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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you



# **FROM RATIFICATION TO REALIZATION: NEPAL'S JOURNEY TOWARDS IMPLEMENTING INTERNATIONAL LABOR CONVENTIONS**

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## **ABSTRACT**

*The International Labor Organization (ILO) was established in 1919 with the fundamental principle that "universal and lasting peace can be established only if it is based upon social justice." As the only tripartite agency within the United Nations (UN) system, the ILO brings together governments, employers, and workers to set international labor standards, formulate policies, and implement programs that promote decent work and protect employees from exploitation. Over the decades, the ILO has been instrumental in shaping international labor laws and advocating for their adoption by member states through various conventions, treaties, and recommendations.*

*Nepal, a member of the ILO since 1966, has demonstrated a strong commitment to international labor standards by integrating these into its national legal framework. The Constitution of Nepal, 2072 (2015) explicitly recognizes labor rights as fundamental rights, ensuring fair working conditions, proper remuneration, social security, and the right to unionize. The Nepal Labor Act, 2074 (2017) and the Social Security Act, 2018 further provide a robust legal foundation for protecting workers' rights across different economic sectors. These laws aim to promote fair labor practices, safeguard workers' interests, and align domestic policies with international standards. In its effort to comply with ILO mandates, Nepal has ratified 11 key ILO conventions, including the Forced Labor Convention (1930), Freedom of Association and Protection of the Right to Organize Convention (1948), Equal Remuneration Convention (1951), and Worst Forms of Child Labor Convention (1999), among others. These ratifications emphasize Nepal's commitment to eradicating forced labor, ensuring fair wages, promoting gender equality in the workplace, and enhancing occupational health and safety. The recent Occupational Safety and Health (OSH) Regulations, 2022, along with amendments to labor laws, address emerging labor issues such as remote work, informal sector protections, and migrant worker rights.*

*Despite significant progress, Nepal faces multiple challenges in the effective implementation of labor laws. The dominance of the informal sector, which employs nearly 80% of the workforce, limits the reach of labor protections. Additionally, weak enforcement mechanisms, including inadequate labor inspections and lack of stringent penalties for violations, hinder compliance. Labor migration also poses a major concern, as a substantial number of Nepali workers are employed abroad under conditions that often fall short of international labor standards. Gender inequality in employment remains another issue, with wage disparities, workplace discrimination, and limited career advancement opportunities for women despite the country's commitment to gender-responsive labor policies. This paper examines Nepal's transformation of international labor standards into its domestic legal framework, assessing the effectiveness of adopted policies and identifying the gaps in enforcement and implementation. Through an analysis of legal provisions, policy developments, and real-world labor conditions, this study provides insights into the progress Nepal has made and the areas where further improvements are needed. Strengthening institutional frameworks, increasing labor inspections, and integrating informal workers into formal labor protections are crucial steps for Nepal to ensure sustainable economic growth and uphold international labor standards. Nepal has made significant strides in aligning its national labor legislation with international standards by ratifying key International Labour Organization (ILO) conventions and enacting corresponding domestic laws. Despite these efforts, the country faces substantial challenges in fully implementing these standards, particularly within its dominant informal sector, which comprises nearly 80% of the workforce. Weak enforcement mechanisms, issues related to labor migration, and persistent gender inequalities further complicate the labor landscape. This analysis examines the characteristics and obligations of major multilateral labor treaties, evaluates Nepal's compliance through its national legislation, and provides recommendations to enhance the effective implementation of labor standards, thereby promoting decent work conditions for all workers in Nepal.*

**Keywords:** Labor, International Labor Organization, Convention, Ratification, Fundamental Rights, Treaty, Multilateral Agreements, Nepal Labor Laws, Social Security, Workplace Safety, Informal Sector, Labor Migration, Gender Equality.

