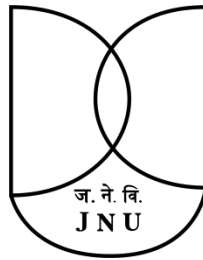


**REHABILITATION AND REINTEGRATION OF
KAMAIYAS IN NEPAL: ROLE OF INTERNATIONAL
AGENCIES**

*Thesis submitted to Jawaharlal Nehru University
for award of the degree of*

DOCTOR OF PHILOSOPHY



Submitted by

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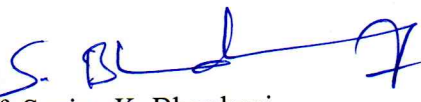
DECLARATION

I declare that the thesis entitled, “**Rehabilitation and Reintegration of Kamaiyas in Nepal: Role of International Agencies,**” submitted by me for the award of the degree of **Doctor of Philosophy** of Jawaharlal Nehru University is my own work. The thesis has not been submitted for any other degree of this University or any other University.



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CERTIFICATE

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Dedicated to my lovely parents

Acknowledgement

The greatest debts are always personal. They are never to be paid, and payment is never asked for. It is enough that they are remembered. In writing this Thesis many people have been helpful and I am indebted to all of them.

To begin with, I express my indebtedness to my respected supervisor Prof. Rajesh Kharat for his timely guidance, unfailing encouragement and generous cooperation which has helped me to overcome all the challenges in the course of writing this work. I owe my deepest gratitude and everlasting obligation to him.

I am very much thankful to Mr. Deepak Adhikari, Director, Neeti Anusandhan Aayog (Kathmandu, Nepal) for his help and support during my field work in Nepal. I am thankful to Prof. Maurities Hasan Khan at Anton De Kom University, Suriname, who gave me the opportunity to present findings of this study at his University.

I am indebted to all the faculty members of the Center for South Asian Studies and School of International Studies who shaped my thoughts and knowledge with their teachings. I am also thankful to the University administration for their cooperation, especially Mr. Sandeep at the Center for South Asian Studies for his timely help. I am extremely thankful to all the staff of Central Library, Jawaharlal Nehru University, staff of Shipra hostel, especially Ramesh Ji (caretaker), who helped me during my stay at the hostel.

I am heartily thankful to my dearest parents Mr. Surender Kumar and Mrs. Maya Devi for their wishes, love and care. Maa, Papa you both are my strength and encouragement.

I would like to thank to my dear sisters Meenakshi di, Bharti di, Mohini, Santosh and my dear brother Bharat and my nephews Gunmay and Riyansh for making me smile at challenging times.

I would like to thank my dearest friend Rishi Gupta. Without his help and support I would not be able to complete this work. He encouraged me every day with his good faith, and appreciation.

Last but not the least; I would like to thank my lovely, beautiful and caring friends and dorm mates Yashaswini Saraswat, Vidushi Tirpathi, and Apurva Borar, for all the care, love and support.

I am thankful to all Bharat Soka Gakkai members for their encouraging words and prayers.

Having been privileged in receiving such love and support, I own responsibility for all the errors or omissions that might have crept into the work.

Sarita

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Abbreviations

ASI	Anti-Slavery International
BASE	Backward Society Education
BBC	British Broadcasting Corporation
BLSAA	Bonded Labour System (Abolition) Act
CARE	Cooperative for Assistance and Relief Everywhere
CASHE	Credit and Savings for Household Enterprises
CBO	Community Based Organization
CBS	Central Bureau of Statistics
CBSN	Central Bureau of Statistics of Nepal
CIDA	Canadian International Development Assistance
CLP	Chars Livelihoods Programme
CRC	Combahee River Collection
ECOSOC	United Nations Economic and Social Council
FKDF	Freed Kamlari Development Forum
FKLDP	Freed Kamaiya Livelihoods Development Project
FNC	Friends for Needy Children
GEFONT	General Federation of Nepalese Trade Unions
GTZ	German Technical Corporation
ICCPR	International Covenant on Civil and Political Rights
IFAD	Fund for Agricultural Development
ILO	International Labour Organization
INGO	International Non-Government Organization
INSEC	Informal Sector Service Sector
LoN	League of Nations
LWF	Lutheran World Foundation
MoU	Memorandum of Understanding
NGO	Non-Government Organization
NYF	Nepal Youth Foundation

R2R	Room to Read
SWAN	Society Welfare Action Nepal
UDHR	Universal Declaration of Human Rights
UN	United Nations Organization
UNDP	United Nations Development Programme
UNGA	United Nations General Assembly
WFP	World Food Program
WOAT	World Organization against Torture
WW I	World War I
WW II	World War II

Chapter One

Introduction

Located on the foothills of mighty Himalayas, with India to its south, east and west and China in the north, “Nepal is one of the most strategically located countries in South Asia” (Humnath, 2019). Buffered between the two giant Asian economies, Nepal has formed an important part of the strategic policies of India and China. As a country, Nepal has a total area of “1, 47, 181 sq. Km, stretching 800 km from east to west and from 90 to 230 km north to south” (MoFA, GoN., 2019). With a population of “approx. 29 million, the country accounts for 0.30 per cent of the total world population, where 80 per cent of the population resides in rural areas” (Nepal, 2019). There are 126 castes/ethnic groups in the country, making it one of the most diverse societies in the world. Among these castes/ethnic groups, “Chhetri is the largest caste/ethnic groups having 16.6% (4,398,053) of the total population followed by Brahman-Hill (12.2% ; 3,226,903), Magar (7.1% ; 1,887,733), Tharu (6.6% ; 1,737,470), Tamang (5.8% ; 1,539,830), Newar (5% ; 1,321,933), Kami (4.8% ; 1,258,554), Musselman (4.4% ; 1,164,255), Yadav (4% ; 1,054,458) and Rai (2.3% ; 620,004)’ (UN, 2018). Hindu religion has the largest followers constituting approx. eighty-one per cent of the total population, followed by 9 per cent Buddhists and rest covered by Muslims, Sikhs, Jains and others” (UN, 2018). “There are more than 100 languages spoken in Nepal, and the majority of the people speak Nepali *Bhasha* (language), which is also used as an official language” (UN, 2018).

In the history of last 250 years of the establishment of the modern-day Nepali state, the most vulnerable part of the country has been the quest for power within the members of the erstwhile ruling royal family and different groups who occupied important roles in the royal family. After the political transition of the country from centuries old rule of the Shah family to democracy in 2008, consolidation of power has rested with the political parties. However, amid the royal and political churning in all these years, prospects socio-economic developments have remained minimum. With the largest agrarian population, agriculture was the largest contributor to Gross Domestic Product (GDP) up to 1975, and in the later stage, a drastic shift was observed where

agriculture was replaced by other products (Osmani & Bajracharya, 2007). By the year 2000, non-agricultural products including natural resources, mining, water, labour force and tourism became the major contributors to the economy of Nepal collectively. In the last one decade, Nepal's labour force working in Malaysia and Gulf Countries has contributed a quarter to national GDP through the remittances sent home.

The shaping of the present day Nepal took place in the 18th Century. The Gorkha King, "Prithvi Narayan Shah, took the reins of the Gorkha Kingdom in 1743" (Upadhyaya, 2008). It was an isolated and least developed Kingdom which generated large portions of its revenue by facilitating the trans-Himalayan trade between Tibetan and Nepali traders. Like his predecessors, Prithvi Narayan Shah aimed to expand the jurisdiction and control of the Gorkha state. In doing so, the Shah King launched an armed bout on the Nuwakot ruled by a strong King Jaya Prakash Malla, and Kantipur (present-day Kathmandu) and Bhadgaon (Stiller, 1968). The conquest of the Gorkhali (Gorkha) Army on these Kingdoms met with strong opposition, but the continuous attempts made it a success. Meanwhile, the Gorkha King led conquest has been narrated differently in the historical archives where historians have called it a successful effort to unify the Kathmandu valley and credit King Shah as the unifier and father of the present day Nepal (Brown, 1996). Other historical accounts mention conquest as sheer greed for the territory and treasure by Prithvi Narayan Shah (Upadhyaya, 2008). After the final conquest of the Bhadgaon, King Shah asserted his rule over the Kathmandu valley, and Nepal became a unified state.

The Shah Family directly held the judicial, executive, and legislative powers to himself from 1769 to 1846. Meanwhile, in 1845, King Rajendra Bikram Shah, in a proclamation surrendered all the sovereign powers to the queen Rajya Laxmi. While the queen short on experience, Rana Jung Bahadur managed to be trustworthy of the queen, and she acted upon the advice of the Jung Bahadur. However, the same year, due to clash of interests with the King's high position officials, Rana massacred many of these officials, and the queen appointed Jung Bahadur Rana as the Prime Minister and Commander-in-Chief of the Royal Army. Appointment of Rana Jung Bahadur as the

Prime Minister undermined the authority of the King. The position of the Prime Minister was passed on to the generations of the Rana family, and as a result, Ranas controlled everything that the Shah family controlled once and Shah King remained a namesake Kings. “The Rana Prime Minister continued to hold power for more than a Century” (Singh, 2004). In the year 1951, Ranas were ousted after King Tribhuvan invited India to intervene and help him to assert his complete authority on the throne.

1.1 Tharus

The Gorkha expansion in the valley as the sole strong power after the unification of the country not only changed the political dynamics from multi-polarity to uni-polarity but also changed the societal model, administrative and legal model of the country. During the authoritarian regime of the Rana Prime Ministers, high caste Hindus managed to dominate the socio-political space in the country (Rose, 1970). The domination of the high caste Hindus led to the manipulation of the laws and discrimination against other castes that fell low in status compare to Kshatriyas and Brahmans. While the upper caste Hindus became part of the establishment and enjoyed, a considerable amount of influence in the royal palace, the working class, especially farmers, labourers and merchants from the bordering Indian plains were allowed to enter in Nepal. They mostly were settled in the *Terai* (plains in southern Nepal). Among these migrant groups, “the oldest inhabitants of the Terai are the Tharus, a tribal group whose habitat extends in both directions across the Indo-Nepalese border. The Tharus are described as a “mixed” tribe, with no agreement as to their fundamental ethnic affiliation” (Rose, 1970).

Tharus have predominantly belonged to the peasant group who ploughed their lands as well as worked as labourers other farms. The Tharu community constituted 6.6 percent of the 27 million population of Nepal. Tharus are indigenous people of Nepal. According Central Bureau of Statistics of Nepal (2007), “Tharu people are in the fourth position after Brahmin, Chhetri, Magar. They are the natives of Terai and some inner part of Nepal extending from east Jhapa to west Kanchanpur of Nepal. There is substantial regional variation among the community in the terms of language, culture, tradition or housing from east to west. They can be divided in sub caste or groups. Mostly, Tharus are

categorized based on their native habitat. People living in the part of Koshi River are called 'Kochila', from Chitwan are called 'Chitwane' and Dang 'Deukhori', Kathariya are from western Terai" (Subedi, 2010) (Chaudhary, 2011). It is also said that:

Tharus are nature friendly and have been paying their respect to nature. Tharus worship their land as a "Bhuihar" divine being. According to the traditional belief of Tharu, land is created by Gurbaba (the god of Tharu) as an 'Ammar Mati'. And the god has gifted land to them. Tharu never developed the notion of private ownership of land and believed it to open common property where the tiller reaps the benefits. During the Shah and Rana period, Terai was colonized and viewed as a source of income. Terai was an important source of income for Rana rulers. Before the eradication of Malaria in the Terai region the Rana government encouraged the people from hills of Nepal, and even from India to settle in Terai (Chaudhary, 2011).

Meanwhile, a chronological study of the Tharus begins with their migration from the Indo-Gangetic plains into modern-day Nepal. In this regard, John Whelpton writes:

In the Eleventh Century, the Arabian traveller Al Beruni used the name for forest-dwellers in the Mithila region of the eastern Terai, but until well into the Twentieth Century these Tharus were probably not even aware of the existence of the people in the Dang Valley in the western Terai or in Chitwan who were also called Tharus. Apart from the name itself, they shared only high degree immunity to the virulent form of malaria prevalent throughout much of the Terai and perhaps also an ultimate origin in one or more early migrations from East Asia. The word 'Tharu' was in fact simply a label for the forest dwellers whose arrival predated that of settlers belonging to the main North Indian Hindu castes. Because Tharus were frequently dominated by new arrivals, the term also came to be used for slaves in general (Whelpton, 2005).

With larger portion of the Tharus community being enslaved as Kamaiya on the agricultural lands of the high caste landlords, an elite section among the Tharus acted as the tax collectors and regulators on behalf of the Rana administration. The Tharu elites were rewarded for their loyalty towards the Prime Rana Prime Ministers in the way of lands and political position. This way Rana regime not only kept a close eye on the activities, growth within the Tharu community but also they managed to suppress any social movements that could harm the interests of the Rana oligarchy. The elite Tharu

group kept a close eye on the cultural aspects of the community, especially in ensuring that no inter-caste marriages were taking place. It was done in order to prevent the cross cultures with the Tharu community (Whelpton, 2005, p. 180). Also, during the Rana regime in Nepal, Tharus were hardly united as an ethnic community; instead, they bore the identity through the caste system that existed within the Tharu community. Even the inter-caste marriages within the Tharu community were taken seriously.

Map 1
Tharu Settlement in Nepal



Source: Joshua Project

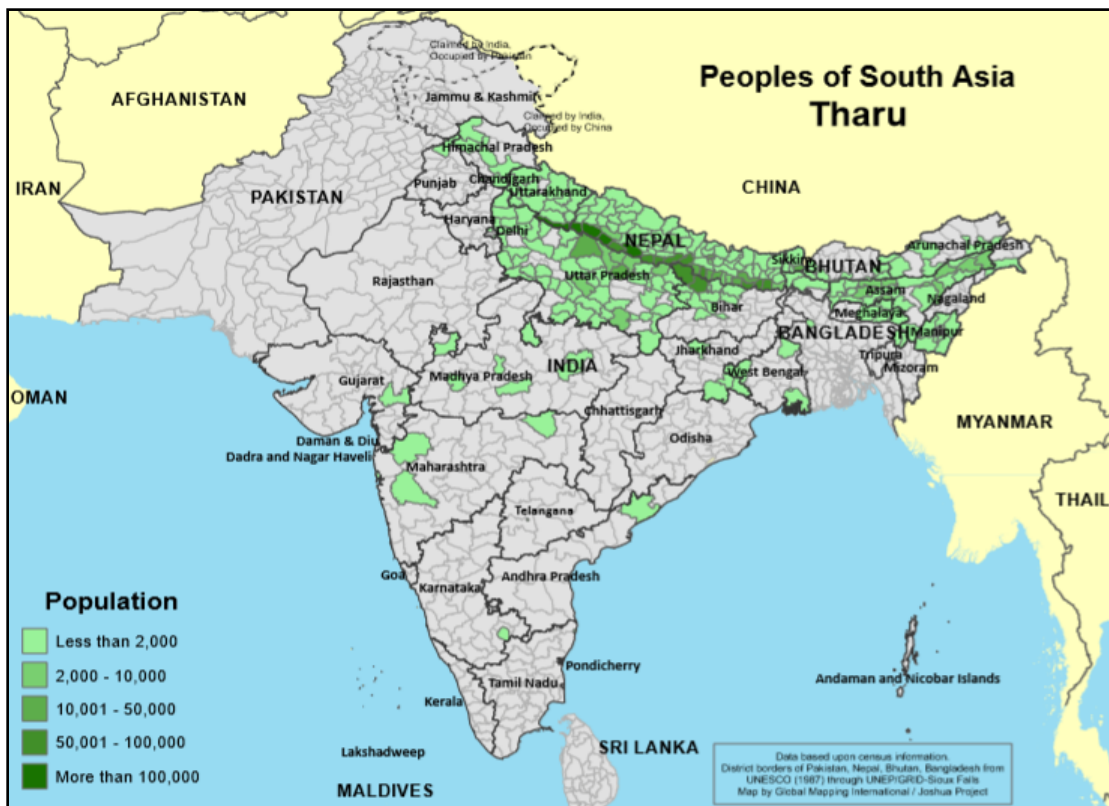
Accessible at: <https://joshuaproject.net/assets/media/profiles/maps/m15464.pdf>

Note: This is the symbolic map showing Tharu Settlement in Nepal (in dark green). It is not meant for measurements or any other purposes.

Tharus of the eastern Terai held different cultural and dress patterns, including their belief system of the Gods. The eastern Tharus were predominantly Hindus, and their political affiliation and reachability in the Royal court were stronger than that of the Tharus belonging to western Terai (Guneratne, 1998). Hence, for long could not unite as a strong ethnic group that could make its united representation in the royal court in order to demand their social and political representation as well as the economic empowerment that had been completely ignored by the Rana prime ministers. While Tharus were looked upon as the labourers deployed in the farms, they had been backward for generations. The

meaning of their backwardness lay in the educational and economic backwardness. Prior to the reinstatement of the absolute monarchy in 1951, it were the elite Tharus whose children could get admitted to the schools in Nepal and avail education but the numbers of children availing education facility were extremely less (Guneratne, 1994, p. 355).

Map 2
Tharu Settlement across South Asia



Source: Joushua Project

Accessible at: <https://joshuaproject.net/assets/media/profiles/maps/m15464.pdf>

Note: This is the symbolic map showing **Tharu Settlements in South Asia. It is not meant for measurements or any other purposes.**

1.1.1 Kamaiya System

In general the Kamaiya system is known as a long term contract (around one year) between Kamaiya and landlords along with its other rural-feudal relations associated in the western Terai region. There are some other long term contact which is prevalent in

other part of the country in Nepal known as Charawa, Harawa, Hali, Gothalo etc. in conformation with the local values. The terms and condition also differ from person to person and place to place. Even at the same time it differs for all types of the workers. The vast majority of the Kamaiyas don't have their own land to build houses and develop themselves. They work 16-18 hours for their proprietors in substitute of lacking measure of sustenance grain (which scarcely bolsters their families), money or kind on yearly contract premise (fundamentally oral contract) with solid integrity of reinstatement again and again. By and large the new contract or re-establishment of agreement happens amidst 'Maghi' (a celebration of Tharu Community). A Kamaiya with Bukrahi can get nearly a greater number of wages than alone. The new loan received is added up annually at the principle amount known as 'Saunki' which increases every year. The reinforced work framework in Nepal is not only inhibited inside of the Kamaiya framework yet is stretched out to different types of work in the agriculture area. "The haliya, haruwa, hali, charuwa, bhunde and chakari are other known types of work practices in agricultural business in which suppression wins" (GEFONT, 2007). In the non-rural sector, human trafficking and domestic work particularly youngster domestics put across obligation servitude in Nepal. These forms of the bonded labour in the form of Kamaiya and Kamlari in Nepal have been very much prevalent for last several centuries.

1.1.2 Tharus in the post-Rana Regime

For Nepal, the year 1951 holds critical importance. The year is not only considered as the altar of the political change in Nepal, but also the changes took place in every sphere of the Nepalese society. With the reinstating of the Shah family to absolute control of the state provided a fresh entrance to active politics and multiparty system, the new royal government brought in several significant changes in the socio-political, economic, and cultural fabric of the country. Structurally the country began to modernise state with construction of the schools, hospitals, and road infrastructure. These developments were drastic, and as a result, people began to migrate from the hills to plains that were more fertile than mountainous terrains. Once known for endemic malaria and feared by the hill people as a dark place was now becoming a region of settlement for the people from the hills and other parts of Nepal. Government, with the help of international organisations,

introduced programmes to eradicate malaria (Guneratne, 1998). Elaborating the history of malaria programme, World Health Organization, in its 2010 Nepal Malaria Programme Review Report mentioned that:

The malaria control programme started in Nepal in 1950 with the establishment of a malaria control unit for the Gandaki hydropower project: An operational field research on malaria control was carried out at Hetauda. Its main objective was to prove that a team of field workers from Kathmandu could carry out malaria control activities and survive in the highly malarious area of Hetauda. During 1954, the Insect-borne Disease Control (IBDC) unit was initiated with assistance from the United States Overseas Mission (USOM), the US government. Its main objective was to control malaria, mainly in the Terai and inner Terai belt of eastern and central Nepal. On 4 December 1958 under the Nepal Malaria Eradication Organization, the Malaria Eradication Programme was launched as a vertical programme with assistance from USOM and WHO. Its objective was to eradicate malaria from the country in a time-bound manner (WHO, 2010).

With the massive migration from the hills to Terai, especially in the western Terai, the readily available lands were now pricey. In the same phase as of the malaria eradication programme, the Government of Nepal introduced land reform policies. These reforms mainly focused on “the insecurity of tenancy rights, excessive rents, and privileged forms of land ownership and use” (Regmi, MC, 1961). However, these reforms were exploited by the agents and agencies that carried the surveys of the land ownership, and as a result, majority of the fertile lands that were until now owned by the Tharus were illegally and manipulatively given to the high caste Hindus. In this context, Guneratne writes:

The situation was particularly devastating in some of the western districts, especially Dang, where much of the land formerly controlled by Tharus passed into the hands of immigrants, mostly Brahmins, Chetris, and Thakuris from the hills. Many of these immigrants used their education, and their caste and kinship affiliations with local government functionaries, to appropriate Tharu land. Also, thousands of Tharu peasants fell into debt and became bonded labour for their new landlord (Guneratne, 1998; Cox, 1990).

With their fertile lands given to the immigrant high caste Hindus, their socio-economic conditions of the Tharus began to crumble. Coupled with the lack of education and awareness of the new laws with regard to land encroachment and ownership, Tharus were forced to plough the lands that once belonged to them. Meanwhile, in 1940, the Tharu Welfare Society was established, which later became one of the leading advocates of the rights of the Tharu community. The society was established during the Rana rule by the elite Tharus and could not pick the momentum in the initial stage as Tharus as a community could not relate their problems with the elite Tharus. However, in the later decades, owing to Society's advocacy for the educational uplift of the Tharu community provided a much needed political recognition to the Tharu movement. Later, this movement had converted into a full-fledged movement under the flag of the Backward Society Education (BASE, 2019).

