investigation and treatment of any work-related diseases should be provided by the employer. And where such disease cannot be cured the worker should be provided with compensation as prescribed.

The conditions set forth in the above-mentioned provisions are not applicable to HBWs. They lack access to social protection because of informal employment. This disqualifies them from participating in insurance schemes and do not meet eligibility requirements of occupational health and safety standards.

## 11. HEALTHCARE INCLUDING MATERNITY AND CHILD CARE PROTECTION:

The **Public Health Service Act, 2075 (2018)** guarantees access to and certainty of health service as regards to (a) Vaccination service, (b) Motherhood, infant and paediatric health service such as integrated infant and paediatric disease management, nutrition service, pregnancy, labour and child birth service, family planning, abortion and reproductive health, (c) Service relating to communicable disease, (d) Service relating to non-communicable disease and physical disability, (e) Service relating to mental disease, (f) Service relating to elderly citizen's health, (g) Service of general emergency condition.

Nepal has instituted a new **National Health Policy 2019**, which has six objectives, 25 policies and 146 strategies to improve the health sector. The policy aims to maintain the achievements made in the control of communicable diseases, achieve Sustainable Development Goals, reduce infant and maternity mortality rate, and move towards controlling non-communicable diseases, better management of medical emergency and ensuring quality health services to all citizens, including senior citizens, physically and mentally disabled, single women, poor, marginalised communities and communities at risk. The provision is applicable to all citizens including home-based workers.

## 12. OLD AGE AND RETIREMENT PLAN:

The **Karmachari Sanachaya Kosh (KSK)**, also known as Employees Provident Fund (EPF) is a Provident Fund (PF) amended by the Employee Provident Fund Act, 2019 (1962) in Nepal for government, public and private sector employees and come under the Ministry of Finance. This is, however meant for permanent employees.

**National Plan of Action, 2062 (2005) for senior citizens** is divided into different parts: economic aspect, social security, health and nutrition, participation and involvement, education and entertainment

aspect, legal condition and reform, and miscellaneous. Dividing this for the effective execution of the plan, different actions of the plan have been prescribed to be implemented by ministries and authorities. In this connection it has included the NGOs for cooperation. This action plan is developed to address following needs in the context of changing global and national situation;

- ▶ Effective implementation of the programme as per the United Nations declaration and national policy
- ▶ Human rights protection for senior citizens
- ▶ To work for systematic, co-ordinated, result-oriented and planned development of senior

citizens

- ▶ To establish institutional mobilisation, responsibility, roles and accountability for effective implementation of programmes.

**Senior Citizen Act of Nepal 2006** defines "Senior Citizen" as a citizen of Nepal having completed the age of sixty years. The Senior Citizen Act provides facilities and concessions to senior citizens including providing services, facilities and assistance to the senior citizens in any public vehicles, public undertakings, and medical services, religious and public places. Each organisation providing health services shall give priority to the senior citizens and fifty percent concession of the fees chargeable.



# 4. Recommendations:

Ratify C177 to ensure that all home-based workers are assured of their basic labour rights through the applicability of core labour standards and other protection measures and to set a standard for their minimum pay and working conditions, including occupational health and safety.

Undertake sex-disaggregated data on home-based workers to establish the population and category of home-based workers and identify them as economic agents to create visibility on their issues in national laws, policies and programmes. The 2021 National Census on Housing and Population provides a strategic opportunity for collecting on data on home-based workers (or it can be included in the next Labour Force Survey). This in addition to extending support to map home-

based workers to identify who they are, the kind of work they are engaged in, where they are located order to understand their working situations and challenges.

Expand the remit of the legislative framework of Social Security allowance and Social Insurance and Schemes to include home-based workers to facilitate their integration in the formal economy by providing incentives to employers to declare workers and sanctions against illegal employment. For example, in India, the Unorganised Workers' Social Security Act 2008 provides for the establishment of social security schemes (e.g. provident funds, employment injury benefit, funeral assistance and old-age homes) for unorganised workers.

Amend the Sexual Harassment (Control) at Workplace Act, 2011,

which addresses sexual harassment at registered institutions but not in the agricultural, domestic work and unorganised sectors. It will be important to reform this law to include sexual harassment in the informal sector where the majority of women are concentrated to protect home-based workers from sexual exploitation and harassment. Provide safer work places for home-based workers by implementing labour and employment policies, help the poor home-based workers access credit, boost investment in low-cost housing for home-based workers through public private partnerships (PPP) to promote healthy work environment and hygienic sanitation conditions, and encourage business to assist the professional development of home-based workers as part of their CSR initiatives.

# 5. Conclusion

Despite their huge contributions to the economy, the issues of home-based workers remain invisible and they have no recourse to safety nets owing to lack of formal recognition by the government. Women's work, both paid and unpaid, is critical to the survival and security of poor households and an important route through which households escape poverty. There are certain schemes that home-based workers can benefit from as a citizen of Nepal such as allowances, health and skill development. However, their lack of formal recognition as workers excludes them from a range of relevant provisions that other, formally recognised workers have access to.

Nepal has very few policies and schemes for protection and welfare of informal sector workers. However, given the growth of informalisation, which is an increasing contractualisation of employment processes even within

formal firms, and the rapid decline of the formal economy, the need to expand the target groups particularly of labour laws, gains urgency. Some of the core labour standards as articulated by international human rights instruments are the right to organise/unionise, the prohibition of forced labour as well child labour, and social protection. Unions of home-based workers are few or almost non-existent, and levels of occupational health hazards high and there are very few or no schemes that can be accessed. Although some of them are members of trade unions, so far they have only benefited from skill upgradation trainings. All the trade unions have women's committees. There needs to be concerted efforts by trade unions to undertake policy advocacy for HBWs as a category to highlight the constraints and challenges they face as working women.

As such HBWs lack eligibility requirements and access to social

protection floor. Lack of social protection for women in their working age exacerbates their vulnerabilities to risks related to their lifecycle (pregnancy, motherhood, menopause, etc.), time-poverty in balancing unpaid work with paid work including coping with economic shocks as has been the case with COVID-19 pandemic. Lack of access to pensions increases the likelihood of penury in old age and denial to medical treatment.

The need most often articulated by the home-based workers themselves is the lack of adequate housing. Home-based workers work long hours, are often exposed to dangerous chemicals, poor working conditions, and unhealthy postures. To achieve any standard of decent work, working conditions must be monitored and social security is essential in a context where home-based workers are located at the lowest ladder of the labour market.

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