## **BACKGROUND**

Labor is a commodity that is supplied by laborers in exchange for a wage paid by demanding firms.<sup>1</sup> Labor is a measure of the work done by human beings where the laborers exist as parts of a social, institutional or political system.<sup>2</sup> Labor and its market is a major component of any economy, and Laborers are the key to the labor market. Dating back to the initial period of the rise of labor market, the laborers or the workers were often undervalued, their rights and their living standards were highly neglected. To improve their living condition and rights, laborers started a movement demanding for the recognition of their rights. The transformation of international labor laws into Nepalese domestic legislation reflects Nepal's strong commitment to workers' rights, social justice, and economic development. The ratification of ILO conventions, enactment of progressive labor laws, and recent legal reforms have significantly improved Nepal's labor landscape. However, effective implementation and enforcement remain crucial for realizing the full potential of these labor protections. As Nepal continues to align its labor policies with international standards, the government, employers, and workers must collaborate to ensure decent work, fair wages, and workplace safety. Strengthening institutional frameworks, increasing labor inspections, and integrating informal sector workers into the formal economy are essential steps toward a more just and equitable labor system.

Since then, human rights and labor rights of the workers are given high importance, and many international treaties and national laws has been formulated concerning the rights, duties, responsibilities and obligations of laborers and the employers. Labor rights are both legal and human rights relating to labor relations between workers and employers.<sup>3</sup> The modern concept of labor rights dates to the 19th century after the creation of labor unions following the industrialization processes. Further, the establishment of International Labor Organization (ILO) in 1919 is marked as a significant step towards the protection of worker's rights. It has become the first and oldest specialized agency of United Nations (UN). The labor rights appear in the Universal Declaration<sup>4</sup> adopted by UN General Assembly and are covered by the International Covenant on Economic, Social, and Cultural Rights<sup>5</sup>. Moreover, in the 1993

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<sup>1</sup> Borjas, George J. (14 January 2015). Labor economics (Seventh ed.). New York, NY. [ISBN 978-0-07-802188-6](#). [OCLC 889577338](#).

<sup>2</sup> [https://en.wikipedia.org/wiki/Labour\\_economics](https://en.wikipedia.org/wiki/Labour_economics)

<sup>3</sup> [https://en.wikipedia.org/wiki/Labor\\_rights](https://en.wikipedia.org/wiki/Labor_rights)

<sup>4</sup> The Universal Declaration of Human Rights, G.A. Res. 217A, U.N. GAOR, 3rd Sess., 1st. plen. mtg., U.N. Doc. A/810 71 (Dec. 12, 1948) [hereinafter UDHR].

<sup>5</sup> International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200A (XXI), U.N. Doc. A/6316 (Dec. 16, 1966), Dec. 16, 1966, 993 U.N.T.S. 3, *entered into force* Jan. 3, 1976 [hereinafter ICESCR]

Vienna Declaration, the United Nations insisted that “all human rights [including the right to work] are universal, indivisible and interdependent and interrelated.”<sup>6</sup> ILO is the only tripartite UN agency that brings governments, employers and workers representatives of its member states together. It sets the labor standards, develop policies and programs promoting decent work for all women and men<sup>7</sup> and protecting them from exploitation. They seek to provide freedom, equity, dignity and security to the workers and employers helping them maintain a peaceful and workable environment. So, the ILO is subsequently a major contributor to the international labor law.

Labor rights encompass a large array of human rights from the right to decent work and freedom of association to equal opportunity and protection against discrimination.<sup>8</sup> Most of the countries have adopted and implemented labor related laws in their territory ensuring the rights of workers and here Nepal is no exception. Along with the passage of time and the globalization, the human rights and the labor rights in Nepal has undergone many changes. Following the re-establishment of democracy, Labor Act 2048 was enacted in Nepal where Labor Rules 2050 (1993) provided additional guidance to it. Later, Labor Act 2048 was repealed by Nepal Labor Act 2074 following the new Constitution and Labor Rules 2075 came into force repealing the previous one.