A chronological study of the social movements led by the Tharu community further provides detailed information on their resistance of the land encroachment, right to education and awareness and their economic upliftment. However, the beginning of the right based Tharu movement was laid through the complete ban of slavery during the Rana regime. On 28 November 1924 Rana Prime Minister Chandra Shumsher in a public meeting announced a blanket ban on slavery in Nepal (Elmer & Whyte, 2012). It was both surprising and an unconventional declaration by the Prime Minister as they had provided a political shelter to the enslavers. While Nepal was still to make a mark on the international platforms and attract global attention, such declarations matched with anti-slavery advocacy led by the League of Nations. However, the enslavement of the Tharus as Kamaiya was not legally recognised as a mode of slavery. In 1943, almost a decade before the Ranas were ousted from the palace, Radha Krishna Tharu organised a movement for the landless Tharus in the Bardiya district. In the later years, the movement was joined by Tharus across Nepal (Maycock, 2018). Even though Tharus as a community were fragmented and every other group had different identity orientations and objectives, their educational backwardness and landlessness had united them. In light of the large number of Tharus joining the movement led by Radha Krishna Tharu, Rana Prime Minister Padma Shumsher ordered a land survey in Nepal. However, irregularities,

false information and manipulation of the land records did not provide any solutions to the landless people, especially the Tharus who had been in dire need. As a result, the movement led by Radhakrishna Tharu protested against the manipulative stances of the landowners.

It is to be noted that the new government of King Tribhuvan Narayan Shah through the first ever census in 1951 had understood the existing economic thaw between the groups, especially the landowners and Kamaiyas. However, land reforms could not deliver the results as expected (Regmi, MC, 1961). Meanwhile, in the first decade itself, the new court signed UN convention against slavery, brought land reforms, developed countrywide infrastructure, and invited WHO to help the country in eradicating malaria. On the other hand, social movements became more prevalent, and the advocacy for the rights of the Tharu community led by Radhakrishna Tharu in Bardiya took a new leap forward.

1.1.3 The *Panchayat* Era 1960-1990

The political landscape in Nepal took a drastic change after the death of King Tribhuvan in 1955. His successor King Mahendra focused on gaining more political clout and authority than that held by his father, Tribhuvan. His infamous policy of ‘Nepalisation’ (Localization) of the country not only changed the socio-political dynamics of the country but also attempted to move away from the Indian sphere of influence to building relations with more countries. Prior to the implementation of the *Panchayat* rule, his coup against Nepal’s first elected government in December 1960 proved to be the launching platform for the *Panchayat* rule. Additionally, the policy of localisation ‘produced considerable demographic and cultural changes in the region and local people’s lives’ (Kantha, 2010). Compare to Tribhuvan era, more and more people from hills settled in the Terai region and “this resulted in the dominance of hill culture, tradition, practices and languages in Madhesh region particularly in Jhapa, Chitawan, Dang and Kanchanpur districts where about 67 per cent to 85 per cent districts total population consist of hill linguistic groups” (Kantha, 2010). During the *Panchayat* rule, a number of Tharu movements began to shape. In 1967, Bardiya district, landless Tharus began to settle in

Jungles and in the meantime, the royal court carried out a study on the situation of the landless Tharus and as well as those under the bonded slavery system of Kamaiya. In the following decades, “Labour Liberation Organisation emerged as the leading advocates dedicated towards the abolition of the bonded labour in Nepal, especially liberation of the Kamaiya” (GEFONT, 2007). In 1990, Nepal polity further took a drastic turn with the reinstating of the political parties, and the *Panchayat* system came to an end.

1.1.4 Post-Panchayat Era and Free-Kamaiya Movement

With the restoring of the political parties, a new constitution was implemented in 1990, which marked the end of the Panchayat rule and arrival of the multiparty democracy. The new constitution, in accordance with the international conventions, had abolished the slavery system in Nepal. Part 3 of the 1990 Constitution categorically mentioned that “traffic in human beings; slavery, serfdom or forced labour in any form is prohibited. Any contravention of this provision shall be punishable by law; Provided that nothing herein shall be a bar to providing by law for compulsory service for public purposes” (GoN, 1990). Although slavery was abolished and criminalised, no rules had been framed in this regard. While the new constitution could have given some relief to the Kamaiya system, looming political instability within the country oversaw issues that were in direct violation of human rights. However, Tharus continued their movement, and with the active arrival of the International non-Governmental Organizations (INGO) in Nepal, the movement further broadened. A local NGO, Informal Sector Service Centre (INSEC) carried a survey on the Kamaiya system in Nepal, and statistics showed the overall poor conditions of the Tharus (INSEC, 1992). The study revealed that out of one lakh Kamaiyas, 93 per cent belonged to the Tharu community, among them, 73 per cent had no home and 98 per cent had no land ownership and 96 per cent people were illiterate (INSEC, 1992). Following the results of the study, INSEC made a strong case before the Members of the Parliament to bring “an ACT to completely abolish the Kamaiya system which was, directly and indirectly, affecting the future of the Tharu community” (INSEC, 1992).

The INSEC led advocacy in bettering the living conditions of the Tharus and demand for a blanket ban on the Kamaiya system through its Kamaiya Liberation campaign in 1994. With the mounting pressure of the NGOs, Department of Land Reforms appointed a commission on landless squatters in 1995 to review landlessness of the Kamaiya (Poudyal, 1995). In the same year, the Ministry of Labour surveyed the five most affected districts, including Bardiya and Banke on Kamaiya. While the government continued with studies and surveys, other organisations including Anti-Slavery International, the “General Federation of Nepalese Trade Unions too carried out a number of studies in last five years of the Twentieth Century” (GEFONT, 2007; Robertson & Mishra, 1997; INSEC, 1992). Following the directives of the court proceedings concerning outlawing of the Kamaiya system, the government published a report entitled ‘Socio-Economic Status of Kamaiya’ with the help of the International Programme on the Elimination of Child Labour (IPEC) and International Labour Organisation (ILO)

1.1.5 Maoist Insurgency

The popular movement in 1990 by the pro-democracy forces forced the royal court to reinstate the political parties, and Panchayat rule met with an end. Meanwhile, the political changes that occurred due to the popular movement (ONHCR, 2012) were politically fragmented, and different approaches held by the political parties on the future course of the political process in the country further widened the gap. In the second democratic elections that were after a gap of almost 30 years in 1991, Nepali Congress Party emerged victoriously and formed the government. However, the leniency of Congress party towards the Panchayat officials in their re-appointment and soft approach towards monarchy led to differences among the political parties. In 1994, one fraction of the “United People’s Front which was the third largest party in 1991 elections, led an armed rebellion in the name of People’s War in 1996” (Rizal, 2004). The guerrilla Maoist movement continued for a decade and ended with a peace accord between the government and the Maoists. In 10 years, from 1996-2006, the world community witnessed poverty, inequality, violence and socio-political and economic hierarchy and exploitation in Nepal. The Maoists were able to gather enormous support from poor and

marginalised sections of the Nepalese society and irrespective of the gender, political affiliations, caste, and ethnicity. Maoists raised the social inequalities and marginalisation of the poor and exploited community at the forefront in conveying the motto of their armed struggle. For instance, “a guerrilla strategy of establishing bases in the rural and remote areas fared the insurgents well in redistributing captured land from absentee landlords to the locals, who could farm the land under a system of cooperatives” (Nepal, Bohara, & Gawande, 2011). In this context, Michael Hoffmann writes:

The UCPN Maoist’s growing political influence in the region, one feature of which had been brutal campaigns against corrupt landlords and political enemies from midway through the insurgency....the Maoists had an office in Tikapur, less than 5 km from the brick kilns, to support freed bonded labourers in the region in their occupation of highly symbolic urban terrain such as the airport, the local high school compound and parts of the local university. It also held rallies to support freed Kamaiya in their fight for land and to advocate for a bandh (strikes), which had led the Maoists to become known in the region as the party of the poor (Hoffmann, 2007).

Fearing the growing sympathy among the Tharus towards Maoist, the Government of Nepal began to issue directives to the ministries as well as the local authorities to implement the welfare programmes. However, due to the strong control of the Maoists in districts with Tharu population, government attempts to reach out to people failed miserably.

1.1.6 Abolishment of Kamaiya System

With Maoist revolution achieving popular support and monarchy facing a turbulent time in fighting the Maoist guerrilla fighters followed by a massacre by “the crown prince that killed King and other members of the royal family,” (Gregson, 2002) the Government of Nepal met with complete political instability. On the other hand, Maoist's reachability among the marginalised, exploited, and prompt justice delivery mechanism resulted in mass support for them. However, in the year 2000, the Government declared a complete ban on the Kamaiya system and thousands of the Kamaiyas were liberated. In the next two years after the declaration, Kamaiya Labour Prohibition Act in 2002 which waived any loans that were taken by the Kamaiyas and it also ensured that no families were faced

with the loan repayment in future (ASI, 2009). Any fall backs or cases of Kamaiyas were criminalised, and the government began the process of rehabilitation and reintegration by providing Tharus land ownerships, skill development training and cash awards. As per the Kamaiya Labour Abolition Act, 2002 (Nepal Law Commission, 2002):

- Persons working in as Kamaiya laborers at the season of the initiation of this Act should be liberated
- No individual might keep Kamaiya worker after the establishment of this Act
- Kamaiya labour need not repay the Kamaiya advance (saunki)
- Bond or agreement (composed or verbal) identifying with the Kamaiya loan should be cancelled
- Any property got by the loan recipient as a contract/security while supplying Kamaiya advances must come back to the concerned individual inside of three months from the date of authorization of this Act (Nepal Law Commission, 2002).

“However, this declaration of liberation for Kamaiyas was only a milestone, from where a number of activities had to be undertaken with a serious endeavour in order to make them capable to enjoy the freedom in the real sense” (GEFONT, 2019). In the later stage, “complications rose and the problems intensified after the declaration of liberation when the government could not manage the rehabilitation of the free-declared Kamaiyas” (GEFONT, 2019). Government’s attempts remained hollow on the rehabilitation part as looming political instability was already causing administrative deficiencies. With the liberation of the Kamaiyas in 2002, several leading advocacy organisations working for the human their human rights came together and merged to strengthen their cause further and push the government for timely implementation of the welfare schemes (Gallagher, 2017). For instance, Freed Kamaiya Progressive Society, Kamaiya Jagriti Samiti, and Kamaiya Struggle Committee merged into one namely Freed Kamaiya Society, and one of the first acts of the society included land grabbing movement which was supported by the Maoists.

1.1.7 Kamaiyas, Kamlari and Democracy

After a decade long Maoist revolution followed by people's war, a Accord was signed between the Maoists and the government. The peace accord marked the end of the war and Maoists agreed to be the part of the mainstream political process of the country. It is to be noted here that the Peace Accord was a comprehensive document where both, the Maoists and the Government agreed to a number of political, economic, social transformation and conflict management. Importantly, a direct inference was made in the context of the Kamaiya in the peace accord. Article 3.10 of the accord categorically mentioned that the two parties agree "to adopt a policy to provide land and other economic protection to landless squatters, Kamaiya, Halia, Harwa, Charwa and economically backward section" (GoN, 2006). The year 2008 marked an end of the Monarchy in the country, and in the same year, democratic elections where "Maoists contested under the banner of Unified Communist Party of Nepal (Maoist) were held" (Hoffmann, 2007). To many a surprises, the "Maoists emerged victorious by winning a majority of the seats in the first Constituent Assembly. Also, as a result of their support to the cause of Tharus against the Kamaiya system, every electoral seat in all the six electoral constituencies was won by a Maoist candidate in Kailali" (Hoffmann, 2007).

Following the first democratic elections in 2008, the Maoist government reiterated its commitment to implement the Kamaiya Labour Prohibition Act, and in September 2008, the Government of Nepal also banned Kamiaya system, but the government 'neither conducted a detailed study nor initiated a rehabilitation programme (Giri, 2010). Meanwhile, the local and INGOs continued studies and rehabilitation process for the freed Kamaiyas and their families. In this process, families of the former Kamaiyas united and began public demonstrations against the exploitation of the Tharu girls and women who had for long been part of the exploitation by the landlords under the bonded system called Kamlari. The Kamlari system has its genesis in the Kamaiya system where Kamaiyas worked in the fields and wives and daughters were enslaved as the domestic workers. "In May 2013, campaign groups, including former Kamlari girls themselves, united to carry out a ten-day protest, calling on the Nepalese government for immediate change. They secured a significant number of promises, including an official

announcement of the abolition of the Kamlari system on 18 July...until that time, the Nepalese government had passed several anti-child labour laws without specific reference to the Kamlari system, but these remain poorly implemented” (Kids Rights, 2014).

With several declarations to abolish slavery since the Rana period to present a democratic era, Nepal has introduced laws and criminalised any future systems of slavery that have been in direct violation of human rights. Also, in accordance with the international declarations by the United Nations and the International Labour Organization and others, Nepal has introduced mechanisms to abolish any forms of modern day slavery. However, in this process, International Organisations have proved to be the most effective agencies since the 1990s that have effectively brought a change in the lives of the freed Kamaiya and Kamlaris.

1.1.8 Role of INGOs and NGOs in Rehabilitation

The United Nations has defined “human trafficking as an international crime. The world body estimates that this illegal trade generates more than US \$12 billion worldwide making it a lucrative business. More than 800,000 people are trafficked annually and forced into prostitution and threatened with death if they attempt to escape the clutches of their captors. At this moment, there is only one UN instrument that addresses young girls trafficking—the 1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others” (Adhikari, 2007). In spite of the fact that Nepal sanctioned the tradition in 2002, the tradition does almost nothing to shield “women from the human rights infringement submitted over the span of trafficking or to give solutions for them. Other UN traditions (ICCPR, ICESCR, the Rights of the Child, CEDAW) are all extra implies that can be used on a worldwide level” (Adhikari, 2007). Restoration and reintegration of trafficked returnees are integral to the exercises of these associations some of the NGOs working around there are “Maiti Nepal, ABC Nepal, WOREC, Shakti Samuha, CWIN and FPAN” (Chaulagain, 2011). These NGOs have accentuated the social reintegration of the trafficked female returnees and are all that much centered on the reclamation of their human rights. “They have been leading different restoration programs consolidating social, mental and financial parts. They are focusing their

projects on mindfulness, salvage, repatriation, reintegration and manageable employments and at the grass root level, they have led social activation programs with open mindfulness on trafficking. Coordination and association is based on every level of its exercises. Some NGOs have cautiousness cells in various periphery regions of the nation. Advising and protect for the survivors and restoration focuses are additionally in operation” (Chaulagain, 2011).

Amnesty International had proposed a “consultation to develop a policy to protect the human rights of sex workers. As a worldwide human rights association, Amnesty International has an obligation to evaluate how best to avoid human rights infringement. All things considered above, it would be accurate and appropriate to take glance at a standout amongst the most impeded gatherings of individuals on the planet, regularly compelled to live outside the law and denied their most essential human rights: sex labourers” (Amnesty International, 2016). They might want to “claim to be the first to address this issue. Yet, we are most certainly not. Different gatherings which bolster or are requiring the decriminalization of sex work incorporate the World Health Organization, UNAIDS, International Labour Organization, the Global Alliance Against Trafficking in Women, the Global Network of Sex Work Projects, the Global Commission on HIV and the Law, Human Rights Watch, the Open Society Foundations and Antislavery Global” (SBB, 2019).

1.1.9 Rehabilitation Programmes

Various NGOs and International organizations are engaged to develop the Kamaiyas. Their work has impacted mainly two areas- first, it helped to financially strengthen them at grassroots level and second, it gave them stability by making them aware of their rights, giving them opportunity for development. Few of such organizations are working for the welfare of Kamaiya such as “BASE, INSEC, RRN, SPACE, GRINSO and an exchange union—the General Federation of Nepalese Trade Unions (GEFONT)” (OMCT, 2001) which has been associated with the developmental work for Kamaiya from the very beginning. These include various programmes as mentioned below:

- Awareness
- Literacy
- Skill development training
- Vocational training
- Income generating
- Food for work
- Kamlari Help Programme
- Kamaiya Mobile Fund Program
- Integrated Social Programmes
- Micro Credit

In the process of rehabilitation of the Kamaiya community, the option for land distribution (according to abolition act 2002) is only for male and the females are not entitled to such options. As a result females remain property less. “The escalating situation in the region and in the country as a whole also has bearing on the intractability of Kamaiya rehabilitation issue. In Nepal, the practice of bonded labour is not confined to Kamaiya system only. Research and consultations reveal the similar type of problems that exist in various forms and names all over the country. Trafficking is considered as a type of modern slavery. Trafficking of women and young girls remain a complex socio-economic, political issue in Nepal” (GEFONT, 2007). The numbers of women and young girls forced into the sex business has expanded in the last few years. Women and children are trafficked for works related to carnival, residential, weaving, and sex trade. Among them trafficking is the most rampant. “At present it is evaluated that around 0.25 million Nepali women and young girls are constrained as sex laborers in the houses of brothels of India alone. As ILO estimate that around 10 to 12 thousands young women and matured girls aged between 11 to 25 are yearly sold to the houses of brothels and forced to work as bonded labourers” (GEFONT, 2007). The numbers of regions that have been influenced by trafficking have come to 31 at present. Among them Nuwalkot, Sindhupalchowk, Makawanpur and Kavre are more influenced areas. Jhapa, Morang Rupandehi and Kathmandu rank in the second classification.

Greater part of the projects are concentrated on youngsters, children, women from the Kamaiya families. The genuine “number of the target population is not known, but rather a general estimation holds that the population size of Kamaiya and their members exceeds to 100,000” (GEFONT, 2007). Be that as it may, no single intercession project has been actualized for the discharge and recovery of the women and children trafficked and sold in massage parlours, bazaar and local work as a private worker. It is important to note that although women contribute to half of the number of any country’s population, they have been mistreated and sexually misused. Their status, nonetheless, shifts among more than 60 ethnic communities that exist in the nation today. The “Constitution of Nepal has ensured the equality and rights to women; however exploitation and issues against women are seen in various ways. Age-old patriarchal framework, social practices have harmed the women in many ways. They have been viewed as commodities” (Adhikari, 2007) and as a result of belonging to the lower class; they were segregated in social, economic, cultural and political fronts too.

“The history of bonded slaves in Nepal can be traced back to the Rana administration that continued for hundred and four years since 1846 A.D” (Adhikari, 2007). There are few reported documents on the bonded women in Nepal’s history and certain cases of sex bondage can be found within Rana regime. It is known fact that “there used to be formal and casual wives (courtesans) of Ranas as per their wish” (Adhikari, 2007) and they were treated as a subject of extravagance. Some social frameworks led to the creation of forced sex slavery. The group in “western part of the nation, particularly in Dang region, has made sexual subservience as a lifestyle, since history. Young women from this group serve different community. This has turned into a custom and a method for work. Numerous women, regardless of the fact that they are unwilling, are compelled to serve as sex slaves” (Adhikari, 2007).

With the “fall of Ranas in 1950s a large number of them fled to neighbouring India with their belongings. On account of monetary hardship there in India, they were not ready to manage the cost of their earlier way of life. For monetary security and job, their women were compelled to work outside their own homes. Some of them even ran

the houses of brothel and began to select girls from their regions of from Nepal. This initiated the women trafficking from Nepal to India. The most influenced territories of such selections are Makawanpur, Sindhupalchok, and Kavre locale. This has now stretched out to other parts of the nation” (Adhikari, 2007). In spite of the fact that “there is no record of every one of those included in sex servitude in and outside the nation, the number could surpass 200,000. The group is as yet doing its business in a few regions of the nation. Despite the fact that prostitution is unlawful in Nepal, numerous hotels and restaurants are occupied with such services which are underground. Numerous massage parlours focus and magnificence parlours are likewise doing this unlawful business for easy income. The business is generally less unsafe and the speculation is nearly nothing from the earliest starting point. This industry apparently has joins with high positioning authorities and even political pioneers” (Adhikari, 2007).

The traditional model of trafficking that considered a particular ethnic group with financial deprivation has been replaced by new approaches, namely, social, financial, political and authoritarian ones. The trafficking of “young girls and women is connected to their low social status because of which they are powerless against being trafficked unconsciously and unwillingly. Another type of sex suppression exists in the relationship among the medieval rulers and the low paid and low cast women who are mostly utilized to work in the homes as domestic help of the landowners” (Adhikari, 2007). The Kamlari framework is one such case of oppressed class assaulted and sexually abused by the owners and their children. These cases are not really recorded and no particular information is available. There are two kinds of trafficking that are prevalent in the Terai district of Nepal. Which are soft trafficking and hard trafficking. Soft trafficking is when young girls are taken to Kathmandu or India or other region (Gulf countries and East Asian countries) under false promises of ensuring occupation or for marriage proposals. Hard trafficking is when young girls are sold at the exchange of a price which may vary from US\$ 200 to 600. Sadly, they are even reduced to objects of social shame, ridiculed and out castes by not only the society but also by their own families.

With this overview of the slavery, the present research provides an overview of the government efforts in abolishing the modern day slavery with particular focus on the Kamaiya and Kamlari system. The cardinal focus of this study is a critical analysis of the attempts and mechanisms that have been deployed by the international agencies to abolish slavery, spreading awareness, and rehabilitation and reintegration of the freed Kamaiyas and Kamlaris through skill development programmes, financial assistance, education, poverty eradication, small and medium level industry development, etc. Since the reintegration and rehabilitation of the freed Kamaiya and Kamlaris is an ongoing process, concluding part of this study will provide a holistic overview of the present living conditions of Kamaiyas and Kamlaris. It will also focus on the present day challenges that have obstructed the future welfare.

1.2 Review of Literature

The literatures available for the proposed study are in the form of books, research articles, government reports, survey and documents displayed on various websites and articles in the newspapers. These provide a comprehensive knowledge on the issue of slaves, its origin, implication and solutions. It reflects that historically, several countries of South Asia have been generated and received flow of slave (trade) in large number.

1.2.1 Theoretical Perspective

The concept of slavery is one of the most debated subjects of the modern day era; mostly due to its present association with the question of human rights. From its known history, slavery has existed across centuries and often seen through the prism of cultural practice, religious act or a form of employment. However, the bone of contention had been the definition of it along with the absence of demarcating line that could provide clarity on slavery as a form of service by choice or a forced mechanism to exploit the human kind. For a conceptual clarity of the subject, two words require an acute attention. One, service and the second includes servitude where service is “recognised alike by Divine and human ethics; the other abhorrent to both. Service is free, covenanted, and honourable. Servitude is constrained and degrading. Service is for a day, a week, a year, or years. Servitude is for life. Service implies subordination, and often allegiance. It implies on the

part of those to whom service is rendered, rule, lordship, or an exercise of authority, but under limitations...servitude on the other hand, *is essentially abuse* with no check beyond the holder's conscience or caprice" (Citizen, 1861). In this forced mechanism, the slave owner is attracted by the benefits that are attached to the inhumane practices like slavery. Hence, forced service and exploitation are the two fundamental connotations that exist while discussing contemporary discussion on the slavery. Another relevant sociological understanding of slavery is provided by H.J. Niebeor where he defines slavery as "an organ in the social body performing a certain function...by which one man does one kind of work and a different kind. A slave is the property or possession of another man, and forced to work for him" (Niebeor, 1900).

In tracing the chronological history of slavery, the New World of slavery is believed to have begun in the early Sixteenth Century "when Spanish and Portuguese colonies in Mexico, Central and South America, and the Caribbean needed cheap labour" (Froloff, 2009). The fundamental line that has remained common over the centuries with regard to Slavery is the association of the free or cheap labour, and in most cases it is the slave who is on the vulnerable side to be exploited. However, for a better understanding of the slavery as an institution, the existing theories are must to be taken into account. In doing so, various underpinnings of the subject across the established disciplines including sociological, cultural, economic, ethnic of slavery offer a great amount of substantiality and focus on the subject.

From a sociological point, slavery is a long existing institution and remained a part of the human revolution. However, from the known accounts of the slavery which begins with the slavery in the United States, the race hierarchy played a cardinal role. The hierarchical model of relations between the races resulted into exploring the details on the rise of the black movement in the United States which had ultimately invoked the civil rights movement (Lowen, 1982). Meanwhile, the hierarchical model was just not limited to the racial differences that led to the enslavement of the black community, the ethnic, religious, cultural and nationality related issue played a critical role in establishing slavery as an institution. Mostly, in the later aspect, the slave was different in the race,

nationality, ethnicity and religion followed by his/her owner (Encyclopedia Britannica, 2018). On the religious front, A.P. Watson in his leading works captures the religion as the basis for belief and reason for in the evolution of the slavery by capturing its global narratives (Miller & Smith, 1997).

French scholar Claude Meillassoux in his anthropological and sociological account of slavery theorizes that the modern day description of the slavery does not capture slavery in its full context. There are wider differences in discussing slavery from a legal point and reality of slavery as a social system (Klein, 1986). For instance, imprisonment of a person does not necessarily will lead to slavery but in the case if slavery, limitation and abandonment for external movement will surely be looked upon from the prism of slavery (Meillassoux, 1986). On the social front, Meillassoux theorises that slaves had no social identity. They were deprived of establishing personal links as well as could not avail a civil identity (Meillassoux, 1986; Klein, 1986; Miller & Smith, 1997). Additionally, one of the best regarded theoretical aspects of the slavery has been depicted in the work of H.J. Nieboer titled, “Slavery: As an Industrial System” (Nieboer, 1900). In his works, Nieboer has done a thorough analysis of slavery institution across the globe from the United States to Asia and Africa to Pacific (Kulischer, 1883). In the South Asian context, in determining the role of social status, caste, creed, ethnicity, culture, and religion have not only led the foundation of slavery, they have formed the broader matrix of its long term deployment as a social challenge. It has existed under different names like *ghulam*, *banda*, *laundi*, *boi*, *dasa* as well as systems like *bandhua* (bonded), *Kamaiya* and *Kamlari* system that prevailed in Nepal (Chatterjee & Eaton, 2016).

From an economical point of view, slavery has been reasoned in many aspects. According to Meillassoux, slavery was basically an economic relationship. “Slaver-riding and slave use developed in response to the demands of the market, a market which was both external and internal. Enslavement involved both capture, an initial act of violence, which pulled the person from the society in which he or she was nurtured, and the movement of the captive to another society, in which he or she was inserted as slave”

(Meillassoux, 1986; Klein, 1986). Meanwhile, among the highly ascribed literatures, Adam Smith is considered to have done an extensive work on slavery and its economy. His primary views on slavery are from his “Lecture on Jurisprudence vide report of 1762-3, delivered on Tuesday February 15, 1763, and then the next day Wednesday, February 16, 1763; these lectures were not published until 1978. The following paper details Smith's pessimistic attitudes towards slavery. For Smith, slavery had existed since the beginnings of time and there was little likelihood of its ever being completely abolished in the future. The condition of slaves grew worse as the society became richer and more free. In slave-owning societies, the growth of the wealthy was deleterious towards the rest of the populace” (Pack, 1996). Meanwhile, in Adam’s view, “slavery was highly inefficient compare to a freeman’s work delivering twelve times higher output” (Guay, 2018).

While discussing slavery in the context of Nepal, the economic aspect becomes relevant tremendously. The Kamaiya and Kamlari belong to the Tharu community which has primarily depended on the agricultural land. While once upon a time, Tharus could trace back their lineage as the rulers of the Terai, centuries later, they were left landless due to the fact that they were forced to migrate by the wealthier migrants who entered the Tharu inhabited are in the past. Hence, a group that was forced to migrate from their own lands and live in isolation for long were ‘soft target of cheat and misuse of power. The Tharus of Nepal are honest, simple and hardworking people’ (Ranjan, 2018). It was the hierarchical model where the ruling high caste Hindus took away their lands and left them landless (Ranjan, 2018). The economy of the land did not help them but it helped the landlords since they enjoyed their position in the power structure of the society (McLean, 1999). The landlessness not only changed the economic perspectives of the Tharu community but also it led to downgrading their socio-cultural identity with no human rights attached to their lives for centuries (McLean, 1999; Geisler, 1993; Goodland, 1985). Therefore, there might be different outcomes of the slavery as well as achieves certain ends but all the outcomes are exploitary in nature. Kevin Bales in his *Theory of Modern/Contemporary Slavery* writes that “through a set of assertions concerning the impact of global demographic and economic change on the nature of

slavery” has changed over the years but today, slavery is more costly compare to previous centuries (Bales, 2005).

From the Human Rights perspective, Goffman “produced deep sociological and theoretical perspective of Human rights as a concept” (Goffman, 1963). In his work “Stigma: Notes on the Management of Spoiled Identity” (Goffman, 1963), he “provides a systematic introduction, theory and research findings. It also provides major theoretical perspective, social satisfaction, power and politics” (Goffman, 1963) in an elaborate manner about how women have defined and constructed their ‘Self’ in the society and in the reintegration process. For a larger perspective we need to understand the “Self-Identity” theory which is based on symbolic interactions. According to him the theory of Stigma primarily shed light on consequences of stigma and their impact on construction of ‘Self Identity’. He added that “it results in social exclusion and discrimination of an individual. Stigma can result from particular characteristics like physical deformity or can be generated from negative attitudes towards the behaviour of a group like prostitutes” (Goffman, 1963). Hence, always, there are new grounds discovered to discriminate. “It is seen as characteristics of lineage or group ties that may include issues of nationality, race, colour, religion, ethnicities. People with tribal stigma bear stigma throughout their lives. It may often grow up in an individual and affects the other members of his/her family which compels them to be stigmatized” (Goffman, 1963). “With the help of Goffman’s concept of stigma, this study not only analyses how women are stigmatized by society but also explores how they are humiliated and humiliate themselves. Stigma is a social construct that varies from one community to another. People can be stigmatized only within the contexts of culture and society, historical events, social or economic situations and not because of inherent attributes. Moreover, an individual’s self-esteem is ruined due to the stigma in him/her. Stigmatized people often lose their confidence comparing themselves to others in the society. Their sense of self is harmed by social stigma” (Goffman, 1963).

In terms of agency and empowerment, Kabeer states that “it is related to the notions of power and it’s opposite that is; powerlessness or the absence of power”

(Kabeer, 2005). “It is a process of change from the feeling of powerlessness (‘I cannot’) to collective self-confidence (‘we can’). This change directly questions the ability to utilize power. There are three types of power, power over, power to, power within. The first type of power, ‘power over’ deals with the controlling power over something. ‘Power to’ relates to the creation of new possibilities and decisions free of domination; and power within describes the sense of self confidence, that is, sense of having individual potentials” (Kabeer, 2005). Kabeer “highly stresses on the ‘power within’ and argues that self-confidence and individual interest play an important role in an individual’s empowerment. She further looks at three closely interconnected dimensions of empowerment. These are: agency, resources and achievements. She notes that agency is the process of making choices. Resources refer to the means by which agency is exercised and achievements are the result of agency” (Kabeer, 2005). “Empowerment framework also highlights the role of individual agency in women’s empowerment. Therefore, the theory of agency and empowerment becomes irrelevant in the analysis of how the interest and capability of survivors are enhanced through interventions of NGOs. It helped in the analysis of the power relations between individuals (survivors) and the NGOs with consideration of individual agency” (Kabeer N. , 2003). “This theory also helped me to analyse how survivors perceive disempowerment and their own possibilities of self-dependency. More so, it helped in the understanding of how trafficking victims perceive empowerment and how their future wishes help them to be empowered” (Kabeer N., 2003).

1.2.2 Evolution of Kamaiya System

By definition, meaning of the Kamaiya system in the local Tharu language is a hardworking man (Ranjan, 2018). “Kamaiya is also regarded as ‘a hard tiller of land, earner, manly or obedient person, one who earns along with his wife under the lordship of a landowner” (ISSC, 1992). “On the surface, Kamaiya system is contractual agreement for one year initiated during the festival of *Maghesankranti*, or *Maghi*, (the first day of the Magha month of the Nepali calendar. During *Maghi*, an agreement is made between the upper-caste landowner and a male *Tharu* peasant, where the labour of the peasant’s family is exchanged for loans (*sanuki*) of various kinds” (Kara, 2012). After *Maghi*, “the

landlord would pay out an advance in quintals of rice to the Kamaiya. The owner of the Kamaiya noted the amount of this *saunki* and calculated the value in monetary terms, most frequently causing the relationship between master and Kamaiya to turn into one of debt dependency” (Hoffman, 2018). “Kamaiya does not have tenancy on the land they cultivate” (ISSC, 1998). These lands belonged to the high caste Hindu landlords and due to their power equation in the society, the terms and conditions of the contract were in put in their favour and they exploited the contract to their best interests which ended up as the enslavement of the Tharu male members as Kamaiya (Lamichhane, 2006; Basu & Chau, 2004).

With their ancestral roots found in the adjoining India and now settled in the Terai (Plains) in the Southern part of Nepal, Tharus has long been part of Kamaiya system. With factors evolving migration, environment, land and ownership, for any research “it is essential to study that basic understanding of social status for initiating study of any country” (Guneratne, 2002). Works carried by the Prof. Guneratne on the “social and demographic changes that took place over the year and the effect of these changes on the population structure of Nepal” (Guneratne, 2002) especially in Terai, provide a critical data for the study. His works review the mechanism of changes in population and how this alters the profile of a country and provides basic and deep understanding that a large population of Nepal is comprised of young people which makes it the force of the country and in the case of Tharus, their hard working nature and social degradation forced them into Kamaiya system. Guneratne based on a wide range of primary and secondary information and covers a broad range of topics and a moving discussion exceptionally informative and will be for great value to anyone interested in things pertaining to Tharu people (Guneratne, 2010). The author connects the demographic profile with lower fertility and lower mortality. These factors are seen to be associated with the Kamaiya (Tharu) livelihood. So, a demographic change has its consequences and it helps to prepare a structure to forecast and analyse the trend of changes that has taken place. For instance, After Malaria had hit the Gangetic plains in the area of Gorakhpur, the community shifted towards Nepal and steeled in the Terai region. Since they were primarily cultivators, climate in the Terai suited their requirements (Guneratne, 2002).

According to the author, the Tharu, on their part exploited because of the “lack of the education” (Guneratne, 1998), he also describes the local history and politics of the community.

The Kamaiya system was abolished, the “Government of Nepal declared the abolition of bonded labour and the system was rendered illegal by the Government of Nepal in 2002” (Ranjan, 2018; Lilienfeld-Toal & Mookerjee, 2010; Cheria & Upadhya); and as a result, Kamaiyas achieved their basic right of freedom and the exploitative debt system was over. This book documents past approaches how “Kamaiya system of bonded labour got deep-rooted in Nepal, the liberation movement the challenges of their relief for livelihood, rehabilitation and social restoration, tracking the encouragement element” (Adhikari, 2007). Dhakal (2007), describes the existence of forced labour in Terai. This provides important information about the situation of labour and the process of recruitment, living and working conditions, and survival options and strategies. It only covers three districts of Terai with no scope for estimating the magnitude of labour even at the district level. It also provides the perspective of employers, organizations, Dalit organizations and other key stakeholders.

A research conducted by the “World Organization Against Torture titled, *the Kamaiya System of Bonded Labour in Nepal* further discusses the role of state, organizations and their impact on Terai population in Nepal, especially on Tharus” (OMCT, 2000; Robertson & S., 1997; Bista D., 1991; Shara & Thakurathi, 1998). It evaluates condition of the Kamaiyas prior to the free-Kamaiya movement, and their day to day life in the post-abolition in 2002 along with their status as a bonded labour on their own land. The study is an important work in evaluating the joint efforts by the government and International agencies, challenges of human rights protection, and efforts done by the national and international organizations, followed by description of the movements which have been mobilized by the community in order to find a solution to the problem, including repatriation and rehabilitation of the Kamaiyas. In a similar effort, the report of the Asia Foundation Program (2001) has endeavoured to address the accompanying inquiries on young girls trafficking: “How powerful are Nepal's

arrangements and project in forming firm and viable national hostile to trafficking procedure? What are the hidden states of mind and values about trafficking and what impact do these presumptions have practically speaking? Are counteractive actions, care, and bolster exercises to the trafficked women and young girls satisfactory to guarantee their human rights?" (Asia Foundation, 2013). While most of the studies on Kamaiya provide a historical background of the Kamaiya System in Nepal in the context of bonded labour, Asia Foundation reports form an important source of data on contemporary issues and challenges with regard to modern slavery in Nepal, especially Kamaiya system.

1.2.3 Religion as a Factor in Determining Slavery

Religious texts and scriptures provide an ethical and moral perspective of human rights. The religious codes and conducts have had far reaching implications on social, political and economic conditions of society. Hence, the religious interpretation of human rights continues to remain as a one of the strongest influences on the masses even to the present day. In most of the dominant religions across the world, norms of the society have well been defined. However, in many cases, many of the code of conducts of traditions have continued despite relevance of the practices have faded and remain irrelevant to the contemporary times. With regard to slavery, religion has played a similar kind of role. Works of Orlando Patterson are interestingly important in this regard. In most of his works on slavery he has dealt with religion as a factor in justifying slavery, bonded labour and other such human rights violating practices (Patterson, Slavery, 1977; Patterson & Fosse, 2015; Patterson, 1997). Gail Omvedt is yet another scholar whose works on caste, religion, discrimination and society are worth to be taken into account. Her works provide a basic understanding of caste, class and land as a tool of social exclusion to exploit weak sections in the society in the larger South Asian context and India in particular. Her works discuss how a system of exclusion where in a large mass of population has been excluded from the mainstream and the religious sanction provided to the caste system has been the primary reason for its existence and continuation. It also presents the historical background to shape the basic understanding of the society and their implications on the present scenario (Gail, 2017; Gail, 2006; Gail, 2012; Gail, 2003; Gail, 1994).

At the global level, studies have been carried out to look into the religion as a factor in human exploitation through institutions and systems like slavery. While discussing Christianity in the Africa and the United States, Priest Josiah has elaborated thoroughly about the Christianity, especially Church keeping silent on enslavement of the Africans (Prist, 2015). Many of the studies cite that there are direct references made in the religious texts like the Old and the New Testament (Wesley, 1812; Danehower, 1957; Bible Study, 2018). On the other an ample amount of literature provide a complete scenario of the anti-slavery movements. (Britanica Encyclopedia, 2019; Harlow, 2006; Rae, 2018). Similarly, in Buddhism which is considered as the most peaceful religions have its elements of slavery. Meanwhile, in Buddhism, there are no direct inferences on Slavery yet the practice and cultural and traditional part of the societies where Buddhism is followed as a state religion, show the cases of slavery, especially in Thailand, Bhutan, Sri Lanka and Nepal (B.C., 2017; Arnold & Turner, 2018; Irons, 2008; Sinha, 2004; Kapur-fic, 1998; Peach, 2006; Letizia, 2014; Peach L. J., 1999).

In the case of Islam, debates have poured in across the world with regard to slavery in Islam. In discussing this, “scholars have used terms like ‘Islamic Slavery’ or *Muslim Slave Trade*” (BBC Publications, 2009). However, for others it does not make a huge difference as in both the cases, Islam acts as a determinant in sheltering the slavery as well as filing to denounce it. William Gervase in his works on Islam and slavery has cited a number of religious texts where direct inferences are made with regard to slavery (Gervase, 2006). Further, J Alexander looks provides a chronological study of spread of Islam in African continent where slavery became a social norm (Alexander , 2001). In the contemporary context, the case of the Islamic State in Iraq needs to be put in perspective while discussing Slavery. The Islamic State in Iraq has not only justified the Islamic Slavery, but it has institutionalized it (Uibu, 2018; Loveluck, 2019).

Hinduism as the fourth largest religion in the world has on the other hand several slave. With its dominant spread in India and Nepal, practices like Das Pratha, Devadasi, Kumari System in Nepal have been part of these societies. Meanwhile, at the places where slavery is not defined in literal terms, they have/had been practiced under the caste

hierarchy (Buitenen & Narayan, 2019; Sharma S. M., 2015; Major, 1772-1843, 2012; Letizia, 2013). On human exploitation, especially concerning woman and prostitution in Hinduism, Sukumari Bhattacharji has touched upon the several aspects of religion and religious scriptures. In her works “The Indian Theogony: A Comparative Study of Indian Mythology from the *Vedas* to the *Puranas*; Legends of Devi” (Bhattacharji, 1996) and other research articles she explores “prostitution as profession that has appeared in the literature of a few centuries after the Vedas, prostitution covers the period between 15th to 18th centuries and in the context of Indian culture, it is important to acknowledge the fact that most Indian women who chose to become a part of prostitution were essentially forced to join this profession due to their social or culture environment” (Bhattacharji, 1996). The “economic negligence of poor women is socially accepted with in society; she may or may not have been provided with many choices to choose with regard to making an earning, apart from the sex industry in order to survive” (Bhattacharji, 1970; 1995).

In the context of prostitution and women exploitation, the case of Badi caste forced into sex prostitution is an eye opening case in the Nepalese society. “Badi are a low caste in Nepal, the male clients of Badi prostitutes come from both low and high castes, and include foreign men...though orthodox Hindu law heavily restricts intimate relations between members of high and low castes, the laws are frequently violated” (Shrage, 1994; Thomas, 1992). Writings of Thomas Cox look into the relationship between Badi community and men from other castes. He examines Badi social organization, family structures and marriage patterns. He concentrates on prostitute castes in India and a possible historical connection between one of them and the Badi. It looks at the current situation of prostitution in Badi society, its implication in Badi society for the understanding the emotional consequences of prostitution (Thomas, 2006). The case of Badi prostitution showcases that in Hindu society, prostitution is ignored unless low caste Hindus are involved in it and as the high caste Hindus associate themselves with it, their acts are condemned not for exploiting a low caste women but because it affects their high caste hierarchy (Thomas, 2006).

Being a majoritarian Hindu society and a Hindu Kingdom previously, Hindu religion has often played a detrimental role in the discriminating women based on caste and economic status. H. Grant elaborates the atrocities perpetuated on innocent people, their escape of safety and the relief operation that was in progress. He discusses the outcome, experience of young girls of Nepal who trafficked for the sex trade. The use of “cultural expression as a form of political rhetoric employed to inspire collective action for social change” (Grant & Bhandari, 2007) is also discussed. While religion in a broader way plays a crucial role, caste which defines the society system in a Hindu society has critically analysed by Uma Chakravarti. She provides a critical view on caste system and draws an underline on the “violence and coercion that perpetuate a severely hierarchical and unequal society” (Chakravarti, 2003). It gives an understanding how unequal and hierarchical society exploits women on the basis of caste. “She discusses the range of patriarchal practices within the larger framework of sexuality, labour and focus on the centrality of endogamous marriages that maintain the system” (Chakravarti, 2003; 2019). With focus of the present study on Kamaiya and Kamlari system in Nepal, a plethora of literature discusses provide an extensive and elaborated overview of the practice, especially works of David Gellner, Chiara Letizia and Mary Ann Masak. These authors have discussed the roots of the Kamaiya and Kamlari system in Nepal, especially from a sociological and anthropological perspective (Letizia, 2014; Gellner D. N., 2013; Masak, 2003).

1.2.4 Government Policies and Efforts in Abolishing Slavery

Slavery in the modern day context does not limit itself at home turn but it has reached across the borders as people seek employment abroad and directly or indirectly are caught in the technicalities of the system that it becomes difficult to differentiate between the formal employment and slavery (Free the Slaves, 2018). Today in Nepal, every third person is leaving the country to seek employment abroad and the remittances sent home contribute approximately thirty percent to its Gross Domestic Product. Meanwhile, away from the modern day employment system, Nepal has witnessed most brutal forms of employment system that are in reality worst forms of slavery. Kamaiya, Kamlari, *Badi*, *Haliya*, *Zirayat*, etc. are few of the examples that have captured the eye of the

international agencies and as a result, government has been forced to deploy some forms of mechanism to abolish and rehabilitate the affected population (Free the Slaves, 2018).