The Constitution of Nepal, 2074 guarantees right regarding labor as fundamental right of every citizen thus ensuring the right to proper work practices, right to appropriate remuneration, facilities and contribution based social security and provides freedom to form and participate in trade union and organize collective bargaining. The Constitution in its Article defines "laborer" as a worker or laborer who offers physical or mental work for an employer for remuneration. Further, the Constitution seeks to develop the policies that guarantees social security by ensuring the basic rights of all laborers in accordance with the concept of dignity of labor and ends the child labor and all forms of labor exploitation. The National Inclusion Commission as provided by the Constitution of Nepal has the duty of carrying out research for protecting the rights and welfare of the laborers.<sup>9</sup>

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<sup>6</sup> Mathias Risse on Labor Rights in the Era of Globalization,2008

<sup>7</sup> <https://www.ilo.org/global/about-the-ilo/mission-and-objectives/lang--en/index.htm>

<sup>8</sup> <https://globalnaps.org/issue/workers-rights/>

<sup>9</sup> Article 259 of the Constitution of Nepal,2015

## **INTERNATIONAL LABOR ORGANIZATION (ILO)**

The International Labor Organization (ILO) was created in 1919 by the Treaty of Versailles. It was founded on the key principle that lasting peace can exist only in an environment where "social justice" can prevail. The main aims of the ILO are to promote fundamental principles and rights at work, encourage decent employment opportunities, enhance social protection, and strengthen dialogue on work-related issues. Its mission is to promote jobs by protecting people. The Preamble of the ILO Constitution states that:

- Universal and lasting peace can be established only if it is based upon social justice.
- The failure of any nation to adopt humane conditions of labor (i.e. social justice) is an obstacle in the way of other nations which desire to improve the conditions in their own countries.
- Improvement is urgently required if the conditions of labor exist involving injustice, hardship and privation to large numbers of people producing unrest so great that the peace and harmony of the world are imperiled.

The ILO Constitution further declared that the organizations mandate is to improve conditions of labor through the prevention of unemployment, to guarantee a minimum standard of working conditions, protection of worker against sickness, disease and injury arising out of his employment, the protection of children, young persons and women, and provision for old age and injury.

At present, ILO has 187 member states out of 193 UN member states. ILO Conventions are developed through tripartite negotiations between member state representatives from trade unions, employer's organizations and governments. Member state governments subsequently ratify such Conventions and incorporate their provisions into national legislation.<sup>10</sup>The list of International Labor Organization Conventions contains 190 codifications of worldwide labor standards. There are eight fundamental Conventions which is binding on all members; four prohibit forced labor and child labor and four provide rights to organize, to collectively bargain, to equal pay and to freedom from discrimination at work.

Nepal became a member of the ILO in 1966 and the ILO Country Office for Nepal was established in 1994.<sup>11</sup>Nepal has ratified 11 ILO Conventions, including seven out of eight

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<sup>10</sup> en.wikipedia.org/wiki/List\_of\_International\_Labour\_Organization\_Conventions

<sup>11</sup> The ILO in Nepal by International Labor Organization; Article

Fundamental Conventions, given:

<b>Name of the Treaties</b>	<b>Date of Ratification(R), Accession (A) and Acceptance(a).</b>
International Labor Organization (ILO),1919	1966 (a)
Fundamental Conventions	03/1/2002 (R)
C.29 - Forced Labor Convention, 1930	
C.98 - Right to Organize and Collective Bargaining Convention, 1949	11/11/ 1996(R)
C.100 - Equal Remuneration Convention, 1951	10/6/1976 (R)
C.105 - Abolition of Forced Labor Convention, 1957	30/8/2007 (R)
C.111- Discrimination (Employment and Occupation) Convention, 1958	19/9/1974 (R)
C.138 - Minimum Age Convention, 1973	30/5/1997 (R)
C.182 - Worst Forms of Child Labor Convention, 1999	3/1/2002 (R)
Governance (Priority) Convention	21/3/1995 (R)
C144 - Tripartite Consultation (International Labor Standards) Convention, 1976	
Technical Convention	
Weekly Rest (Industry) Convention, 1921 (ILO Convention No.14)	10/12/1986 (R)
C131 - Minimum Wage Fixing Convention, 1970	19/8/ 1974 (R)
C169 - Indigenous and Tribal Peoples Convention, 1989	14/8/2007 (R)

Such Multilateral Conventions were adopted by Nepal by giving Consent by Ratification as provided in Article 14 of Vienna Convention. The constitution of Nepal gives authority to enter treaty by ratification of, accession to, acceptance of or approval of treaties or agreement. These kinds of authorities are clearly described by article 278 and article 279 of the constitution.