“Government of Nepal abolished the Kamaiya system in the year 2002” (OMCT, 2001). While in many a cases, a number of shortfalls have been observed, policy framework in Nepal has provided a strong mechanism if not fully but partially and symbolically (Gautam, 1994). In 2000 after an extensive consultation under the supervision of experts, a report was prepared. The key feature of the organization policy proposed to offers a framework to accomplish the role of International donor agencies in the nation’s human resource development. It is aims at firstly, to create favourable protection environment, secondly, to provide security form exploitation, third, to meet basic needs and essential requirements and last but not the least, to provide solutions to fulfil and facilitate by “Government of Nepal to seek solutions for the Kamaiyas” (Gautam, 1994; Guneratne A. , 1998; 2010). While most of the studies on the government policies with regard to Kamiaya and Kamlari are done by the Non-governmental Organizations, Government has also carried out studies through its ministries and functionaries (Cheria A. , 2005; INSEC, 1992).

With reference to the emancipation of the Kamaiyas and their development during the People’s War in Nepal, T. Fujikura has made an important contribution (Fujikura, 2001). The human rights perspective is an important part of the studies on Kamaiya and Kamlari system in Nepal (Solotaroff & Pande, 2014; Mottin, UK; Sanghera, 2000; AATWIN, 2019). The General federation of Nepalese Trade Union’s (GEFONT) report entitled, “*Impacts of Interventions on Kamaiya* (2001), is an elaborate programming tool in the form of document that critically examines activities of the Government of Nepal with regard to slavery as well as efforts carried out by the GEFONT in association with the government” (GEFONT, 2001). The report begins with “the analysis of the situation and gradually moves on to discussing the past and present efforts towards cooperation, proposed cooperation framework and partnerships between the government and other non-governmental agencies. It gives an overview of Nepal as a country and its demographics, Kamaiya rehabilitation policy, communication and information, role of

the GoN to help Nepal build on matters related to national priorities and development goals and the factors that facilitated the changes in the situation” (GEFONT, 2001).

1.2.5 Role of International Organizations in Rehabilitation of Slaves

After the outbreak of the World War I, the global community had come to an understanding that other than the state as the sole actors in the state and global affairs, there was a need for the global agencies that could facilitate and forge peace between and among the actors and could make the countries accountable for their acts and actions (Chatterjee S. , 2005). Hence, in the aftermath of the World War I, League of Nations was formed so any further warlike situation could be avoided as well as justice could prevail with the victims of the First World War (Keohane R. O., 2012). However, League of Nations was created in the background of a major war, its functionaries ranged from justice to protecting the rights of the labour community. With the failure of the League of Nations and beginning of the World War II, a fundamental realisation among the global players about building an institutional infrastructure that could bring countries across the world on a single platform but also it could facilitate a mechanism of addressing the socio-economic, political and international polity related issues. As a result, the United Nations was formed and since its formation, the organization has dealt with issues ranging from building peace, poverty eradication, hunger, health, nuclear challenges, slavery, and the very recent trade wars among and between the countries.

With the creation of the International Agencies, specific and dedicated programmes along with International Conventions were introduced with the active participation of the member countries and thus, those programmes and conventions became a reality. With regard to, global slavery and in Nepal particularly, it is said to have been noticed as a global challenge in 1815 after the “Universal Abolition of the Slave Trade” (Weissbrodt, 2002). From then will mid Twentieth Century, more than three hundred conventions and understanding were signed and implemented (Weissbrodt, 2002). Meanwhile, the League of the Nations became the first Twenty First Century International Body to have taken upon the issues of Slavery (Luard E. , 1977). The “Advisory Committee of the Experts on Slavery of the League of Nations” (Weissbrodt

& International, 2002) in the year 1932 had put forward its willingness to study the global phenomenon of the slavery. It was in the follow-up of the appointment of the temporary slavery commission by the League in 1924 (UN, 1927). Later, with the advent of the United Nations in the aftermath of the World War II, the organization took the issue further. In its “one of the greatest declaration on Human Rights advocacy, the United Nations” Universal Declaration of the Human Rights in 1950 made a strong case against the practice of slavery and all the signatory member countries of the declaration took note of it” (Adhikari, 2007; UN, 1950; Luard E. , 1977; Weissbrodt, 2002).

Further, a supplementary convention to 1926 Convention on the Abolition of Slavery was signed and ratified in 1956 (UN, 1957) by more than seventy “member states of the United Nations” (Weissbrodt, 2002). In the follow-up another important Covenant, “International Covenant on Civil and Political Rights was adopted by the United nations in 1966 which had strengthened the motto of the United Nations” (ILO, 2012) to abolish slavery and “protect the human rights of the people who have/had been the victims of the inhumane system of slavery” (Baumann & Dharel, 2014) (OHCHR, 1976). International Labour Organization on the other hand has led a strong advocacy for the abolition of the global slavery as an inclusive by of the United Nations (Weissbrodt, 2002). With a number of frameworks had been adopted by the UN and other international agencies, in 2002 it was estimated that International Labour Organisation alone had adopted some 183 conventions touching upon the issue of slavery (Weissbrodt, 2002). Other than the UN and its agencies like ILO, the UN has enlisted more than 80 United nations Agencies, Programmes, Non-Governmental Organisations, working on abolishing the Slavery in the Twenty First Century (UN, 2019).

With regard to Slavery and bonded labour in Nepal, a great deal of available literature deals with the role of international agencies and most of the studies have been carried on a primary mode. Beginning with the study of Kamlari and Kamaiya system in the last decade of the Twentieth Century. The UN and its agencies including the ILO took the cognizance of the Kamaiya and Kamlari system in Nepal (Nepal, 2008). With the abolition of the Kamaiya bonded labour system in 2002 by the Government of Nepal,

international agencies including Lutheran World Federation (Nepal, 2008; LWF, 2004; 2008; 2009; 2011), Anti-Slavery International (IDSN, 2009; Robertson & Mishra, 1997), the United Nations (UN, 1957), International Labour Organisation (ILO, 2016; UN, 1927), Action Aid (Action Aid, 2005), World Organization Against Torture (OMCT, 2000), Plan International (Premchander S., 2013; Plan International, 2018), Office of the United Nations Commissioner for Human Rights (OHCHR, 1976), and Walk Free Foundation (WFF, 2015) have carried out programmes for the protection of the Freed Kamiya and Kamlari, who were further freed after the Kamlari system was abolished in 2013. These programmes have not only been impactful in generating awareness to abandon the inhumane practices of Kamiya and Kamlari. These organization have also carried out systematic programmes for the rehabilitation and reintegration of the Kamiyas and Kamlaris. These programmes include skill development, education, socio-political mainstreaming, financial support, providing agricultural equipment, and human rights awareness.

Additionally, specific studies carried by the international organizations have dealt with the various issues, International Labour Organization carried a study “Forced Labour of Adults and Children in the Agriculture Sector” (ILO, 2013) in the year 2013 focused on the labour who were in the agricultural sector as a forced labour in Terai. This report is basically providing a broad understanding of the forced labour system which is prevalent in Nepal (ILO, 2013). The study provides an understanding on forced labour, socio- economic conditions, analysis the situation of forced adults’ labours. Another study by Amnesty International entitled, “Sex Workers at Risk: A Research Summary on Human Rights Abuses Against Sex Workers” (Amnesty International, 2016) is a detailed study on the sex workers in Nepal as well as specific information is given on Kamlaris who were not only been sexually exploited but were forced into sex slavery until the system was abolished in 2013 (Amnesty International, 2016). It further narrates the issue of sex workers specially Dalit women who are forced to work as a sex slaves in an exploitative manner and provides a kin understanding about the sex workers. Also, other issues which the organization has chosen to prioritize and the limited amount of attention which it devoted to this issue. Other similar studies have been carried by the several

international agencies who are actively working on ground for the rehabilitation and re-integration of the Kamaiyas and Kamlaris in Nepal.

1.3 Definition, Rational and Scope of the Study

Kamaiya was an exploitive labour work in farming and the agrarian financial system as far as in the “terms of nature work, working hours, instalment and flexibility. The misuse of the Kamaiya was fundamentally considered as dishonour socially not only by the high class with couple of special cases in Tharu landlords” (Chaudhary, 2011) as well. For the most part, farmers equally used to keep Kamaiya, who cooperated and regarded them as an individual from family unit. However, after the liberation of Kamaiya, all Kamaiya owners were seen negatively.

In this study, exploitation of vulnerable women especially from the Tharu community in Nepal will be examined. By utilizing the term vulnerable this specifically refers to individuals who are socially and economically disadvantaged in society. These individuals are poor and generally have no or little education. This study reflects on the predicament of the young Tharu Kamlari women/men after their emancipation in 2000 and in 2013, who had formerly been subjected to be victims of bonded servitude in the name of the Kamaiya and Kamlari system prevailing in Dang, Kailali, Banke, Bardiya and Kanchanpura districts of western Nepal. This study presents and analyses the accounts of the lives of young Kamlari women during their years in servitude, along with their experiences after they gained freedom. The freedom they obtained did not always bring the changes they expected. This study also assumes that the much awaited freedom could not always bring the changes they expected. This study assumes that the much awaited freedom could not overcome the legacy of the evils of bonded labour that existed from historical times, specifically, victimizing the young women and children of indigenous Tharu community as well as seeks to examine how the historical and systematic injustice and the socio-economic disparity occurred on a multidimensional basis, specifically victimizing the Tharu community. While doing so this study incorporates the factors to examine how the Tharu community have been forced to be

victims of bonded servitude owing to the intersection of multiple oppression based on their ethnicity, class and gender.

For most this study focuses on the discussion and examines the phenomenon of subjugation and how it is related to slavery. Secondly, it examines the history, and examines the exploitation of women into domestic work in the current situations. Last but not the least this study concludes with a discussion on how Nepal can better prevent and protect women from being exploited into domestic workers. In this regards, this study tries to focus on the problems of reintegration and rehabilitation of bonded labour. It also aims to studying the experiences of Kamlari women. Since reintegration or rehabilitation cannot be understood unless we discuss experiences of bonded labour. This study tries to explore how the process of rehabilitation and reintegration of the women among the local community in Nepal. The proposed study will mainly emphasize the Socio-Economic condition of Kamaiyas. It will explore the government policies as proposed and new policy direction that has emerged in recent years. In doing so an attempt has been made to study the pre and post 90s policy formation conducting a comparative analysis to understand the change that occurred in the labour sector. It critically compares the changes that occurred in these last twenty years with the pre liberalization era. Nations around the world becomes progressive at national, international and individual level hence it becomes important to understand the aspects that influence these changes. This research endeavours to relate to a broader perspective. This study would define the structure of the system, determine the trends and analyse the impact of different regimes in advancing policies and role of foreign agencies as an effective tool of support for positive and pro-active change.

1.4 Objectives of the Study

- To study the evolution of the Kamaiyas as a community.
- To analyse the conditions of the Freed Kamaiyas and Kamlaris systems after they were abolished in 2002 and 2013 respectively.
- To explain the social and economic condition of freed Kamlari in Nepal.

- To study policies adopted by the Government of Nepal to empower the Kamlari women.
- To explore the present sources of livelihood of freed Kamlari.
- To identify the implication of the UN agencies' policy of reintegration and rehabilitation for Kamlari.

1.5 Research Questions

- How the Kamaiya system is evolved?
- What are the policies adopted by the Government of Nepal to empower the Kamlari in Nepal?
- What is the role of UN agencies and other humanitarian agencies in the delivery and coordinating support to the forced labour in Nepal?
- Have International and non-government agencies played a positive role in repatriation of forced Kamaiya/ Kamlari system in Nepal?
- Have they been accepted by their family and society? And what are the major challenges they face in reintegration in society?
- What are the implications of Reintegration and Rehabilitation to resolve the problem of Kamlari?

1.6 Hypotheses

- Kamaiya system flourished against the socio political background feudal ethos and practice in Nepal.
- Eruption of global discourse and prospects against bonded labour had direct impact on Kamaiya system in Nepal.

1.7 Research Methodology

The proposed study will be exploratory and descriptive research study. Thus, the study will be qualitative in nature. It is exploratory in the sense that it identifies or structures problem or a phenomenon which has not been clearly defined and explained. This study would resort to data collection relying both on the on both primary and secondary sources such as studying the international documents, public opinion surveys, governmental

pronouncements and records, policy statements and reviewing the available literature and data. The study would resort both to historical interpretation and fundamental analysis mechanism. Interviews of the concerned individuals' forms a fundamental analysis of the present study and in doing so, personal interviews have been used for the purpose of primary data collection. While conducting personal interviews, the researcher used semi-structured in-depth personal interviews through open ended questions of the ex-Kamaiya and Kamlaris. This method is a widely used to extract data in social sciences research. Also, some guiding questions concerning specific areas of the study were prepared in the form of questionnaire.

The study on the Tharu community especially on the farming as approved Kamaiya in Nepal before and after the abolition will follow the descriptive and analytical methods in order to understand the rehabilitation and repatriation process. The primary data would include documents of the government agencies, press release, organizational reports and joint statements. Similarly several international organizations, UN agencies, ILO, BASE, INSEC, "Maiti Nepal, ABC Nepal, WOREC, Shakti Samuha, SHAR, SAFAR, CWIN and FPAN" (Chaulagain, 2011) will be the major sources of data. The secondary data will be based on books, news reports, journal articles, newspaper clippings, and various academic papers. The study will also use information and data collected from various seminars, and think tank analysis of worldwide organizations, and information collected through internet sources as well as recent literature on the topic for better understanding.

Chapter Two

Evolution of Slavery in Nepal: An Analysis

Slavery is one of the most provoked, debated and legally significant topics of the present world. It has existed across time and place as one of the most enduring institutions and conditions found among people (E. Stevenson, 2015). Many of the examples of enslavement include (unfree) labour, debt (peonage) including bonded labour where unfree labour encompasses a wide range of contemporary slave practices including sex slavery and human trafficking and peonage as an unwilling labour as payment against the indebtedness of the labourer. “Unfree labour, which encompasses exploitative practices often described as forced labour, human trafficking, and ‘modern slavery’, is a stable feature of the contemporary global economy” (Genevieve & Nicola, 2018). While all these forms of enslavement around the globe are witness to worst societal conditions, they also reveal the criticality of the freedom that is seen in the present day world. Karl Marx in economic terms explains slavery as the market oriented arrangement for the benefit of the capitalist. Writing in his renowned *Das Capital*, he comments that the “slave-owner buys his labourer [slaves] as he buys his horse. If he loses his slave, he loses capital” (Marx, 1972). His argument not only explains the exploiter nature of the slave system but also indicates the historical and civilisation connotation of the system. Slavery has also been an integral part of the civilizational evolution of the societies around the world and greater minds of the times have been critical of the same.

In defining ‘bonded labour’, Oxford Dictionary explains it as, people ‘held, pledged or put into debt with a shackle, chain, fetter or imprisonment, with a thing tied down, or restraining force to control their minds or physic or both, in forcing them to perform any kind of labour, physical or mental.’ Precisely, a bond is forged between two persons, one master, and another bondman. This bond is a force which may be of various types of physical, economic, social or psychological. Physical force arises due to the terror of master, economic force pitiable condition of bonded labour, social force arises due to caste structure in the society and psychological force arising due to brainwashing of these bondmen, that they will be answerable for their debt in the next generation. The

practice in the society of keeping man/woman by another man/woman is “bondage for his/her selfish and personal designs in the type of man’s cruelty to man which is not confined to a particular country or a particular region but is found as a global phenomenon for hundred years, from the canonical days to the present era” (Prajapati & Chamkel, 2016).

The system is practiced in different forms all over the world and it can be forced as well as voluntary. Traces of the system can be found as old as in the Greek civilization. The modern day idea of a state, idea of democracy and citizenship are also the inventions of the ancient Greek philosophy. However, the initial Greek philosophy was criticized for being short by the philosophers especially Aristotle, Plato, Socrates who saw the modern- nation-states with plenty reformations. Also “equality among citizens, liberty, respect for the rule of law and justice as the main ideas of ancient Greek democracies that inspired the modern political thinking in the west, were the inventions of the Greek philosophy” (Held D. , 1996). Aristotle in this regard states that:

(One) should know how to govern like a freeman and how to obey like a free man and that he is a citizen in the highest sense who shares in the direct democracy that was practiced at least in the city-states such as Athens for some time. Such ideas still fire imaginations and revolutions in contemporary times (Aristotle, 1941).

While freedom has not been the easiest to achieve, it has been the most rightfully desirable entity of the human kind. Countries around the world witnessed some or the other kind of the colonisation irrespective of the reasons and most of these countries rose to fight their colonial masters in the name of freedom struggle. The Eighteenth Century French Revolution which has not only became the guiding events for the democratic values around the world but also it set an example for the outlook of the democracies as well. Declaration of the Rights of Man and of the Citizen in 1789 provided human species with civil rights and freedom remained the most sought after thing of all.

Twentieth Century world saw condemnation of the slavery in all forms. The biggest and the longest colonial powers, the British faced ire of the people in Asia as well

as in Africa. The Indian freedom struggle is a greater example of peaceful and non-violent struggle against the brutal and enslaving British colonial rule. During the cold war period, giving rights in the form of civil, political, social, cultural and economic rights was the drift to give importance to freedom. However, in ensuring these rights, establishment of the international institutions proved to be a boon for world. These institutions worked as the enforcement agencies keeping a close eye on the betterment of the lives. In this line, United Nations acknowledged, and agreed with the pressure of social movements, that the right to culture, social, civil and political rights cannot be separated from and enjoyed by all. Thereafter, all the rights were "universal" to use and repeated in all the international rights conferences which were organized by United Nations.

‘Bondage’ in the worst form of slavery practiced where workers are paid minimal or nothing for their work for unlimited hours of work. In “Article 1(a) of the United Nations 1956 Convention on the Abolition of Slavery defines debt bondage as ‘the status or condition arising from a pledge by debtor of his personal service or reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined’” (T. S., 1957). Even though, the amount of freedom struggles and movements for the human rights in the Twentieth Century and common to all these movement was the awareness and activism they created amongst the societies. Yet, slavery remained/remains as the most condemnable practices exist till the date.

Harappa Civilization, oldest known civilization for the modern day South Asia, had slavery as its inbuilt labour mechanism. The Aryan era stratified society into four *varnas* Brahmin, Kshatriya, Vaishya, and Shudras. Every *varna* had to have specific and defined duty where the slaves were categorized as the Shudras. It was also embedded in Buddhist philosophy, Hindu philosophy. The Hindu writings of Kautilya, Manu Smriti and ruling eras of King Harsha, Chola, even in Mughal era existence of the slavery can be found and none of the rulers sought to take a concrete step to abolish or weed out this pernicious practice from the society. After the Mughal era in India, the East Indian

Company had captured the whole legislative, executive and judicial powers in his own hands and used the power to manage the daily affairs of the people against their will. It was later that India became independent in 1947 after more than two hundred years rule of the British crown. However, its freedom struggle provided a constitution which guaranteed all of its citizens' "justice, social, economic and political including liberty of thoughts, expression, belief, faith, and worship. Equality of status and opportunities and promote among them all" (CA, 1950) irrespective of caste, colour, creed or sex. Fundamental rights recognized the basic rights of all the individuals. After the promulgation of the constitution, many amendments were made and many laws enacted to clinch the aim and purpose to enshrine it. The worse practice of Bonded Labour system has a long history in its existence.

Slavery, in spite of being legally abolished around the world, it prevails in the society and often it has been justified for the reasons like extensive poverty and unemployment along with their ignorance and unawareness. The awareness has compelled the societies them to abandon slavery and provide all sense of individual dignity and self-respect purely in order to keep their self-respect just to keep their body and soul together. Used as the tool by the masters want justify it as to keep the needy in bondage instead let them die of starvation because there is no alternative for the vulnerable. Due to the high degree of exploitation in the system of bonded labour, the master has always considered as their property and they own them and regulate their activities. The bonded lets to surrender because of their compulsions economic, social, mental, physical, and political. This follows that they remain the victim of all inequalities and exploitation as an unprivileged class with no justification. Despite all these facts, it is a well-known fact that slavery is practiced in all over South Asia. In the case of South Asia slavery as a framework of social analysis is therefore useful, as long as we situated the present forms of slavery in historical perspective, not just confine ourselves to the current phase of globalization.

In South Asia, slavery has existed in the forms of bonded labour, domestic labour, construction, small level industries, and brick kilns. In south Asia, slavery has been a

common phenomenon among the victims of the human trafficking that has led to prostitution and forced organ extraction. Also, in societies like Pakistan, Bangladesh, and India, a number of the traditional bonded labour practices are found including brick kilns, prostitution, and child labour. In the South Asian context, it is often argued that bonded labour is an economic phenomenon. However, it is not the entire case because considering the socio-cultural and traditional background of the South Asian countries where castes, class, ethnicity still play a critical role in deciding the social hierarchy and work culture, there are other elements too attached to it. For instance, in India, Pakistan, Nepal, Bangladesh, caste is a popular phenomenon and each caste is attached to certain kind of work culture.

The ‘low caste’ dalits in Pakistan are forced into works like manual scavenging, butchery, etc. In “Pakistan, bonded labour is particularly common in the areas of agriculture, brick-making, carpet-weaving, mining, tanning, cotton seed production, handicraft production, production of glass bangles, and domestic work” (IDSN, 2019). Lately, Bangladesh has emerged as one of the leading garment manufacturing countries. With its considerably economical labour market, there have been reports of the child labour and harsh working environment. In 2016, Global Slavery Index revealed that “forty-five million people live in modern slavery globally, out of which an astounding thirty million, or two-thirds, are from the Asia Pacific. Bangladesh ranks 10th out of a total of 167 countries and fourth in Asia. The number of people living in modern slavery in the country is 1,531,300—equivalent to the total population of Bahrain” (Nowshin, 2017). On the other hand, the number of women forced in the sex slavery is extremely shocking and surprising in the case of Bangladesh. The trafficking in women and girls in Bangladesh is a known phenomenon and over the years, NGOs and INGOs have put their efforts to raise concerns on the issue. “The illegal trafficking of women and girls from Bangladesh to neighbouring and Middle Eastern countries” (Paul & Hasnath, 2000) is a known phenomenon. “By various means, many Bangladeshi women are taken to foreign countries, where in some instances they become a commodity for sale in sex markets. Although gender inequality and injustice have received some attention from social

scientists, virtually no systematic study has yet been done on trafficking in women from Bangladesh” (Paul & Hasnath, 2000).

Similarly, in the case of South East Asia, slavery has been an integral part of the societies in Myanmar, Malacca, Malaysia, Bali, Indonesia and Philippines. An important element of the slavery in South Asia is that the region has an abandoned amount of fertile land with a low number of people to work on them and exploit these fertile lands to the best. In the sixteenth and Seventeenth Century, the total population of the South East Asia was less than fifteen million people (Casino, 1986). As the urbanisation in the centres of South East Asia began to take place under the colonial supervision or the rich landowners, there was a boom in the requirement for the human labour and as a result to this demand, labourers from the rural areas were brought to be employed as farmer, fishermen, construction workers, miners, seamen, miners and domestic workers. However, over the decades, these men and women could not get away from the labour system and eventually it they became part of the servitude. It was not just the above mentioned fields that the human labour was exploited, Buddhist temples kept generation of the families in the name of the service for the God. Also, most of the earlier parts of South Asia were ruled by the royal families and in their courts women slaves were an integral part who were seen as the comfort women for the traders and diplomats (Reid, 1984; Casino, 1986).

With a sight on the history of Slavery, it becomes important to discuss and analyse the slavery in Nepal existing in one of it’s called as Kamaiya system. The present chapter will look into the details that how government failed for years in outlawing Kamaiya system and how the discourse of power, land, and caste under the Hindu monarchy created a vast body of the indigenous subject-hood to this exploiter system. Interestingly, Nepal was never formally colonized by the British. However, in the early Nineteenth Century, Nepal was placed under the shadow of British colonialism. The ruling dynasty of Nepal developed a complex relationship with the British colonial power as they stood obedient to them but could retain the formal independence of Nepal. This

freedom was essentially won largely by trading the indigenous as fighters and labourers for the British colonies in South Asia and elsewhere in the world.

Nepal, like many other states was formed by the people belonging to different races, castes, classes, communities, tribes who migrated from elsewhere in different areas of history (Bista, 1967). Most of the castes and ethnic groups of today's Nepal are believed to have migrated broadly from four directions and "there are some groups of people who are supposed to have already settled since prehistoric time" (Bista, 1967). Some people came from Himalayan foothills, some moved from Tibetan region and some from Indian plains. The reasons behind such moves were centred on the search of a better agricultural land, religion, colonization of India. It was in the Eighteenth Century that Nepal came close to the meaning of a state with sovereignty, and political and geographical boundaries. However, these boundaries changed over times and stand different today as from those governed in the past (Bourghart, 1984).

Prior to mid Eighteenth Century, Nepal consisted of about fifty smaller territories. It was only when Prithvi Narayan Shah, King of the Gorkha territory, laid the foundation of present day Nepal in its unified structure (Stiller, 1995). With the intermingling of the people who moved from different geographies, Nepal stood as a political entity. The high caste Hindus moved from the plains and married with the newly arrived Brahmins (they called Bahun in Nepali) and Kshyatriyas. In the caste discourse, they were referred to as Chhetri (Sanskrit word Kshyatriya). They came after or below the Brahmins and other higher castes who are called Thakuris in Nepal especially in hills. In the Eighteenth Century they called the backbone of the Prithvi Narayan Shah's army. Ruling elites from King Prithvi Narayan Shah's time to till today come from Bahun and Thakur. From hills and mountains east of the Khas region before the arrival of Hindu from the plains were inhabited by a large number of groups of Tibeto-Burman language speaking tribes of what is often has referred as a Mongolian stock. Most of them move around to the Nepal hills earlier than the Hindus. Though, some groups, particularly Buddhist highlanders in the Himalayan region travelled from or across the Tibetan plateau later than the Hindus from the Indian plains (Bista, 1967).

However, Kathmandu stands different in its people and their history. It is very old around 2000 year and various dynasties including the Kiratas, Licchavis and Mallas had ruled over. It is located strategically between the Indian plains and the Tibetan highland. This allowed the people of Kathmandu to engage in trade with these two regions. It also allowed to learn from, to influence to some extents the religion and cultures of the Hindu Indian and Lamaist Buddhism of Tibet. In the 18th Century Kathmandu highly developed in the name of civilizations. It is later that the King Prithvi Narayan Shah moved to the capital in 1769. It was after a long time in early Nineteenth Century that the British colonialist referred to this as the new kingdom as Nepal, where people spoke the concurring language Nepali language. It was only in the 1930s that the Government of Nepal officially accepted the language Nepali rather than Gorkhali (Bourghart, 1984). The mid-mountain consisted of the Tibetan- Burman people; some are very less in numbers and others comparatively sizeable. The major groups included the Magars, Gurung, and Tamangs. The Tamangs followed Buddhism as did the Gurungs, with a strong mixture of Shamanism. The Magars were predominantly Shamanistic, with some practicing Buddhism.

People occupying the eastern hills were generally identified as the Kirats. They include Rais, Limbus, Sunsuwars etc. The Kirats practiced shamanistic religion but also influenced by Hinduism. The Limbus, in the far eastern hills of the present day in Nepal, in particular, had their chiefdoms and some of the chiefs were also parts of the ruling elite of the Hindu leaders. The plains or the Terai of Nepal were inhabited by the 'Tharu' groups. Tharu is one of the major indigenous communities living in the southern plains of Nepal known as Terai that is rich in grainy soil appropriate for the cultivation of various types of crops. Tharus people represent 6.6% of the total population of Nepal. Before Terai area was inhabited by the other people, it was covered with dense forest rich in wildlife. The Terai region, during the 18th Century, was a place of wilderness, rich in dense tropical forest consequently hit with the epidemic of malaria. As Guneratne explain, this region in the mid-18th Century gradually emerged as an area for potential economic prosperity for various aspects of forest products, timber, elephants and most importantly its fertile soil for cultivation and hence for revenue of land (Guneratne, 1998,

p. 754). Because of the fear of malaria, the hill people were unable to settle, so the Tharus were the only immigrants there. Then the Nepal government required a large number of human labour to take advantage of the Terai region since the Tharu people alone could not meet the labour need. Therefore, in order to flourish economic activities in this region, the government encouraged the migration of people from India (Regmi M. C., 1978).

Historically, Tharus trace their origin within the Indian subcontinent. Divided into several subgroups, ethnically Tharus associate themselves with the Rajputs in the Indian state of Rajasthan. These narratives on Tharus belonging to high caste Hindus of the Rajput community in Rajasthan are validated by the British explorer (Joshua Project, 2019). They are called Tharus due to their geographical identity that is from the Thar deserts of the Rajasthan. It is believed that during the Mogul invasion, invaders killed male members of the Rajputana families and attempted to marry their wives. However, to protect themselves from the invaders, these widow women got married to their servants and fled to the plains of the modern day India-Nepal border on the eastern side. Later, lands of these families were captured by the Moguls. With their long stay and family growth away from their place of origin in Rajasthan, the cross-cultural marital and work relations across India-Nepal border led to the migration of the Tharu people across the border. As a result, number of Tharus grew in Nepal who predominantly were settled in the lowlands of Nepal which is also known as Terai (Maslak, 2003). Their known settlements began in the jungles of Terai that were prone to Malaria but due to their strong immunity, they remained unaffected.

It is described that Tharu people are genetically immune against the malaria infection (Guneratne, 2002) so they could survive in the region of Terai. However, in the 1950s the widespread malaria was eradicated the Tharu people were gradually marginalized due to the migration of hill tribes to the plain after insertion of insecticides and the traditional land owing Tharu people were displaced by the other majority hill tribes (Karki A., 2001). In last four centuries, origin of the Tharus has been widely debated and discussed in the literarily writings of the historians including D. N.

Majumdar (Majumdar, D.N., 1942) who wrote on Rana Tharus, S. Mathur (Mathur, 1967) who studied various socio-cultural underpinnings of the Rana Tharus. A leading work entitled, *Tharus in South Asia* by S. K. Srivastava (Srivastava, 1958) signifies an important part of the Tharus history. In his work, Srivastava deals with the socio, economic and cultural practices of the Tharus (Maslak, 2003; p. 17-21).

2.1 The Rana Period

After the eradication of malaria from the southern plains of Nepal, Terai was known as 'Naya Muluk' which included Banke, Bardiya, Kailali, Dang, and Kanchanpur districts of Nepal. All the new locals were reclaimed by Nepal in 1846 from British East India Company. It was also through in 1816 by the 'Sugauli treaty'. Before the Sugauli treaty and even before that, the Nepali kings had the sense of British power in South Asia so, they tried hard to the limited interference of British in their internal affairs and especially showed their relation with Chinese. In mid-Nineteenth Century, with the decline the power and prestige of Chinese empire, British emerged as a superpower and Nepal was unable to play their china card to limit British interference. Rana offered his army to fight for British to please them. In "1860, British gifted Nepal with Terai regions in the present day far western part of Nepal" (Mishra, 2000).

This treaty was an official agreement between Nepal and British company. During this period, British agreed to hand over Terai land to Nepal which was given to civil servants and military personals, royal people and to the hill migrants as a gift so they could start living there and clean that area for the best use. This system was better known as the land revenue and the native Nepali it is called as *Birta*. Because of such division, a big social inequality was created and as a result, Tharus lost legal ownership of their lands and then there was one person who became as *Jamindar* (landlords) and others as bonded labours whereas the hierarchical division of caste started against them. "In the contemporary world including Nepal, land has always been considered as one of the most important productive resources that not only determine the economic aspect of people, but also determine the social hierarchy and political power" (Karki A. K., 2002). Before and after the Rana regime *Jamindars* are the mediators between the landowners and to

the institution for collecting taxes and the Tharus came last in this hierarchical structure. The settlers who belonged to the high castes became economically stronger and dominant.

Nevertheless, agriculture was always much more valued by the hill Hindus. For cultivation near river valleys, they stressed for clearing forest from Terai and for development of agriculture. Caste system also practiced as their tradition, but they gained high revenue returns from this, which made them stronger and powerful. Brahmins, Kshyatriyas owned most of the land area and it is to be noticed that the main aim for of the high caste card in the hill of Nepal was to established little domain. In this, immigration from hill to Terai successfully influenced and control over the Tharu community.

Tharus became “indebted to the landowners and bonded in social unequal relations to sell labour in lieu of the loan taken for sustaining a minimum livelihood. By the time, in 1854 the first laws were introduced where Tharus were counted as ‘enslaved’ and alcoholic drinkers” (Guneratne, 1998). With the mind-set of higher caste people that Tharus could be easily used or kept for the domestic works and exploited slaves. Tharu people worked hard and their labour was used mostly in clearing the forests to make them useful for farming purposes. Over the time “the social relations of production and reproduction became the genesis of the “Kamaiya” system in its present nature, especially in the form of ‘pure’ bonded labour” (Paudel, 1998).

2.2 Kamaiya System as Debt Bondage

After the exile from their established land forced by the high caste Hindus, there was no other option left for Tharus but to work as bonded labourers in the farms of *Jamindars* because they had to borrow money for their survival from the money landers. Indirectly, Tharu people were always encouraged by the landowners to spend money on marriages and cultural festivals so they were forced to borrow the money from them, leading them to the circle of paying the debt back. Hence, Tharus started to repay the debt by making their services available by living in the landlord's house and serving them round the

clock. However, the borrowed amount remained to be paid, resulting into a permanent debt for the generations. While the generations failed to pay their forefathers borrowings, this cycle of the exploitation did not stop and this gave birth to the cruellest form of slavery known as bonded labour.

“A common understanding of debt bondage labour is a labour who agrees to work for the same employers for a long period in exchange for a loan in kind or in cash” (Chaudhary, 2011). The word ‘Kamaiya’ phrased out of the Tharu ethnic community. According to the local language, the word Kamaiya is invented from the word ‘Kam’ which refers to ‘work’. It is usually used by the Tharus as a ‘hardworking’ labour. Therefore, during the eradication of malaria from Terai region, only Tharus could work and were preferred by the landlords due to their immunity with malaria. There is very less information about the Kamaiyas at the national level, but it states that all the Kamaiyas are not bonded labour (INSEC, 1992). They are classified in two different categories and with the different type of works as Kamaiya with Saunki (debt) and Kamaiya without Saunki. The Ministry of Labour and Social Welfare of the Government of Nepal defines ‘bonded labour’ as:

a person working in the field for a landowner, looking after his animals and doing other agricultural works in landowner's field and in his household chores, relentlessly either taking or not loans from the owner can be considered as a bonded labourer (MoL, GoN.,1995).

However, Kamaiya without Saunki may choose their masters in the festival of ‘Maghi’. Maghi is the biggest festival of Tharus, also called as the ‘Makersakranti’ festival in the month of Magha of Nepali calendar. During the festival Tharus worship their (family deity). They celebrate it by drinking, eat special food and dance for a duration of three to seven days’ time. This festival also called as a new year of Tharus. In this festival, the Tharus are free to choose their masters in Maghi festival and most importantly it is the time to ‘Renew the Contract’ between the masters and labours this process called Khujuni- Bhujuni in Tharu language. From this exchange, all the Kamaiyas with their family members including women and girls start working in their master's house. For their work, they get a certain amount of grain as wages. And this continues generations

by generations. Although this system of bonded labour traced back by the anthropologists in 1960s as the system of debt bondage existed in history, however, it was first to come in a notice in 1990s after the establishment of democracy in Nepal (Roberston, 1997).

Most of the Kamaiya had large families that could not gather sufficient to feed, medical expenditure, education or for social gatherings from their earnings so they were compelled to work as Kamaiya to take money as a loan from their landowners sometimes the landlords forged their documents and acquired their properties illegally. Generally, Kamaiya worked as a farmer but there is the division of labour by their age and gender. Kamaiya childrens involved in the animal herding were called Gaiwar. Similarly, the children involved in goat herding were called Chegrawaha. Girls involved in household works were called Kamlari. Theoretically at the time of changing contracts, both the parties agreed not to be involved into the practice of bonded labour. But it is a compulsion if his/her grandson or son died so the other family member continued the debt till the complete repayment which could hardly be the case. According to INSEC data, about “33 percent of the Kamaiya were from four generations and 21 per cent from three generations and 28 per cent almost from two generations” (INSEC, 1992).

2.3 The Genesis of the Kamaiya System

During Licchavi Dynasty between 100 and 800 AD, the origin of Kamaiya system can be traced back as a bonded labour system. Most importantly this system was exaggerated by King Jayasthiti Malla, who forced to imply caste hierarchy in Nepal where people were forced to work in trade activities and this was institutionalized during 18th and 19th centuries with the unpaid and forced labour introduced and workers were bonded to pay their labour to Rana rulers. This came under the categories as Jhara, Begari, Rakam. Jhara which symbolized the “general obligation to work for the government and it was compulsory and unpaid. Begari, was compulsory unpaid labour for public structure, landlords, and village officials” (Chaudhary, 2011). Rakam was aimed for unpaid labour provided to landlords instead of cultivating landlord’s land in Nawalparasi, Rupandehi and Kapilbastu districts during Rana regime (Regmi M. C., 1977). However, M.C. Regmi mentions other forms of hierarchy as Jamindars, Talukdars (intermediaries) and

Birtawala, Raja, Jagirdars (landowners) who were officially authorized or informally use unpaid workers as their tenants. 'Ruling elites and state considered farm workers as the 'golden goose' and lay 'golden eggs' so they were careful not to kill the goose, but neither did they fatten the goose.'(Regmi M., 1999).

Even so, the Kamaiya system cultivated from everyday practice of obtaining a "helping hand for a family commerce" as well as public work. This was the tradition especially in the Tharu community as a norm that every house or the family member has to give his/her labours in a year into the landowners' house and to Guruwa (priest of the village). Apart from this, there was no government interference so, the land of Terai was undeveloped and so, there was Begari (unpaid labour) and Jharali (one member from each house). With this, it was used as an exploitative form by the Bahun, Chhetri landlords.

On the other side, Guneratne explains that in 1991, the leaseholders had to provide labour in Dang valley for the landlords. The duration of the labour was 36 days in a year. In western Dang, "Begari included agricultural work of every kind, house construction, work on village road and bridge at the behest of the landlord, and even work as caretakers to carry a palanquin when a member of the landlord's family wished to travel to a neighbour village or bazaar and if a labour (Tharu) denied working, they were punished, harassed by the police and faced non-cooperation by the government and even the loss to access the land" (Guneratne, 2002).

Jhanga, (traditional culture of marriage) also exaggerated the Kamaiya system because, in marriages, engagements, ceremonies, and all traditional norms they required money to celebrate and for that Tharu, Kamaiya borrowed money from their landowners (Gautam, 1994). Generally, all the Tharus came into Kamaiya system because of the verbal tacit contract which was made at the time of debt for one year and it was renewed in the month of Magha. Kamaiya were not only exploited by the landlords but also by the rich farmers, because most landlords did not involve their self in the farming so they gave

their land on lease to farmers for agricultural work and Kamiaya also worked with them on the same land.

However, ethnically Kamaiya worked for all the community but mostly they worked under Pahari Jamindars because they did not understand the respect of Kamaiya and became more exploitative (Rankin, 1999). “Kamaiya were not only responsible for agricultural work but they had to work in any other fields too. The work was divided by the age, group and gender but it was not as harsh as a ‘Kamlari’ because as a Kamlari, a female servant has to available round the clock in the house of landowner where the duration of work of Kamaiya depended on the weather and land fertility” (Chaudhary, 2011).

Apart from this, “Kamaiyas were paid only in three ways, land for agriculture, kind and cash” (Chaudhary, 2011). The amount or the area for cultivation was fixed. In the Rana regime, only one bigha (local area measurement) was paid as a payment towards ten Katta (local area measurement) of land production in a good amount of grain. This procedure for wages to Kamaiya called Balibigha. Payment in kind was another way of payment called Bigha/Maseura. In this fixed quantity of paddy other basic foods as pulse, oilseed, salt (only 75 kg). In that, there was a difference in payment from one another place. In the early 1990s annual payment was stood different as in Bardiya it was 700-900 kg, in Kailali it was 400-800, and in Kanchanpur it stood around 400-650 kg per annum (Cheria, 2005). Furthermore, “wheat 65kg, pulses 20-25kg, edible oil 10-12 litters and salt 10 kg annually were given” (MoL, GoN., 1995).

Likewise, Kamaiya could “get land for harvesting from their landlords. This was feasible in the condition of Kamaiya having land and a big family” (Chaudhary, 2011). In general share of production often in fifty-fifty but it has degenerated and now landlords keep 75 percent of the production it was called as Bataiya in Tharu language. As most of the family members worked under the same landowner so the share of each Kamaiya was to nothing. “Earnings in cash were a limited practice for those who were without family”

(Chaudhary, 2011). In general only 1200-4800 per annum was paid in those days (INSEC, 1992).

2.4 Social Movements

A long history exemplified so many social movements organized against exploitative labour system in Nepal. There is a very less literature available in these movements but few authors and scholars mention these important movements in few available works of literature. With the political changes in 1950, the movements began to pour in to abolish Kamaiya System and “it was only after the re-establishment of multi-party democracy in 1990” (OMCT, 2001) that these movements could make an impact. In several of these movements, many political parties, organisations have been involved in the campaign against the Kamaiya system. Most of the agenda was carried out by the welfare organizations like agencies of the United Nations, bilateral donors, and non-Governmental Organizations, Trade Unions, government departments” (OMCT, 2001) and social awakening of the Kamaiya community itself.

2.4.1 Beluwa Movement

Beluwa movement began in the year of 1951 in Bardiya district where Kamaiyas decided to capture “land and barn from Beluwa village which is situated in Manpur Tapara VDC. This was the first movement to have been noticed and people came out collectively in support of the freedom of the Kamaiyas and to fight against the oppression of the landlords” (Chaudhary, 2011; World Organizations, 2000). “Land to the tiller” was the slogan for the poor people of the independent movement. Therefore, after the political change 11 VDC of Rajpur area of “Bardiya came together and decided to claim their land and ownership. Around 31,300 Tharu Kamaiyas, including women and children” (Chaudhary, 2011), got together at the Beluwa town and moved towards the paddy mortal house of Mahila Raja (secretly known as the second master), Mr. Bidur Narsingh Rana. The essential objective of the action was to ensure Trikur Bataiya (33% of the value of rice) against the work responsibility they offered rice. At the point when proprietors declined to recognize “their demand, on 27 April 1951 Kamaiyas got the paddy stable and started to fill bushels and sacks at around 4 pm. When they started to fill bushels and

sacks, the police control pushed by the head of district police Khadga Bahadur Giri opened fire at the crowd of Kamaiyas executing Mrs. Koili Tharuni, Mr. Pati Crush Tharu, Mr. Laxmi Prasad Tharu, Mr. Dibuwa Tharu, Mr. Chapu Tharu and Solaria Tharu” (World Organizations, 2000). Sadly, the movement stopped because of the incident and Kamaiyas were forced to surrender as the landowners were supported by the Government.

2.4.2 Srikainda Movement

In 1980, with an end goal to dispose of the Kamaiyas framework, 1300 Kamaiya groups (World Organizations, 2000) of different areas of Bardiya district sorted out “under the initiative of Jangali Tharu and settled in Machad municipality of Dhodari VDC of Bardiya region leaving landowners spread and declaring that they were liberated from suppression” (Chaudhary, 2011). “Following two and half years, they chose to movement to Srikainda, an area in Sanoshree VDC of Bardiya, where the administration was formally transferring area to the landless individuals trusting that the government would give land and privileges to them as they too were landless. Be that as it may, when they settled in Srikainda in 1984, the whole town was thrashed by the law and police protects using elephant and bulldozers. Since they were from the Kamaiya foundation flag, they were not thought about landless people” (Chaudhary, 2011; World Organizations, 2000).