Similarly, Section-4 of the Treaty Act 2047 clearly mentions about the procedure for the ratification and accession of treaties.

## NEPAL'S RATIFICATION OF ILO CONVENTIONS

As part of its commitment to international labor laws, Nepal has ratified 11 ILO conventions, including key conventions related to forced labor, collective bargaining, child labor, and workplace safety. Some of the notable conventions ratified by Nepal include:

1. **Forced Labor Convention, 1930 (C029)** – Addresses the abolition of forced labor and human trafficking.
2. **Freedom of Association and Protection of the Right to Organize Convention, 1948 (C087)** – Ensures workers' rights to form and join trade unions.
3. **Right to Organize and Collective Bargaining Convention, 1949 (C098)** – Strengthens collective bargaining rights for workers.
4. **Equal Remuneration Convention, 1951 (C100)** – Mandates equal pay for work of equal value, regardless of gender.
5. **Abolition of Forced Labor Convention, 1957 (C105)** – Reaffirms the commitment to eliminating forced labor in all forms.
6. **Discrimination (Employment and Occupation) Convention, 1958 (C111)** – Prohibits discrimination in employment based on race, sex, or social origin.
7. **Minimum Age Convention, 1973 (C138)** – Establishes the minimum legal age for employment to protect children from labor exploitation.
8. **Worst Forms of Child Labor Convention, 1999 (C182)** – Outlines measures to eliminate hazardous child labor.

In addition to these ratifications, Nepal has been working on the implementation of the ILO's Decent Work Agenda, focusing on fair wages, job security, gender equality, and improved working conditions.

## RECENT DEVELOPMENTS IN NEPAL'S LABOR LAW

In recent years, Nepal has made significant progress in strengthening labor laws to comply with international standards:

- **Social Security Act, 2018:** Introduced a contribution-based social security system ensuring retirement benefits, maternity protection, medical care, and workplace accident compensation.

- **Occupational Safety and Health (OSH) Regulations, 2022:** Enacted to improve workplace safety by mandating risk assessments, protective measures, and worker training programs.
- **Amendments to the Labor Act, 2017:** Addressing emerging labor challenges such as remote work, gig economy workers, and contract employment.

Moreover, in 2023, Nepal took further steps to tackle labor migration issues, as a significant portion of its workforce is employed overseas. The government has been negotiating with destination countries to improve wage conditions, social security benefits, and protections against labor exploitation.

Despite notable progress, Nepal continues to face significant hurdles in fully implementing international labor standards:

1. **Dominance of the Informal Sector:** Approximately 80% of Nepal's workforce is engaged in the informal economy. Workers in this sector, many of whom are women, often lack access to information, services, and collective representation necessary to secure their labor and social security rights. This prevalence complicates the enforcement of labor rights and social security provisions.
2. **Weak Enforcement Mechanisms:** The Ministry of Labor, Employment, and Social Security (MoLESS) faces challenges due to limited budgetary resources and an insufficient number of labor inspectors. In 2023, only 11 labor inspectors conducted 2,467 worksite inspections, uncovering an unspecified number of child labor violations. The inadequacy of penalties for non-compliance further diminishes the effectiveness of labor laws.
3. **Labor Migration Issues:** A significant number of Nepali workers are employed abroad, particularly in countries like Saudi Arabia. Ensuring labor rights and social protection for these migrant workers remains a challenge. Reports have highlighted issues such as excessive recruitment fees and labor abuses faced by Nepali workers in foreign countries.

### **Convention Concerning the Application of the Weekly Rest in Industrial Undertakings, 1921 (ILO Convention No. 14)**

**Characteristics:** This convention mandates a weekly rest period in industrial employment, limiting working hours to eight per day and 48 per week. Certain exemptions are permitted, considering economic and humanitarian factors.