2.4.3 Majhara Movement

In 1993, “150 Kamaiya groups of Majhara town of Khairichandanpur in Bardiya area composed and involved open land (World Organizations, 2000). They had like wisely proclaimed that they would fight against the Kamaiya framework and will not work for landowners on Kamaiya terms. As indicated by Devi Prasad Ghimire, Administrator Khairichandanpur VDC” (Chaudhary, 2011; World Organizations, 2000) neighbourhood landowners and backwoods authorities mistreated and manhandled “Kamaiyas and occupied their homes. They were ousted from Majhara and compelled to live on the bank of Geruwa stream” (World Organizations, 2000). Amid the gusty period of that year, the flow of the water canal removed the Kamaiyas once more. “After the surge, all the Kamaiyas took the choice to possess the Majhara's open land again for their

survival. This time they were substantially more collected than previously and figured out how to keep” (Chaudhary, 2011) on living there and “win their occupations from wage work and cultivating on possessed land” (World Organizations, 2000).

2.4.4 Damauli Movement

In 1998 December, 500 Kamaiya groups of Motipur VDC of Bardiya area met up in an organized way and involved open place where there is Damauli area in Motipur. They began cultivating the owned land and raising animals. However, the landowners upheld by the administration (police and backwoods protects) harmed the places of Kamaiyas by using elephants in the long run pressuring them to continue their works with same landowner (World Organizations, 2000).

2.4.5 Manau Movement

1998, around 200 families came together in Manau and decided for not continuing the work “done by them until zamindar agreed to provide ten bags of paddy as Masyoura and Trikur as Bigha” (Patterson, 1977). On the day third they called for the negotiation on their (Kamaiyas) demands. When around 50 Kamaiyas gathered in the hut “police came forward and started to beat them indiscriminately” (Chaudhary, 2011). And again this movement failed as it was highly conspired by their masters (World Organizations, 2000).

2.4.6 Kanara Movement

“Kanara was a big forest land area on the bank of the Babai River north Sanoshri VDC in Bardiya district” (World Organizations, 2000). After the re-establishment of the “multi-party democracy in 1990 the above isolated movements concluded in Kanara movement. Kamaiyas realised to need for a central body that would coordinated the Kamaiyas squatting throughout the district. They created a 15 members body under the chairmanship of Jagga Parasad Pande” (Chaudhary, 2011; World Organizations, 2000), “in April 1990, committee decided to reorganize all the landless Kamaiyas committee members, families and resettle them in Kanara” (OMCT, 2001). All the committee members and Kamaiyas “raised flags of all the political parties and played a key role in

the formation of multi-party democracy in Nepal” (World Organizations, 2000). After that, members started peaceful marches and various protest within the district and outside the village. The chairman of the committee came to meet “with the Prime Minister and to the chairperson of the Landless Peoples Problem Solving Committee 1992,” (Chaudhary, 2011) but as they not supported by the government and again they failed in getting support and around 8 am the “Armed Police, Forest Guards, Royal hunting security guards ordered to destroy the settlement by using force, bulldozers, elephants and by the police” (World Organizations, 2000). “In 1992, 17 November committee members and Kamaiyas organised a relay of fasting and started pressurising the government for solving the issue of Kamaiya system” (Chaudhary, 2011; World Organizations, 2000).

With this, “the administration constituted the *Sukumbasi Samasya Samadhan Aayog* (Landless People Groups’ Critical thinking Board)” (World Organizations, 2000) and began a dialogue with Kanara Samiti. In this exchange they achieved a declaration that the whole region should have a place with Kamaiyas and the legislature ought to give medical help to each one of those harmed throughout the Kanara Movement. “The Aayog additionally guaranteed that all landless Kamaiyas would get brief land credentials and within two months the way toward provided land area to the Kamaiyas would begin” (Chaudhary, 2011; World Organizations, 2000).

While conducting the historical evaluation of the Kamaiya and Kamlari system in Nepal in the context of modern day slavery, the study found that other than the socio-economic factors, there was a religious connotation to the Kamaiya and Kamlari system in Nepal. In this context, the third chapter analyses the religion as an important aspect to understand the systematic behaviour of the slavery around the world with focus on the inhumane Kamaiya and Kamlari system in Nepal. The chapter also argues that slavery has been a made system of exploitation and by using the name of the god, exploiters have continued it for centuries.

Chapter Three

Religion as a Determining Factor of Slavery

For a millennium, religion has remained the most controversial subject practised by the humankind. The underlying philosophy of the life has rested on the lines of religious teachings, practices, beliefs, faith, philosophy and the propaganda, at the same time, it is used as a stimulator in refraining from the newest developments evolving through the process of socio-economic, cultural and political developments. Further, it was at the later stage of the religion that debates and discussions began to take shape on subjects those formed integrity with the religion yet they were away from the discussions of mainstream religious practices; even though, they formed the larger platform of discussion, and among many such subjects, slavery remained at the heart of the civil movements. These movements were often promoted and initiated by the churches or religious institutions to showcase their willingness to match with the contemporary needs and developments in the society (Quirk & Richardson, 2010). On the other hand, the hierarchy prevailing on the lines of religion (Murphy, 2014) under the umbrella of race and caste system remained the main factor in keeping the societal structure of hierarchy intact.

Also, the second subject which gave birth to several civil movements included the question of human rights in the prevailing laws across religions and the status of women in them, especially the way religion influenced their existence (Patterson, 1977). While discussing the three- slavery, religion and women in a single framework, a familiar picture of the exploitation over the years emerges, irrespective of their geographical boundaries, and cultures. In this regard, the literary sketch of *Orlando Patterson* is noteworthy which states that “slavery bears a significant relationship to religion, especially those employing sacrifices, and to the development of civilizations...it (religion) accumulates force and produces organization without which culture would not have been won, and then it turns into a sort of social disease which is fatal to strength and organization” (Patterson, 1977). Meanwhile, considering the delicateness of the religion on the foray of these debates, finding clarity in the religious preaching at places where

slavery falls under the category of household works performed by the members of the family in the order of survival and duty towards the family, it becomes difficult to separate the two.

In this context, it needs to be noted that the ‘study of religion should not be limited to the study of beliefs and value commitments but rather include its cultural objectives and its actions...that are mobilised, interpreted, and manipulated in a variety of institutional settings of a variety of purposes’ (Williams, 1996; Maslak M. A., 2003). While the religion has been a systematic guiding line in driving the course of a society, the societal structure of these societies is more often moulded by religion and religious interpretations. The present chapter is an attempt to argue that it is not just the tradition that has been followed by the generations of the families trapped in the Kamaiya and Kamlari system, but also religion plays a crucial role as a determining factor in forcing people into such inhumane slave practices. The present chapter is an attempt to analyse the relationship between religion and slavery.

3.1 Christianity and Slavery

In establishing the relationship between the religion and slavery, the first-hand information that is accounted and provided in a well precise manner comes from the history of the slaves in the United States. Arguably, the slave system in the United States began on the religious lines that not only justified the enslavement of the Africans in any form or manner but also it supported the existence of slavery for millenniums. As the bodies of the slaves suffered from the acute pain of their deployment in harshest conditions, they were made to believe that “their souls will be saved through conversion to Christianity. At the time of the Civil War in the United States, religion was used to rationalise slavery” (Civil War Encyclopedia, 2019). While no direct reference of Bible was made to propagate that slavery was meant for the coloured people, yet in many a cases, preaching by the priests and the Holy Men incited the argument that Holy Scriptures called for servitude of the black people. However, such arguments have been falsified; others have attempted to argue that “slavery was advocated and enforced in the Bible” (Priest, 2015). Meanwhile, the long debate on enslaving of the people of the

African Origin under the laws of Christianity, St. Paul's writings of the New Testament requires a thorough analysis.

First on account, St. Paul in narrating the slavery, classified people into different categories and justified different conditions for the different classes of men, and further went on to argue that 'Christianity did not contemplate the breaking up of the civil relations of the country, even as they were then in operation among the people.' Precisely, classifying people based on the colour and race, St. Paul's New Testament presented a more orthodox view that it was not desired for any man to change the fate as held by the will of God and faith in the Christ. St. Paul in commands that "Let every man abide in the same calling (or business) wherein he was called nor converted.' Art thou called, being a servant (or slave), care not for it; but if thou mayest be *made free* (personally), use it rather. For he that is called, being a servant (or slave), is the *Lord's, free man*" (Wesley, 1812). The theological writings on Christianity have dedicated literature where servitude is seen through the prism of God's own will. To begin with, the historians of the Christian Era (Collins Dictionary, 2018) find slavery as the common practice held by the religious practitioners, authorities and institutions. "In the Christian era slavery as such was not condemned and churches and monasteries actually held slaves. Church councils of different nations and centuries formulated canons relative to the treatment of slaves" (Danenhower, 1957). The timeline, beginning with the Christian era, saw a form of protectionist moves from the Church whereas a religious institution, it deployed slaves, and in no form, it condemned the sale and purchase of the slaves.

Noteworthy, in the ancient religious writings, there are direct references where servitude did not fall under the inhumane practices. By the Thirteenth Century, slavery had become a global phenomenon. Slave trade was not limited to continents, but inter-continental slaves were brought from Africa to Europe. In the following Fifteenth Century, slaves had become an integral part of the field works that required workers to work in the harshest conditions. Meanwhile, in the first millennium, Greeks were

involved in the purchase of the ‘Christian Slaves.’ Ruth Danenhower in this regard writes that:

In 785 Charlemagne expelled from his territory Greeks who came to buy Christian slaves to sell them to the Musselmen of Spain and of the East. In 820 and later merchants of Verdun were censured by the Church for selling their own fellow-citizens after mutilating them to the Kaliphs and Moors to be employed in guarding their seraglios (Danenhower, 1957).

While church took the cognisance of the slave trade, it was limited to the fact that it was the slave trade of the Christian people and they were being sold to masters of the other religion. Meanwhile, in the mid-Eighteenth Century, religious writings on slavery began to focus on the abolitionist (Britanica, 2018) movement parallel to the extreme views of the slavery as the established institution for a specific class of people who were often classified by their racial features. The abolitionist movement received huge resistance from the Church and the missionaries. However, the rationalists continued to speak and raise anti-slavery voices and condemn the role of the church and the priests. The anti-slave movement had picked up the momentum in Britain where rights of the enslaved Indians were taking a momentum. “Granville Sharp secured a legal decision in 1772 that West Indian planters could not hold slaves in Britain since slavery was contrary to English law” (Britanica Encyclopedia, 2018). On the other hand, in the United States, many of the states began to abolish slavery, and it eventually had reached in the corners of the African continent. However, the basic argument in the abolitionist movement against slavery was that:

It challenged proslavery apologists to push slave evangelization: If slavery was to be defended as a positive good, the slaves had to be converted to Christianity and master-slave relations had to be conducted along biblical lines. Schisms over the question of slavery resulted in the formation of the Methodist Episcopal Church, South in 1844 and the Southern Baptist Convention in 1845. The divisions, which relieved some of the anxiety among slaveholders that churches were sympathetic to abolitionism, also created greater urgency among Southern churches to convert the slaves (Civil War Encyclopedia, 2019).

During the days of the abolitionist movement, the rationalists took a frontline in condemning Slavery, but it was not clear if they were against the institution of slavery as a whole. In the later years of the Eighteenth Century, a two line argument had emerged among the scholars who defended the Christian religious writings and pointed that there is a huge difference between the old testaments and New Testament with regard to slavery. The Old Testament did not justify and promote slavery; rather it was in the Old Testament that direct inferences were made to institutionalise slavery under the command of the church or the priests. However, the case seems to be otherwise. The Book of Exodus which is the Hebrew Bible (Book of Exodus, 2018) also known as the Old Testament argues to condemn the Slavery system. However, a cursory analysis of the literary discussions on the original text provides a complete contrary picture. The laws on the slaves in the Old Testament condemn slavery under specific circumstances and seemingly justify slavery along with its promotion to a larger extent. In the third section of the Old Testament, Laws on Hebrew Christian slaves add that:

If you buy a Hebrew servant, he is to serve you for six years. But in the seventh year, he shall go free, without paying anything. If he comes alone, he is to go free alone; but if he has a wife when he comes, she is to go with him. If his master gives him a wife and she bears him sons or daughters, the woman and her children shall belong to her master, and only the man shall go free. But if the servant declares, 'I love my master and my wife and children and do not want to go free,' then his master must take him before the judges. He shall take him to the door or the doorpost and pierce his ear with an awl. Then he will be his servant for life (Book of Exodus, 2018).

Nevertheless, the interconnection between religion and slavery is often referred to in direct mode in several religious texts, and the Old Testament shall be seen one among them. The Old Testament was quarried for its soft support towards slavery and especially for being non-condemning. Such subjugations were very much prevalent among the Israelites. While the religion remained the sole guiding force of the society and its people, the principles of the God deployed in the religious texts were not only used to subjugate people for slavery but also the masters were protected due to the strong interference of the Church.

In the Nineteenth Century, the anti-slavery movements in the United States had infused the discussion on the subjugation of the slaves of the African origin, and the human rights perspective had taken over the public sphere for debate and discussion. However, compared to previous centuries, the discourse on the relationship between Christianity and Slavery was more complicated because “both proslavery and antislavery divines believed they had God on their side, and both sides followed the same biblical interpretive tradition” (E. Harlow, 2006). However complicated, the whole discourse on religion and slavery revolved around the subjugation of the people of colour of the African origin people, especially in the southern United States. Owned by their white masters, the enslaved community regularly participated in the Church Masses. Plethoras of research writings on the subject cite two prime locations included Kentucky and Tennessee. As the subject of slavery was picking the moral and legal ground, a number of cases were brought before the courts in Kentucky and Tennessee where enslaved community fought to go free since they had worked under their white masters for centuries, and the new generation wished to walk as free citizens.

To cite a few cases in this regard, the case of JM Pendleton, who was a minister in the Church and regarded as a well-known religious preacher in the 19th Century, needs to be noted. Pendleton is considered as the reformist who voiced against the inhumane practice of slavery which had alleged protection of the religious texts and the institutions. He also contended that slavery should end through a process rather completely abolished because it might imbalance the societal structure of the then existing arrangements between coloured and white people and the Bible (Noll, 2006). Since he himself was a slave holder, he provided a moderate view to abolish slavery. In his memoirs, he mentions that “I by the will of my father became a slave-holder. In the distribution of the estate, a young girl was assigned to me. The law did not permit me to emancipate her, and the best I could do was to hire her out” (Baptist History, 2018). He narrates that it was on the legal grounds that he was a slaveholder, but soon after the waves of the abolition of slavery had flourished, he was able to morally set himself free as a slaveholder since he did not intend to be one. In the later years, Pendleton emerged as a

strong advocate against slavery. Nevertheless, Pendleton posed a critical view of slavery in the new entrant era of the abolitionist movement.

Further, unlike in the United States, slavery in Europe was handled under a more expansionist and colonial system. Britain had colonies all over the world including Asia, Africa and the Americas, and as a colonial power, it enslaved people on its colonised overseas territories. For instance, the interpretation of the Bible in the case of slavery could not be done on minority Christian territories, mostly in Asia. However, its expansion on the domain Christian territories was still under the purview of the biblical understanding. “Bible was not only regarded as infallible, but it was also their primary reference tool and those looking for answers to explain differences in ethnicity, culture, and slavery...which appeared to suggest that it was all a result of *sin*” (Reddie, 2019).

The literary works of the Mark A. Noll in explaining the interconnection between Bible and the slavery provide a more cohesive overview in the Twentieth Century on the different interpretations of laws on slavery mentioned in the Bible as well as a provides a regional understanding of the debate. He also examines the different views of slavery held by the Catholics and the Protestants. In the United States, the Protestants took a moralistic ground in condemning slavery than explain the biblical verses to criticise the inhumane practice of slavery. On the other hand, European Christians considered scriptures to understand and condemn slavery in Christianity (Stovall Richards, 2008).

Overall, the larger canvass of the slavery in Christianity from the Thirteenth Century to early Twentieth Century is associated with the race, region and interpretations. However, it was mostly focused on the enslavement of the coloured people of the African origin whose subjugation into slavery was subjected to ‘sin’ and the societal order which was more often left undisturbed as it could imbalance the existing order in the society, i.e. “for the Africans it demonstrated that God was on the side of the oppressed and would send a Moses to free them” (Reddie, 2019). Hence, religion played the role of a determinant in keeping the enslavement practice intact as it could neither criticise nor accept its open support to the practice. Meanwhile, biblical texts like the Book of Exodus

and memories of the JP Pendleton provide sufficient clarity that slavery was practised under the ambit of the religion, and it was promoted under the laws deployed in the Old and New Testament and were subject to different interpretations at different geographical locations (Rae, Noel , 2018).

3.2 Slavery in Buddhism

Buddhism is considered as one of the most peaceful religions in the world, for its unabated advocacy of ‘non-violence’ and peaceful co-existence (B.C., 2017). Given the history of Buddhism spanning over 2,500 years, its is often cited as a philosophy than as a religion. However, since the mid-Twentieth Century, a more political synthesis of Buddhism has displayed inhumane, violent some raging practices by its followers, and above all, those practices are given a religious outlook (Arnold & Turner, 2018). Hence, it immediately captures the thought process of the human psyche and the rationalists to question the existing cardinal features if they actually promote peace. In the last two millennia, Buddhism as a philosophy has spread around the world. Majority of the countries in the Asian continent practice Buddhism, and in many a case it is constitutionalised and stands as a state religion. Thailand, Myanmar, Bhutan, and Sri Lanka have constitutionalised Buddhism as the State Religion. While in these countries, Buddhism has become the part of the political and administrative process other than the existing social, cultural and economic order, a more politicised image of the religion.

Majority of the beliefs surrounding Buddhism revolve around Buddhism as a way of life, precisely because of its deals with the broader subjects including life, sex, woman, war, human behaviour, politics, etc. in the human life (Arnold & Turner, 2018). With such a vast subjectivity covered under Buddhism, one may wonder if slavery was ever determined in its preaching and or was a widespread practice. Unlike, Christianity or Islam where direct references are made in the religious texts on enslaving people or non-condemnation of this inhumane practice, but it does not fall on the similar lines in Buddhism.

3.2.1 Buddhism and Slavery in Bhutan

During the age of the Buddha, India was going through socio-economic change. The social cohesion was being attempted with collective efforts of the society under the moral and ethical principles of Buddhism. Also, the democratic way of the governance was being experimented. Importantly, ‘Slavery was a fact, as was the caste system, but the caste system was on the decline’ (Irons, 2008). While it is unclear if slavery was promoted or condemned on the religious lines, it had existed as a social norm. Similarly, in Bhutan which is a Buddhist country, had slaves till it was formally abolished in 1958. Slavery in Bhutan was practised mainly in the form of bonded labour. It was the Lhotshampa people in Bhutan who were brought from the neighbouring kingdoms of the Kathmandu valley centuries ago. A.C. Sinha writes:

The first 100 years of the *Lhotshampas* were period of real slavery in Bhutan. Incidentally, slaves were freed formally in 1960 in Bhutan as such. They led an extremely deprived marginal life in malarial jungles and expected to be evicted anytime from the patch of developed land (Sinha, 2004).

After a number of clashes broke between the dominant indigenous cultures, Lhotshampas were expelled from the Bhutanese territory, and till date, many of them are awaiting their third-country settlement in Nepalese refugee camps as Bhutanese government had declined to accept them back. Meanwhile, several research writings contradict Lhotshampas as slaves, but historiography of their existence in Bhutan affirms their deployment as bonded labourers who were discriminated against the dominant Buddhist community of Bhutan (BBC Publications, 2016). Direct inference of Buddhism and slave in Bhutan is not available in the literary works, yet being a Buddhist country, its non-condemnation by the state and the monasteries until 1958 clearly reflects the religious support to the types of slavery in Bhutan.

3.2.2 Buddhism and Slavery in Thailand

One of the strongest cases that showcase interconnection between slavery and Buddhism is the case of Thailand. The socio-cultural, economic and political has deeply been influenced by Theravada Buddhism and constitutionally, Buddhism forms as the state

religion in Thailand. The Theravada school of Buddhism is known for its 'severe nature and makes great demands upon individual followers. To be a true follower of Buddha, this school believes, one must renounce the world entirely and enter a monastery. The person who follows this path literally and honestly, will become "Arhat", a worthy person, ready to enter Nirvana" (Alexandra-Fic & Kapur, 1998). However, the severe nature of the Theravada school of Buddhism in the last several decades has occupied more of a political space than spreading the message of peace and tranquillity.

In Thailand, the monasteries not only have a say upon the political issues, but they often dominate the space. Precisely, it is to do with the economics of religion and politics in the country. It is a "mutually supportive and interdependent relationship exists between the government and the Buddhist institutions, especially the Sangha, the officially recognised and sanctioned male monastic establishment" (Joy Peach, 2000). This equation has materialised over the years due to the nature of the religion which till date remains to be unquestionable, and since it is considered as the guiding principle of the state policy, the state protection given to the ideas and preaching of Buddhist institutions is followed under the stringent mechanism of the law. Further, from the economy point of view, this equation serves the wellbeing of the state as well as provides financial support to the Monasteries, and due to this equation, the monks are given a greater say and in many cases, they happen to side by the state, especially in the case of human trafficking the crime.

Known for its tourism industry, Thailand in the past two-three decades has emerged as the hub for 'sex tourism.' Trafficking for sex is a well-known phenomenon in the country, and to a many surprises, state protection to the trafficking shows that it contributes a larger share to state's annual budget. As per 2000, 'trafficking was estimated to comprise fifty-six percent of the Thai government's annual budget' (Joy Peach, 2000). In the same study, 'it is estimated that since 1990, eighty thousand women and children have been sold into Thailand's sex industry' (Joy Peach, 2000). With such a huge contribution made by the trafficking industry, trafficking has not only occupied the social and cultural space in the country, but the dominant religious institutions are often

seen involved in such activities. Contrary to this, it is considered that ‘religions are a major factor of belonging and globalisation, crucial for tying people together and shaping a sense of commonality among believers, thereby contributing to the emergence of a global imagination’ (Letizia, 2014). In the case, of Thailand, it presents a different outcome altogether.