**Obligations:** Member States are required to provide compensatory rest periods if exemptions are applied. They must also communicate any modifications to exemption lists to the ILO and incorporate the convention's provisions into national legislation.

**Nepalese Context:** The Labor Act, 2017 (2074) stipulates that working hours in Nepal are 8 hours per day and 48 hours per week, with overtime capped at 24 hours per week. The law provides workers with a weekly leave of one day. Additionally, the Child Labor (Prohibition and Regulation) Act, 2000 entitles working children to a half-hour break after three consecutive hours of work and one day off each week.

### **Convention Concerning Forced or Compulsory Labor, 1930 (ILO Convention No. 29)**

**Characteristics:** As one of the eight fundamental ILO conventions, it defines forced or compulsory labor as all work or service exacted from any person under the menace of any penalty and for which the person has not offered themselves voluntarily. While it allows for forced labor to be exacted for public purposes with adequate compensation, the convention mandates the suppression of all forms of forced or compulsory labor.

**Obligations:** Ratifying nations must take effective measures to secure the immediate and complete abolition of forced labor. They are obligated to ensure that penalties for the illegal exaction of forced or compulsory labor are adequate and strictly enforced.

**Nepalese Context:** The Constitution of Nepal, 2015, protects citizens from exploitation, including human trafficking, bonded labor, and forced labor, by punishing perpetrators. The National Criminal (Code) Act, 2017 (2074) prohibits forced labor, slavery, and debt bondage, making offenders liable to imprisonment and fines. The Labor Act, 2017 (2074) explicitly prohibits employing individuals in forced labor, directly or indirectly. Following the ratification of this convention, the Government of Nepal outlawed the Kamaiya system in 2002.

### **Convention Concerning the Abolition of Forced Labor, 1957 (ILO Convention No. 105)**

**Characteristics:** This convention provides guidelines to help countries abolish forced labor and respect the dignity and security of every individual.

**Obligations:** Member States are obliged to take effective measures to secure the immediate and complete abolition of forced labor that violates human rights as outlined in the Charter of the United Nations and the Universal Declaration of Human Rights.

**Nepalese Context:** Beyond the provisions mentioned earlier, the Human Trafficking and Transportation (Control) Act, 2007 (2064) plays a significant role in eliminating forced labor in Nepal.

Nepal's commitment to international labor standards is evident through its ratification of 11 ILO Conventions, including seven core Conventions. The ILO Country Office in Kathmandu supports constituents in their efforts to achieve decent work and social justice in Nepal.

In December 2023, the government, along with workers' and employers' organizations, signed the Decent Work Country Programme, further strengthening ties with the ILO to advance social justice.

Despite these advancements, challenges persist, particularly in enforcing labor laws within the informal sector and ensuring the rights of migrant workers. Continuous efforts are necessary to address these issues and fully align Nepal's labor practices with international standards.

#### **4. Convention Concerning the Right to Organize and Collective Bargaining, 1949 (ILO Convention No. 98)**

**Characteristics:** This convention safeguards workers against anti-union discrimination and ensures the protection of workers' and employers' organizations from mutual interference. It promotes voluntary collective bargaining between employers and workers' organizations to regulate employment terms.

**Obligations:** Member States are required to take appropriate measures to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers and workers' organizations.

**Nepalese Context:** Nepal ratified Convention No. 98 on November 11, 1996. The Constitution of Nepal guarantees the right to form unions and associations as a fundamental right. The Labor Act, 2017 (2074) provides workers the right to form and operate trade unions, acquire membership, and engage in activities related to trade unions. The Act mandates the formation of a collective bargaining committee in enterprises employing ten or more workers to facilitate collective agreements.

#### **5. Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, 1951 (ILO Convention No. 100)**

**Characteristics:** This convention addresses gender-based wage discrimination, advocating for equal remuneration for men and women performing work of equal value.

**Obligations:** Ratifying nations must promote and ensure the application of the principle of equal remuneration for work of equal value through national laws, wage determination mechanisms, and support for collective agreements.