Buddhism’s Sangha Supreme Council (SSC), the premium governing body of Buddhism Monasteries and the monks in the last two decades has been reported to have covered grave offences committed by the Monks. In 2013, a Buddhist Monks named Wirapol Sukphol had appeared on the social media platforms showing bundles of the cash and luxurious life alongside a private jet. The Thai government had taken the cognisance of the matter (Reuters, 2018). With its deeper reach into the administrative and governance system of Thailand, the SSC had attempted to cover up the incident as media had begun to report several such cases. In 2014, a military government took over Thailand, and following the pressure of the international Buddhist societies, the military government had assured its citizens of criminalizing such offences with the harshest sentence. In this case, the monk was given 114 years’ imprisonment. Later, it was reported that the monk had been running women trafficking ring and after it came to the public eye, he had fled to the United States (Reuters, 2018).

In 2018, the International Justice Mission (IJM) which is a “global organisation that protects the most vulnerable from violence and oppression irrespective of their gender, community, caste, race, and ethnicity” (IJM, 2018), had come forward to rescue of the teen boys who had been exploited by a Buddhist monk named “Pra Chai”. He was running parallel trafficking rings for last one decade. The IJM reported that “He was the ringleader of the trafficking ring and the court’s strong sentence of 124 years” (IJM, 2018). While the Thai government and the justice system have attempted an image makeover by sentencing such religious leaders, their lavish lifestyle in jails is yet another example of the state protection given to Buddhist institutions. Despite the military junta government’s promises to consider the matters concerning monks and the trafficking, they have fallen prey to the integrated nature of religion and politics. “Religion and

politics have never been properly separated in Thailand because Buddhism still plays a big role in the lives of most Thai people and that's what they base their moral compass on" (Cadigan, 2015).

The so called 'holy-alliance' between politics and Buddhism in Thailand provides insights on the role of the religion in determining the alleged economic growth of the country. However, the economic growth comes at the cost of the people and dark stories of the trafficking, drug and entertainment industry of the country which flourishes day and day uninterrupted. The open example of Thailand further helps to understand the human rights perspective of the women who are trafficked and enslaved due to the debt arrangement that is nearly impossible for them to pay (Peach, 1999). Thus, they are sold and resold from one owner to another master until they reach a certain age or they are not resold. Since trafficking is "commonly described as a form of modern slavery" (Joy Peach, 2000).

An indirect and inexplicit reading of Buddhism shows that women are considered inferior to men and to achieve enlightenment and hence, rebirth as a male is necessitated. The other aspect of the vulnerability of women in Thailand is the lack of economic opportunities at hand. With the booming tourism industry and the inclusive nature of the male-dominated military in the bureaucratic affairs of the government, the job options for women are limited. Thus, in many cases, women end up working in the entertainment industry which has been maximally exploitive. Since the religious order of the country has all men domination, succumbing to this order comes as an obvious task for women. In this context, Lucinda Joy Peach writes:

Buddhist teachings help to shape gender identity, primarily through social valuations of women as both inferior to men and as the embodiments of sexuality. Buddhist scriptures emphasize that women are attached to the material world of the senses and emotions, in contrast to men, who are able more easily to transcend their embodied and worldly existence for spiritual goals (Joy Peach, 2000).

Coupled with the political order of the country and the Buddhist institutions, grave concerns over the condition of the woman are a natural phenomenon that is often reported by the international media. The nexus between religion and modern-day slavery in the form of ‘trafficking’ is just one example of several. As the fifth largest religion in the world (Shirley, 2016), it becomes obvious that once it occupies the political space in Sri Lanka, Bhutan, Myanmar or Thailand, it has not only seen the changing interpretation of the scriptures, but the process of the verification is also lost since it comes from the state where least space is found to question their authenticity. However, some suggest that “the contribution of monks to development lies more in the providing of spiritual advice and solace to those who labour to bring about the transformation of Thai society than in being toilers in that field themselves” (F. Keyes, 1971).

3.3 Slavery in Islam

In discussing the interconnection between slavery and world religions, it is often found that almost all the ancient religions irrespective of the regions, have directly or indirectly discussed about the system of slaving the fellow human beings by the other human masters because of their superiority concerning race, financial status, ethnicity, caste, regional identity, creed, etc. In the case of Islam, the finding is not too different. In discussing this, many of the scholars have chosen not to use the phrases like ‘Islamic slavery’ or ‘Muslim slave trade,’ (BBC Publications, 2009) for others, it does not make a huge difference as in both the cases, Islam is used as a determinant in sheltering or promoting or failing to denounce it.

Of many ancient religions, Islam forms a dominant religion across the world. Finding its roots in the Arab world, over the centuries, it has spread across the world, especially in the western world where it stood with minimum followers at a time. This has been possible precisely because of the Asian and Arab Diaspora that has penetrated the western society and made a remarkable space. While the reasons for its spread itself is a subject of a dedicated study, the recent phenomenon in this regard has been the rigidity and extremist values that have spread actively across the region. Also, its philosophical

outreach to younger generation is done through a method of interpretation where the religion is showed to be in danger.

Several studies discussing Islam and slavery often begin their discussion by assembling the facts on the founder of Islam- Prophet Mohamed/ Muhammad as the religion of the masses. A major write up from BBC Publications adds that:

The Prophet Muhammad did not try to abolish slavery, and bought, sold, captured, and owned slaves himself. But he insisted that slave owners treat their slaves well and stressed the virtue of freeing slaves (BBC Publications, 2009).

On the other hand, scholars debate that Prophet Muhammad, himself appealed for protecting the human rights of the enslaved people. BBC Publications further adds that:

Muhammad treated slaves as human beings and clearly held some in the highest esteem. For example, he personally ensured the freedom of Bilal, an African slave who had converted to Islam. Bilal was chosen as the first muezzin of Islam because of his beautiful voice. A muezzin is the person who calls the community to the daily prayers, and is a position of great prominence and responsibility. Zayd was a young boy who had grown up in the household of the Prophet as a slave, and remained with the household, almost as an adopted son, even after he was freed. He was amongst the first four people to adopt Islam. Indeed when Zayd's father (a wealthy nobleman) tracked his son down and offered to buy his freedom from Muhammad, Muhammad told Zayd that he was free to go with his father with no money changing hands, and to his father's astonishment Zayd chose to stay with Muhammad (BBC Publications, 2009).

To understand the more nuanced narration of the servitude in Islam, its illustration in the customary law of the religion namely Sharia needs to be considered. William Gervase provides in defining the Slavery under Sharia writes that “slaves were chattels, similar to livestock in many respects, and yet they possessed certain carefully circumscribed rights, arising from their undeniable humanity. They were not slaves because they were 'outsiders', although many happened to be in that category, but because they were born as slaves, or had been rightfully enslaved” (Clarence-Smith, 2006). Also, as interpreted in

the “translated version of the holy book of Islamic, slavery does not fall under the category of ‘sin’. N.J. Dawood in this regard states that:

Blessed are the believers, who are humble in their prayers; who avoid profane talk, and give alms to the destitute; who restrain their carnal desires (except with their wives and slave-girls, for these are lawful to them (Dawood, 1999; Spoerl, 2014).

The above-translated section from the Holy book of Islam narrates the treatment of women and slavery in a single phrase. However, these explanations constitute the more significant part of the individual explanations. Further, with the advent of Islam in the African continent in the Seventh Century BC, a pause was witnessed in the expansion of Christianity in the Continent. While under the Roman Empire enslavement of the people of colour had boomed, the arrival of the Islam saw a quick acceptance among the indigenous people traders who later became an essential part of the slave trade across the region and beyond. Slaves were deployed in the domestic, agricultural, mining, soldiers, sailors, industry, commerce, and in the administration.

From the eighth to the fifteenth centuries, although raids by Muslim nomads for slaves took place, more were obtained by trade with the indigenous kingdoms of the savannahs, notably long-established Ghana and the subsequent Malian Empires. Captives taken in their local wars were marched to the markets like Gao or Aghordat or the capital of Ghana in or near the borders of the Sahel where they were bought by Muslim merchants from the north (Alexander, 2001).

Slave trade was formalised in some societies in Africa under the Islamic culture, but restrictions under the Sharia law did not treat the male section of the societies as slaves against their will. However, women were very much treated as a ‘comfort woman’. Since, Islam outlaws’ prostitution, enslaved unmarried women were attached to their married masters without being called prostitutes. It was deeply enrooted and practised in the Ottoman Empire. Comfort women lived in Harem, a place where women of the house lived separately from their male partners. The enslaved women lived along legal wives of their masters (BBC Publications, 2009). By the Nineteenth Century, a wave of abolishing slavery had emerged in the Ottoman Empire. In the mid-Nineteenth Century, “the slave

trade was banned in the Persian Gulf, following this, the African slave trade was banned” (BBC Publications, 2009).

It is to be noted that in the modern day, Islamic societies treat slavery in their indigenous ways. More often, the male has the right to keep women other than their legal wives. Meanwhile, the most recent example of projection of slavery under the Islamic laws was seen to be practised by the Islamic State. Islamic State had risen to fame in 2014 which had declared itself caliphate is covering “the territories in Syria and Iraq, and the movement drew recruits from around the world.

In the intervening years, “thousands of Yazidi women (a largely Kurdish-speaking religious group) [were] kidnapped...on a single day in August 2014 and forcing the women into sexual slavery” (Loveluck, 2019). While Islamic State and its practices have been condemned with the Islamic world, its slow demise (Callimachi, 2019) has brought several testimonies of the enslaved women by the Islamic State out in public (Uibu, 2018). With this overview, it needs to be emphasised that the culture of servitude in Islam is considered as part of a tradition which is banned in several societies. Nevertheless, the examples like Islamic State emerge time to time as they are constrained with personal interests of a particular group attempting to claim a specific territory through the means of violence and by interpreting the religion to their best interests justify slavery.

3.4 Slavery in Hinduism

Hinduism is the fourth largest religions in the world with estimated followership of fifteen percent of the world populations. With its origin in the Indian subcontinent, its largest followership is limited to the subcontinent, but its spread has been across the world. “If the Indus valley civilisation (3rd–2nd millennium BCE) was the earliest source of these traditions, as some scholars hold, then Hinduism is the oldest living religion on Earth” (Buitenen & Narayanan, 2019). Hindu culture, religious practices and systems are well documented, and almost every aspect of life is discussed in the religious, literary works that have over the centuries transmitted from place to place and people to people.

“From about the 4th Century CE, Hinduism had a dominant presence in Southeast Asia, one that would last for more than 1,000 years” (Buitenen & Narayanan, 2019).

India and Nepal, these two South Asian Countries have a predominantly Hindu population followed by Hindus in Bangladesh, Bhutan, Pakistan, Sri Lanka in the minority. With Hindu Diaspora settled in several countries around the world including in the United States, Canada, and Australia, Hinduism forms a large following in the modern-day world. Interestingly, until 2006 Nepal was the only Hindu country constitutionally in the world with more than ninety percent Hindu population. The King of Nepal was considered as the incarnation of the Lord Vishnu, and it was at the behest of his guidance under the purview of the Hindu religion that countries’ local administration and culture grew. Meanwhile, as per the focus of this study, slavery in Hinduism has been found in several age-old traditions like *Das Pratha*, *Devdasi* in the parts of India while in Nepal, several such practices evolved over a period and many cases, enslavement of the human being continues till date in the name of the tradition.

3.4.1 *Das Pratha*

The literal meaning of the Sanskrit term *Das Pratha* is Slave Tradition. However, it is different from the Slave culture that was followed in Africa, the United States, Europe and the Ottoman Empire. In India and Nepal, the tradition of *Das Pratha* meant bonded labour. The deployment of the people under this tradition was done in accordance with the *Varna Vyavastha* (class system) where people were deployed in work as per their caste. The four *Varnas* which includes *Brahmins* who meant to be priests, scholars and teachers, the *Kshatriyas* as rulers, warriors and administrators followed by the *Vaishyas* as the traders and the last in order were the *Shudras* who were considered as labourers and service providers. The *Shudras* were also identified as the untouchables, meaning they were at the mercy of the upper Varna people to engage in the mainstream social life especially in accessing the public services, and they lived an isolated life away from the city or townships and upper Varna people.

The deployment of the *Sudras* (lower caste Hindus) under the *Das Pratha* was done in the agricultural and other household works. It was the generation of a single family that they worked under a single master or family and spent their lives in repaying the loans which were nearly impossible to pay. In Medieval India, the Turkic Sultan Feroz Shah Tuglak of the Delhi Sultanate had stopped the trade of the *Sudras*. Later during the Mughal period beginning in the Sixteenth Century, Mughal Emperor Akbar had criminalised the enslavement of the people (Sharma, 2015). Further, during the British Raj in India, Duke of Duke of Gloucester had ordered to stop the slavery system in India. Thus, the British government in India had brought the 1833 British Charter Act to abandon slavery, and in the follow-up, an act was passed in 1843 which had criminalised the slavery in India. *Das Pratha* was one such system of slavery followed in the Hindu culture. In the Southern parts of India, especially during the Chola Period which ruled until the Thirteenth Century, slavery was a highly prevalent practice. In the sixteenth and Seventeenth Century, several slaves were rescued by the British Raj carried mission (Major, 2012).

3.4.2 Devadasi

Devadasi Pratha also was known as the servants of Goddess was a practice where women were dedicated to temples and taught to sing and dance for the Gods. The parents donated them as a gesture towards God, and it was looked as a great sacrifice on the part of the family to have given their daughter in the name of the God. *Devadasi* is considered as the wife of God, and they remain unmarried for the rest of their lives. The practice had begun in the Sixth Century, and the initial purpose of such a system was to flourish the classical Hindu values including music and dance. However, with changing times, they were/have been forced into sexual slavery. With *Devdasi Pratha* being outlawed in India, now and then cases are reported where due to financial or religious reasons, daughters are donated to temples, and those women spend their entire life remaining as servants of God (Maitra, 1997). In the last two decades, the government has banned this inhumane practice, and in 1982, the government of Karnataka and in 1988 Government of Andhra Pradesh had declared this practice as illegal. However, in 2013, the National Human

Rights Commission of India had stated that more than four lakh women continue to be part of the inhumane *Devadasi* practice (Manshes, 2018).

3.4.3 Kumari System

Kumari is known as the living Goddess by the followers of the Hindu religion in Nepal. Under this system, a young girl is worshipped until she reaches the age of puberty. She is pure and pious, and she represents the divine power of the Hindu goddesses Durga. As per the set guidelines in selecting a new Kumari; she must come from the Shakya or Bajracarya caste of the Newari community. The Kumari is kept away from the public eye and makes an appearance occasionally during major Hindu festivals, and it continues till the age of her puberty, and later she goes back to live her normal life in the public sphere. While the past three Kumari(s) have been successful to get back to public life, other former Kumari girls were forced to stay back at home and due to their past divinity and people hesitated to approach them for marriage. The practice had begun during the rule of the Malla King from fourteen to the “Eighteenth Century. ‘The three kingdoms of Kathmandu, Lalitpur, and Bhaktapur each had its own royal Kumari, near the king’s palace. With the unification of Nepal, the Kumari of Kathmandu became the sole royal—and now national—Kumari” (Letizia, 2013).

Up to 2006, the last Hindu King of Nepal had sought the blessings of the Kumari to legitimise his power and every time; his power was in question, he projected the royal connection between Kumari and himself as the representatives of the divine power. Thus, he used royal Kumari to legitimise any of his decisions. After the Royal Massacre of 2001, the fate of the new King Gyanendra was in question, and it was during the Indra Jatra (a dedicated chariot trip taken by the Kumari to bless the public) that King could claim his legitimacy in full since the Kumari had blessed him.

Meanwhile, the cult practice has been questioned by the new generation of the people due to the life condition of a young girl. The Human rights advocates have been vocal in raising the concerns about the Kumari after they achieve puberty and considered as a commoner and not in every case, they come back to normal life is easy and are left

with many options to carry on their normal lives. Many of the human rights advocates have alleged the Kumari system as a bonded labour (Maycock, 2018) system because of its duration and limited access to public life which causes the major hindrance in the physical and mental growth of a teen girl. However, the state authorities have refuted the claims made by the human rights groups about the exploiting nature of the Kumari practice and held it high in the name of tradition and religious belief of the masses (Letizia, 2013, pp. 32-46).

Also, it is the political relevance of religious practice in the name of the tradition that the Maoists government failed to ban it. In the new republican system, the King is replaced by the President and other practices continue to be the same. The Kumari system in Nepal depicts close similarities with the *Devadasi* system in India. In both, the practices, girls and women are offered to God and Goddesses, and rarely their other side of the story has been made public since they are largely representatives of the god and questioning them might bring bad omen. Hence, the exploitation of the women and girls continues till the date in the name of the Hindu religious values in Nepal and India.

3.5 Kamaiya and Kamlari system

As discussed in the previous and subsequent chapters, the Kamaiya and Kamlari system in Nepal is a centuries old practice. It is form of bonded labour where families work in the agricultural and household works of a landlord/master to pay off the debt that their forefathers and the present generation have borrowed. The system is organized in such a way that the paying off debt for such families is nearly impossible to pay and their bond as a labour continues for generations under the master and their future generation. The system has become part of the Nepali tradition in the certain parts of Nepal and culturally it has remained relevant since the cultural policy formulations remains in the hands of the dominant high class masters and they had/have ensured that the inhumane system continues till date. It is the social awakening of the Twenty-First Century that voices within community working as Kamaiya and Kamlari and other external human rights advocates have come out in public.

With the arrival of the Non-Governmental Organizations (NGO) in Nepal, in last seven decades, the issue is raised at the International platforms. In response, under the pressure of these advocacy organizations, Government of Nepal attempted to ban the Kamaiya and Kamlari system and finally banning in 2013. However, considering the dominance by the high caste Hindus in the system, a very different and dark picture emerges through the data which shows the continuance of the Kamaiya and Kamlari practice. In the present chapter, attempts are made to investigate the role of religion in materialization of these two age old practices in Nepal.

The cardinal factors that have kept the Kamaiya and Kamlari system alive till the date must do with a few factors. One, over emphasis on the religion as the state religion has continued. The inseparable interconnection between the King and religion provides the base of the state paying a lip service and almost ignoring the human rights of the indigenous people who have been part of the bonded slavery. For centuries, an important feature of Nepalese society has been the dominance of the Hindu religion. Irrespective of the governments in power, it was the King of Nepal who dominated the political and administrative sphere of Nepal. Thus, under the shadow of the religion, many of the inhumane practices continued including slavery. In 1996, after the Maoists had revolted against the government, and later it emerged as a decade long war between the Maoists and the King. The decade long Maoist war that had later emerged as the people's war against the feudalistic royal rule was fought by the women, deprived community, political forces and the students. In this war, the social awakening about the King misusing the religious fear was the driving force. To end this, the Maoist war had turned directly against the King in 2001. While King sought to legitimize his power through the religious institutions like seeking blessings from the Kumari, the coronation of the new King in 2001 was also a signature religious move where King was shown as the reincarnation of Lord Vishnu.

Second, the state identity of Nepal till 2006 should be seen through the lenses of Nepal as a Hindu State. Hence, prior to 2006, the *varna* system was very much practiced and prevalent in every aspect. The socio-economic and cultural upliftment of the Dalits

and indigenous people was hardly given an importance in the state policies. It was this part of the ignorance on the part of the royal rule that slavery like practices continued. The Hindu identity of the state has been crucially strong in Nepal. Despite overthrowing of the Monarchy in 2007 and the declaration of Nepal as a secular state in the interim constitution, the new system has hardly been able to come out clear in conveying the fundamental features of the secular state. The upper caste Hindu namely Brahmin, Chattriya continue to reign the political space. It is surprising to note that the age-old Hindu practices namely Teez festival, Indra Jatra etc. continue to receive the top stakeholders of the state during celebrations, especially the Prime Minister and the President. The only change that has occurred in the secular state is the replacement of the King by the President and Prime Minister. This is all done in the name of tradition and culture of Nepal. Since the new constitution of 2015, promises right to religion, participation of the President and Prime Minister and other shareholders in the state is defended to the extreme. Also, to balance the harmony and peace in the country and containing any communal fire, the state directly or indirectly promotes the Hindu religion and hence, an impressionist outlook of Hinduism is heavily seen on the state.

Since people are left with least on their side in asking the government to maintain the secular features of the state, people are forced to adopt the new state identity which is Hindu yet constitutionally stands as a secular in order. Such an acceptance has prevailed as people too are looking to safeguard their local identity. Prior to Maoist insurgency, people of Nepal had stood to ask “for the equality in the social, cultural, political and economic sphere of the country” (Rai, 2015). Writing on this, Chiara Letizia writes that with the “fall of Panchayat regime in 1990, Nepal experience the great flowering of the ethnic activism seeking to achieve greater recognition of cultural, religious and linguistic difference and denouncing the domination of the Brahmins in the political and education, religious and economic sphere (Letizia, 2014, p. 294). Coupling the two awakening, the end product in the name of republican system and secularism showcases a very little change in state identity.

3.5.1 Kamaiya and Kamlari through the Prism of Religion

Nepal is home to several ethnic communities and the Tharus are one amongst them. Amongst the ethnic groups, there are several subgroups and in the case of Tharus too, a number of subgroups exist who are identified by their regional belonging, linguistic differences and the cultural practices. Under the constitution, Tharus are categorized as the indigenous people residing in the Terai region of Nepal. Historically, the origin of the Tharu people is traced from the modern-day India who has moved to Nepal centuries. In 1854, after the Rana Prime Ministers implemented the *Muluki Ain* (Law of the Land), people were categorized based on their food habits and religion. Under this, Tharus were identified as alcohol drinking people along with other indigenous people. However, the origin of the Tharus people is very much debated. Many of the scholars find their roots from the Thar desert of the Rajasthan, parts of Uttarakhand and Uttar Pradesh in India and some believe that they moved from the Tibetan hills to the foothills of the Himalayas and later shifted to Terai in the 1950s after the hills contained by the Malaria. Since people of the Tharu groups came from different parts of India and Tibet, their sense of religion was diverse. In the Tharu groups, many of them found their relation with Hinduism and some were left with their indigenous identity.