**Nepalese Context:** Nepal ratified Convention No. 100 in 1976. The Constitution of Nepal enshrines the right to equality, prohibiting discrimination in remuneration and social security based on gender. The Labor Act, 2017 (2074) explicitly prohibits wage discrimination, ensuring equal pay for equal work, with work value determined by factors such as nature, time required, labor, skill, and productivity.

## **6. Convention Concerning Discrimination in Respect of Employment and Occupation, 1958 (ILO Convention No. 111)**

**Characteristics:** This convention seeks to eliminate discrimination in employment and occupation based on race, color, sex, religion, political opinion, national extraction, or social origin.

**Obligations:** Member States are obligated to declare and pursue a national policy aimed at eliminating discrimination in employment and occupation, promoting equality of opportunity and treatment.

**Nepalese Context:** Nepal ratified Convention No. 111 in 1974. The Constitution guarantees the right to equality, prohibiting discrimination on various grounds. The Labor Act, 2017 (2074) mandates that employers must not discriminate against workers based on religion, color, sex, caste, tribe, origin, language, ideological conviction, or similar grounds. Exceptions are provided for inherent job requirements, accommodations for pregnant workers, and preferences for workers with disabilities suitable to their conditions.

## **7. Convention Concerning Minimum Wage Fixing, with Special Reference to Developing Countries, 1970 (ILO Convention No. 131)**

**Characteristics:** This convention aims to protect workers against unduly low wages by establishing a system of minimum wages, particularly in developing countries.

**Obligations:** Ratifying countries are required to create and maintain mechanisms to fix and adjust minimum wages, ensuring that these wages have the force of law and are not subject to reduction.

**Nepalese Context:** The Labor Act, 2017 (2074) empowers the Ministry of Labor, Employment, and Social Security to set minimum wages every two years, based on recommendations from the Minimum Wage Fixation Committee. The Act prohibits setting wages below the established minimum and ensures that workers receive fair compensation.

## **8. Convention Concerning Minimum Age for Admission to Employment, 1973 (ILO Convention No. 138)**

**Characteristics:** This convention sets the minimum age for admission to employment, aiming to abolish child labor and ensure that young individuals are not employed in work that could harm their health, safety, or morals.

**Obligations:** Member States must pursue a national policy to ensure the effective abolition of child labor and progressively raise the minimum age for employment to align with the fullest physical and mental development of young persons.

**Nepalese Context:** The Labor Act, 2017 (2074) prohibits the employment of children in any work. The Act Relating to Children, 2018 (2075) further protects children from economic exploitation and hazardous work, ensuring their right to education and development.

## **9. Convention Concerning Tripartite Consultations to Promote the Implementation of International Labor Standards, 1976 (ILO Convention No. 144)**

**Characteristics:** This convention emphasizes the importance of tripartite consultations among governments, employers, and workers to effectively implement international labor standards. It seeks to foster collaboration and dialogue to ensure that labor policies are comprehensive and inclusive.

**Obligations:** Ratifying countries are required to establish procedures that ensure effective consultations on matters related to ILO activities, including the formulation and implementation of labor standards, submission of newly adopted ILO standards to competent authorities, and re-examination of unratified conventions and recommendations.

**Nepalese Context:** Nepal ratified Convention No. 144 on January 3, 2002. The Labor Act, 2017 (2074) provides for the establishment of labor offices and inspection mechanisms to oversee the implementation of labor provisions. The Act also mandates the formation of councils and committees to advise the government on labor matters, ensuring tripartite collaboration. In 2023, the Ministry of Labor, Employment, and Social Security (MoLESS), in collaboration with the ILO in Nepal, jointly organized events to promote tripartite consultations, reinforcing the commitment to collaborative governance in labor issues.

## **10. Convention Concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (ILO Convention No. 169)**

**Characteristics:** This convention recognizes the rights of indigenous and tribal peoples to maintain and develop their identities, languages, and religions within the framework of the

states in which they live. It emphasizes their right to participate in decision-making processes that affect their lives and acknowledges their contributions to cultural diversity and social cohesion.

**Obligations:** Member States are responsible for developing coordinated and systematic actions to protect the rights of indigenous peoples, ensuring respect for their integrity, and promoting their participation in decision-making processes affecting them. Governments are also tasked with safeguarding the environments of the territories these peoples inhabit and ensuring that they benefit equally from the rights and opportunities granted to other citizens.

**Nepalese Context:** Nepal ratified Convention No. 169 on September 14, 2007, becoming the first country in Asia to do so. The Constitution of Nepal guarantees the rights of indigenous people and mandates the formation of an Indigenous Nationalities Commission. The National Indigenous Nationalities Commission Act, 2017 (2074) was enacted to protect, promote, and empower indigenous nationalities, ensuring their active participation in national development and decision-making processes.

## **11. Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, 1999 (ILO Convention No. 182)**

**Characteristics:** This convention calls for immediate and effective measures to prohibit and eliminate the worst forms of child labor, including slavery, forced labor, trafficking, and work that is likely to harm the health, safety, or morals of children. It defines a child as any person under the age of 18.

**Obligations:** Ratifying countries must take immediate action to eliminate the worst forms of child labor. This includes implementing programs to prevent the engagement of children in such labor, providing direct assistance for the removal and rehabilitation of children involved, ensuring access to free basic education, and identifying and reaching out to children at special risk.

**Nepalese Context:** Nepal ratified Convention No. 182 on January 3, 2002. The Constitution of Nepal prohibits the employment of children in factories, mines, or any other hazardous work. The Labor Act, 2017 (2074) prohibits employing children in any work that is contrary to the law. The Child Labor (Prohibition and Regulation) Act, 2000, and its subsequent rules, stipulate that children under the age of 14 should not be engaged in work as laborers or in any hazardous business. In 2023, the government allocated approximately \$35,380 for activities to eliminate child labor, including contributions to the Child Labor Elimination Fund and awareness programs.

Nepal has demonstrated a commitment to aligning its national legislation with international labor standards through the ratification of key ILO conventions and the enactment of corresponding domestic laws. However, challenges persist, particularly in enforcement and addressing issues within the informal sector. Continuous efforts are necessary to ensure the effective implementation of these standards and the protection of workers' rights across the country.

### **Conclusion and Recommendation**

To conclude, 11 ILO Conventions are ratified by Nepal to promote decent working conditions in Nepal and to eliminate unfair labor practices thus protecting the rights, dignity, security and freedom of laborers or workers. These Multilateral Treaties are crucial for the unification of law. The ILO has had an important role in Nepal in developing a constructive and congenial social partnership between the Government and workers' and employers' organizations. Based on this partnership, the tripartite constituents have been able to unionize informal workers, implement a range of social protection measures, amend labor laws, establish a social dialogue mechanism, and ratify ILO Conventions.<sup>12</sup> Having ratified the ILO conventions and many other international instruments, it becomes the obligation of Nepal to respect, protect and fulfill provisions provided by them in the process of domestication of such instruments.

- 1. Strengthen Enforcement Mechanisms:** Enhance the capacity of labor administration by increasing the number of labor inspectors and providing them with adequate training and resources. Implement stricter penalties for non-compliance to deter violations and ensure that labor laws are effectively enforced. According to the ILO's Decent Work Country Programme for Nepal 2023-2027, the country's labor administration is currently overstretched, limiting the effective implementation of legal reforms.
- 2. Formalize the Informal Sector:** Develop targeted policies to gradually integrate informal sector workers into the formal economy. This could include simplifying registration processes for small enterprises, providing incentives for formalization, and extending social security benefits to informal workers. Formalization would facilitate better monitoring and enforcement of labor standards.
- 3. Address Labor Migration Challenges:** Establish bilateral agreements with countries employing Nepali workers to ensure their labor rights and social protections are upheld.

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<sup>12</sup>[https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---iokathmandu/documents/publication/wcms\\_360563.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---iokathmandu/documents/publication/wcms_360563.pdf)

Provide pre-departure training to migrant workers about their rights and available support systems. Implement mechanisms to monitor recruitment agencies and prevent exploitative practices.

- 4. Promote Gender Equality in the Workplace:** Enforce existing legal provisions that prohibit gender-based discrimination and ensure equal remuneration for work of equal value. Implement programs to raise awareness about gender equality and provide support for women facing workplace discrimination. Encourage the participation of women in trade unions and decision-making processes.
- 5. Enhance Social Dialogue:** Foster effective tripartite consultations among the government, employers, and workers' organizations to develop and implement labor policies. This collaborative approach can lead to more balanced and inclusive labor reforms.
- 6. Improve Data Collection and Monitoring:** Establish a robust labor market information system to collect and analyze data on employment trends, working conditions, and compliance with labor laws. This data-driven approach can inform policy decisions and targeted interventions.
- 7. Invest in Capacity Building:** Provide continuous training and capacity-building programs for labor inspectors, judicial officers, and other stakeholders involved in labor law enforcement. This will ensure a thorough understanding of labor laws and effective implementation.
- 8. Public Awareness Campaigns:** Launch nationwide campaigns to educate workers and employers about their rights and responsibilities under labor laws. Increased awareness can lead to better compliance and empowerment of workers to demand their rights.
- 9. Strengthen Legal Frameworks:** Review and amend existing labor laws to address gaps and align them more closely with international standards. Ensure that definitions and provisions are clear to prevent misinterpretation and loopholes.
- 10. Provide Support Services for Vulnerable Workers:** Establish support services for workers in vulnerable situations, including child laborers, bonded laborers, and migrant workers. This could include rehabilitation programs, legal aid, and access to education and training opportunities.

By implementing these recommendations, Nepal can overcome the challenges hindering the full realization of international labor standards and ensure decent work conditions for all its workers. Nepal has demonstrated its dedication to international labor standards by ratifying 11 International Labour Organization (ILO) conventions, including seven of the eight fundamental

conventions. However, 61 ILO conventions remain unratified by Nepal, including one fundamental convention. Ratifying additional ILO conventions could significantly enhance labor conditions and ensure comprehensive protection of workers' rights across the nation.

A critical concern is the limited coverage of the Labor Act and the Trade Union Act concerning workers in the informal sector. With approximately 70% of Nepal's labor force engaged in informal employment, particularly in agriculture, construction, small businesses, and domestic work, it is imperative to extend legal protections to these workers. Revising existing legislation to encompass informal sector workers and implementing measures to formalize this segment of the economy are essential steps toward safeguarding their rights. Additionally, while the Labor Act, 2017 (2074) entitles employees to one weekly holiday, Section 51 of the same Act does not recognize leave as an absolute right. This provision grants employers the authority to refuse, withhold, deduct, or alter the timing of approved leave based on workplace demands. Addressing this inconsistency is crucial to ensure that workers can fully exercise their right to rest and recuperation.

Despite constitutional prohibitions against gender-based discrimination and provisions ensuring equal pay for equal work, disparities persist, especially in the private and informal sectors. To bridge this gap, the government should enforce existing laws rigorously and mandate transparency from companies regarding employment and pay equity data. Eliminating salary negotiations could also help mitigate gender pay disparities. Furthermore, Nepal should consider ratifying the Occupational Safety and Health Convention, 1981 (C155), to establish comprehensive policies on occupational safety, health, and the working environment, thereby preventing workplace accidents and injuries. Ratifying the Violence and Harassment Convention, 2019 (C190), would affirm the right to a work environment free from violence and harassment, particularly benefiting women and promoting their advancement in the labor market.

In summary, while Nepal has made commendable progress in aligning its labor laws with international standards, significant challenges remain. The predominance of the informal sector, weak enforcement mechanisms, and persistent gender inequalities hinder the full realization of workers' rights. Addressing these issues through legislative reforms, stricter enforcement, and the ratification of additional ILO conventions is essential for Nepal to fulfill its international obligations and ensure decent working conditions for all.

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