In identifying the religion of the Tharu people prior to Nineteenth Century plethora of diverse facts are presented by the scholars. However, if one takes *Muluki Ain* into consideration and see it as a defining factor for their deployment in the slavery, it might provide answer to the perceived religion of the Tharu people. Since *Muluki Ain* was introduced as the law of the land by a Hindu ruler, and identification of the indigenous Tharus as drunkard did not explain their religion but their food habits and cultural identification. Hence, it was the broader Hindu framework and the last in the Varna system that they were seen as low caste people, meant to be labours and in this case, Tharus were deployed as the bonded labour in the name of Kamaiya and Kamlari. The accounts of Chiara Letizia tell the Tharu story differently. She writes that:

Janjatis (indigenous) were first united by a negative definition: the fact of not being Hindu, of being outside of the social hierarchy based on Brahmanical values. The notion of Janjati was connected to the notion of

the Adivasi Janjati, were therefore Aryan intruders came to Nepal bringing Hinduism. Therefore, the Janjatis were not Aryan, not Varna, not Hindu (Letizia, 2014, p. 294).

On both the accounts, the Hindu identity of the Tharus stands pale but it cannot be denied that they were part of the social hierarchy based on Brahmanical values. However, Tharu represented a close relationship with Hindu religion. A fine example in this regard stands the selection of the Tharu families by the Landlords under the Kamaiya and Kamlari system. During the Hindu festival of *Maghi* Festival (WOAT, 2019), a bond was signed between the landlord and family which was renewed every year on the same day. While it was the established norm, the bond was hardly followed and the Tharu family remained enslaved as bonded labour for generations. Hence, although choosing *Maghi* Festivals a day of slave selection was driven traditionally, choosing the day itself presented the close association of the Kamaiya and Kamlari people with Hinduism. Also, as discussed earlier, under the Kamaiya system, enslavement was done irrespective of the gender where the contract stood for a year. In the case of Kamlari, women members of the Tharu families were involved into Households works, and often they were forced for the sexual favours by their masters.

The second close association of the of the Kamlari women with Hinduism is found during the menstrual cycle when Kamlaris' were forced to live outside the house, in a Goth (a temporary shelter outside the house) which falls under the system of *Chaupadi*, a practice of banishing women into huts or sheds when they have their periods. Menstruating women are considered impure and untouchable in the Himalayan kingdom and are banished from household and social activities (Das, 2014). Regardless of their close allegiance to Hindu system, they have been considered low in the social hierarchy and hence, the debate on their religious identity has always continued.

Following the religious and cultural identity crisis, along with highly prevalent social discrimination under the class and caste system, Tharus actively participated in the reform movement that introduced mainstream Buddhism in Nepal to the indigenous

communities. They began to associate themselves with Buddhist practices which resulted into their conversion into as Theravada Buddhists. David N. Gellner writes:

The converted Theravada monks and nuns who travelled to Burma in order to study and then returned to reintroduce a new way of practising their old tradition. This new Theravada movement had reached out and started making converts among Magars and Tharus who now, for reasons of ethnic assertion, wish to disassociate themselves from Hinduism and the domination of Bahuns and Chhetris (Gellner, 2013).

Further, Chiara Letizia adds that “the advantages of choosing Buddhism were multiple: to be recognized as Indigenous (using United Nations terminology and discourse), it was important to have always lived in Nepal, but many Janjati groups had myths that traced back their origin to Tibet or Rajasthan” (Letizia, 2014, pp. 289-294). Clearly, it was an attempt towards social emancipation from the hierarchy of the practicing Hindu religion in Nepal that they were neither accepted by the mainstream Hindu society as equals nor they could come clear on their ancestral belonging. Hence, Buddhism worked as a religion of emancipation where the hierarchy of the caste or ethnicity did not exist as it did in the Hinduism. By 1990s, state has begun to recognise the Janjatis and ethnic groups away from the Hindu religion but this recognition could not keep the state identity away from making it a Hindu state. Hence, Janjatis and the ethnic groups had come out to oppose Nepal’s state identity as a Hindu state and the mass conversion of these people from Hinduism to Buddhism showed their willingness to disassociate from the Hindu identity.

To sum up, “religion has been an important player a in the construction of the Nepali national identity” (Guneratne, 1998; Maslak, 2003, p. 148). For an anthropologist, establishing interconnection between religion and every other aspect of Nepali society should not be difficult because the state structure that has been built or projected as Hindu is done by the state itself. The royal rule in Nepal till 2006 made sure that the Hindu identity was maintained so the so called divine connection between the royal family and Hindu Gods could keep their authority intact. These attempts to make Nepal as a Hindu country Nepal have diminished the other identities of the state, especially

identities of the people to a larger extent. Nepal is home to Buddhists, Muslims and Christians other than a majoritarian Hindu population. Among these, there are indigenous people like Tharus who have been waiting for the state to recognise them away from the imposed Hindu religious identity in practice other than just providing space in constitution and giving political representation. In this context, the existing socio-economic hierarchy and male domination in the Hindu religion has played a cardinal role in keeping the inhumane Kamaiya and Kamlari system alive. It has a lot to do with Hindu religion and Hindu tradition. In practice Hindu religion might find itself limited among the Hindu population but practices in the name of Hindu traditions have penetrated across all the religious lines. Hence, 'Hindu religious ideas and practices are seamlessly aligned with indigenous Tharu religious thought and action' (Maslak M. A., 2003). Under this forced Hindu identity, enslavement of the Tharu community and exploitation of the Kamlari women has continued because neither the country has clarity on its secular values nor the majority Hindu population in Nepal is worried about continuing exploitation of the through the caste hierarchy.

The anthropological account of Mary Ann Maslak about the deprivation of the Tharu community is worth taken into account. She writes, "The "untouchability" of (Mr.) Tharu, and lack of physical contact' with the upper caste Hindus demonstrates the ways in which the subjective nature of the caste system has become an objective fact in everyday life" (Maslak M. A., 2003). Like Hinduism, in all major religions of the world, slavery has been an integral part, somewhere done in the name of class structure and in other places in the name of racial recognition, but religion has remained the base line. It has often emerged as the part of a certain traditions that were followed centuries ago and continue to rein the society till date.

With the analysis of socio-cultural and religious underpinnings in keeping slavery systems of Kamaiya and Kamlari alive, the forthcoming chapter focuses on the role of the state in abolishing such systems. The fourth chapter critically analyses the policies and programmes run by the Government of Nepal for the upliftment and reintegration of the Kamaiyas and Kamlaris in Nepal. The chapter further looks at the present status of

the freed Kamaiyas and, especially Kamlaris who have been beneficiaries of the Government programmes and attempts to find the gaps that are yet to be fulfilled on the part of the Government in order to make the rehabilitation and reintegration of the Kamaiyas and Kamlaris a success. It also points at the failure of the Government in providing respect, identity, name and dignity along with other human rights to the Kamaiyas and Kamlaris in pursuing a life with dignity.

Chapter Four

Nepal Government Policies to Empower the Kamlari

As we all know that women play a vital role in our society but their exploitation has been continued over millenniums. In the case of Kamaiyas too, women were at the forefront of exploitation and abuse by the wealthy landlords. While Kamaiyas were forced into field labour, their daughters and wives became part of gender based servitude in the name of Kamlari. The word Kamlari signifies to the hard-working women, especially a girl child who is consigned to work in the landowners' house as a 'Domestic servant'. As in the Kamaiya system, Kamlari also based on the stated contract and get recommenced every year. Kamlari system introduced along with the Kamaiya system. Since the male members of the family used to work as Kamaiya in the landowners' field, their children and other members of the family do the same and work on his/her house as labourers.

As Karki said, "if a movement fails to address structural issues of the problem, bans and formulation of laws, the historical problem like the Kamaiya system will continue to survive, and structural conditions may reproduce chronic inequalities" (Karki A., 2001).

However, their parents allow them to or let them go for work meanwhile they get some food and hence they can save grain. Girls worked in house as, washing clothes, cleaning utensils, keeping the house clean and so on, and boys had to perform the outdoor work like cattle rearing. The system of Kamlari got institutionalised afterwards. Moreover, due to the speedy growth of population, Kamaiya felt the need for more land for agriculture. So, there used to be a competition to get land for agriculture from the landowners. But it was the cruellest compulsion to send their daughters to work at their homes those who had more daughters were given the land for sharecropping since the landlords used to get more Kamlari as a domestic slave for their household work. For others, those who had no daughters get land for work, and this made their lives so difficult.

After the eradication of the Kamaiya system in 2000 A.D., the girls of Tharu became the source of income for their families. The daughters were sent to work at the owner's house either to pay back the interest of the debtor to influence the owner to provide some land for agricultural work or to make some income for their survival. At their younger age, the Kamlari usually entered into the system of bondage. They transferred far away from their homes to the urban areas because the rich people generally live in urban areas of Nepal.

Women around the world have been historically abused at the hands of patriarchy. Women fall under the category of poor in comparison to men and when we compare them in developing countries, the numbers of women increasing faster rather than men.

Spivak, also argues in her work that “the women in this setting are suffering more as the dominating forces of sex, class and race come into action for their plight and predicament that ultimately push them into the gloom of a shadow” (Spivak, 1988).

Kamlari girls are the recognisable domestic victims of class, caste, gender and race. Moreover, they neither had agencies to recognise them, nor they have resourced to voice themselves. They have been vexatious in the hitherto evils of bonded slavery (Altink, 2002). They are considering such difficulties for women who been cuffed in the bondage. The system of slavery has its multiple effects and the ripples of its impact affected to men, women, and children, however, there are circumstances of slavery like practice that are gender-specific and poverty and marginalization of women of minority groups along with the “social complicity and lack of political will to address the issues, are central to slavery’s existence” (Hezfeld, 2002). As Gutierrez argues that, the women specifically from marginalised communities effected ‘double jeopardy’ like in the case of Tharu Kamlari women, racism and sexism since they have been judged with the state of powerlessness that deprives them of having access to the social resources imparting a direct impact on their livelihood and experiences (Gutierrez, 1990).

Furthermore, regarding the context of subordination of women in the third world, they have been intensely exposed to the dark side of marginalisation in the global capitalist system. Similarly, scholars argued relating to the plight of women to the status of the colonies in that Worlhof said, “women and colonies are both low-wage producers, share structural subordination and dependency, and are overwhelmingly poor” (Worlhof, 2006). Therefore, Kamlari of Tharu girls also, have a similar destiny as of the societies where their presence has been denied and subdued at the hands of patriarchy. And their existence has been harsher with capitalism and racism made the situation ‘double marginalization’ (Worlhof, 2006).

Kamlari belongs to the Tharu indigenous people, as mentioned the historically marginalised groups. They faced the high stage of discrimination based on their ethnicity, gender, caste and class, and they come into very economically deprived. Hence they always are the victim of discrimination based on their status and subjected to be as bonded labour and its harsh impacts.

The theory of indigenous people suggested to the element of the race with the other aspects like gender and class, which shapes the living experiences of the women as the women of Tharu faced ethnicity discrimination. Nepal, as a multi-ethnic country, has a long history of categorisation of people into their different caste groups. Hierarchy based on caste system, Nepal has been expressed through the hierarchical system, and it has transformed into social system, where it took discrimination so deepened that if the indigenous people faced as exploitation, discrimination and humiliation and boycott and further they restricted by any opportunity and faced discrimination related poverty and dependency on landlords (Upadhyaya, 2008).

Tharu people have been subjected to the systematic oppression of the existing hierarchical categorisation, for Tharu, Nepal’s caste system was the most suppressive force in their lives (Calato, 2015). Therefore, Kamlari always disrespectful because they came from lower caste and landowners belonged to a higher caste, and even their children do the same as they taught by their parents. They believed that Tharu people

should not be respected since they are placed at the bottom of the hierarchy. Hence, it can be proclaimed that caste and ethnic difference serve as major social elements, that are responsible for the deprivation of Kamlari during their bondage, and it is a delay in their empowerment.

As gender discrimination has been a global issue, women in this context of Nepal also have been suffering in every aspect of life. Gender-based discrimination shows their traditional cultural discrimination, which deep-rooted and also has the hierarchical way of discrimination between male and female (Pokharel, 2008). As we know, Nepal has a male-dominated society where the decimation started right after their birth and continued for life. Discrimination based on gender widely practice as they have certain norms for living in public and private, the society preferred the birth of a son in high caste as culturally accepted that a son can earn and status maintain potentiality.

Tharu women have been the victim of historical suppression. Before, 1950s Tharu women of post-marriageable age were regarded to be witches by the people of another caste who also believed that the Tharu women could change a stranger into wild animals and even kill them by injecting high fever (Guneratne, 2010). This harassment of women within the community showed a way to outsiders to consider their image negatively. Besides this, born a girl child, especially in Tharu family is linked with the household work. She always gave the duty of domestic work. It is considering as a compulsion so that they can send their daughters as a Kamlari and after marriage, they can run their house properly. The reason behind sending them in domestic bondage rather than their sons that their parents expected their girls to learn household and agricultural skills in both the ways, rather than their family income (Giri, 2010).

Discrimination under gender biases has been continued in different aspects. Most importantly, they never considered in the process of 'Decision Making'. Women never acquire to take leadership in their hand and make decisions. Apart from this, the only male can perform or play their role in rituals and female always be there as a witness.

Even for worshipping God and spirits, they have limitations which were deliberately or forcefully draw by the male community (Maslak, 2003).

For slavery if the male or the head of the family decides to send his daughter into bondage, they have to work as domestic labour and women cannot interfere in their decisions. And though their girl child, their daughters cannot deny his decision either its good for her or not. After so much suppression in their community is as an indigenous, women's voice never heard, even they forcefully used or be a victim of violence in many cases.

However, women not only victimised in slavery, but they also discriminated in labour market in Nepal, as they are not paid equally with their male partners and sometimes they subjected to abuse and violence in the work area. Tharu Kamlari always used as a meal provider and never paid for their work, and this decision was also made by his male family members they cannot even talk about their wages.

Nonetheless, male-bonded slavery got abolished in 2002, where women continued their survival and outlawed in 2013. Reasons behind in the battle of freedom, only dominating male society and the whole system of Nepal government was patriarchy, male voices heard before the female voices. After the abolition government started rehabilitation and start giving land titles for cultivation only to the males, women who also survived in bondage were not considered at all for land (Upadhyaya, 2008).

However, McDonough argues that in the 1990s 80 per cent of the Tharus living in Dang were tenants who did not own land of their own and 90 per cent of the Tharu land was in the custody of hill tribes (McDonough, 1997). Tharu people, settled in Southern Nepal, were deprived by the systematic and continued culture of the society for their land rights. They were settled in Terai to clearing the dense forest and malaria into fertile land. In the 1950s, they got marginalised in their land due to the migration of hill tribes after the epidemic of malaria was taken under control. The fertile soil attracted hill tribes who ultimately displaced the Tharu people limiting them as a minority in their traditional

land. After that, many land reforms were introduced, but it could not help out in the deprivation of Tharu people, and they remained as landless and were forced to live in poverty.

Poverty led Tharu people into bonded slavery. Bonded labourers of the Tharu community come from chronically deprived class as lack of skill, education, ill health, income and vulnerability (Upadhyaya, 2008). Their lack of ability took them into chronic poverty, they borrowed money from landowners and in paybacks, they got enslaved for generations in pay off the debt. This process got institutionalised as a system of bonded slavery in the name of Kamaiya and Kamlari as fact poverty was one of the most significant factors that pushed Kamlari women into the circle of debt bondage. “Such is the extent of poverty that some parents may refuse to accept back a child who has been rescued from child labour” (Upadhyaya, 2008). He further argued that it is the poverty that forces Tharu women to put their life in the exploitative system without speaking any single word.

Women used as a commodity in such a system. Doing so, Kamlaris are producing and sold into bondage, even they exploited by the landowners and not paid for their work. Hence, their condition never improved even after the abolition of the Kamlari system. And after that, it always pursues behind the doors illegally. All of the above Tharu women have been marginalised in an intersection of oppression.

In all over the world the system of domestic worked pursued behind the closed doors, children, under age five or six-year-old working for hours as domestic labourers. ILO (International Labour Organization) differentiates between domestic work or child domestic labourers. According to ILO, kids under the age of 12 or 15 are classified as labour and working under the age of 18 in harmful conditions more than 43 hours a week. Although many countries fail or still practice child domestic work after these contexts are categorised as child labour. They break several international child rights, denying children of their childhood, education and engaging them in hazardous and abusive jobs.

But, worse still in bonded child labour, the child is regularly a practice of payment for a pre-existing family debt and is not at permission to leave.

With so many struggles and efforts in 2000, Nepal abolished Kamaiya system of bonded agricultural labour, where families of indigenous Tharus would be put to work to pay the never wind-up interest on the chronological debt. After the Kamaiya system, Kamlari came into system, where these Tharu families now displaced and deprived. They send their daughters into domestic works in their previous landowner home, in believing so that they would have a good life and education for their future. “Plan international surveyed and estimated that 10,000 to 12,000 girls are currently working as domestic servants under the Kamlari system” (Plan International, 2011). These girls worked as domestic slaves, long hours, without education, without family and subjected to abuse and harassments against the existing laws on bonded labour in Nepal.

4.1 Government Policies to Rehabilitate and Reintegrate Kamlaris

As long as the “title has done middle and upper caste and class were responsible for eradicating the system but middle, and upper-class professionals also happened to be benefitting from it” (Kids Rights, 2014). The reality is very different and difficult to tell. Kamlari used as slaves, they sleep on the floor and kitchen room and always isolated from living as a family member, and they eat remaining awful food. Reports said that they beaten up by the owner, medically deprived, and in worst, they sexually assaulted (Women, 2013). According to ILO child labour formed the following as: “Children aged 12-14 years engaged in domestic work for more than 14 hours per week and; all children aged 15-17 years engaged in hazardous domestic work which includes working for long hours (Kids Rights, 2014) defined for purposes of these estimates as nd more hours per week (ILO/IPEC, 2012).

In 1948 the Universal Declaration of Human Rights was adopted by the United Nations. In article 30 says, “to protecting and promoting the human rights of every individual” that includes children, women, who are permitted to enjoy all the rights guaranteed by the various international human rights treaties which have since evolved from the original declaration. Although children are involved by all the international treaties

but the international community documented and feel the specific need for the protection of child rights in 1989. In doing so, the Rights of the Child (CRC) 1989 adopted; it applies to all children below 18 years; article 54 covers all phases of life (Kids Rights, 2014; Thomas, 2011).

It is classified in to three categories:

- **Provision:** these are the rights to the resources, the skill and services, the “inputs” that are necessary to ensure children’s survival, and the development of their full potential;
- **Protection:** these are the rights to protection from acts of exploitation or abuse, in the main by adults or institutions that threaten their dignity, their survival and their development;
- **Participation:** these are the rights that provide children with the means by which they can engage in those processes of change that will bring about the realisation of their rights, and prepare them for an active part in society and change (Kids Rights, 2014; Thomas, 2011).

The only states have not endorsed the Convention on Rights of the Child are America and Somalia, all the other states consented the CRC 1989, are bound to this convention by law. However, for domestic child labour rights contained in CRC as in:

- Article 2, the rights to non-discrimination, on the grounds of ethnic or social origin, birth or another status;
- Article 7, the right to be care for by his or her parents;
- Article 8, the right to preserve identity, nationality, name and family relations;
- Article 9, the right to maintain regular contact with parents if separated from them;
- Article 16, the right not to be subject to unlawful attacks on her or his honour and reputation.

- Article 19, the right to protection from physical or mental illness, neglect or exploitation;
- Article 24, the right to benefit from the attainable standard of health and access to health care services;
- Article 27 (a), the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development;
- Article 28, the right to education;
- Article 31, 32, the right to rest, leisure, play and recreation, protection from economic exploitation, spiritual and social development;
- Article 34, the right to protection from sexual abuse;
- Article 36, the right to child welfare;
- Article 37, the right to protection from arbitrary deprivation, cruel behaviour and treatment (UNHCR, 1989).
-

Apart from this, International Labour Organizations implemented “The Domestic Workers Convention”, with convention number 189 and proposal number 201. (ILO, 2011). This was specially endorsed for the protection of domestic child labours, in Article 1 of ILO 189 convention presented the definition of domestic work as:

the term domestic means work performed in or for a household or households; any person engaged in domestic work within an employment relationship; a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker (ILO, 2011).

Proposal number 201, Article number 5, mentions that:

- Member should identify the nature of the circumstances in which they are carried out, are likely to harm the health, safety or morals of children and should also prohibit and eliminate such child labour.
- Limit their working hours strictly to ensure their time for rest and training, education, relaxation activities and family contacts

- Prohibiting night work
- Restricting work that is excessively demanding, whether physically or psychologically and
- Establishing or strengthening the mechanism to monitor their working and living conditions (ILO, 2011).

The fundamental conventions of ILO to child labour are in domestic work are convention number 138 number “182 on the worst form of child labour, and convention number 138 has been recognized by 156 of the 183 member states, and requires that no children under 12 years should work, under any circumstances” (Kids Rights, 2014; ILO, 1976).

In ILO convention number 182, article 3 explains, “Concerning the Prohibition and Immediate Action for the Elimination of the Worst form of Child Labour, was acknowledged by Nepal” (ILO, 1999) in the year 2000. It defines the worst form of child labour as:

- All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory recruitment of children for use in armed conflict;
- the use, procuring or offering of a child for prostitution, for the production of pornographic performance;
- the use procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children (ILO, 1999).

It is also defined in the Child Workers in Asia Taskforce report, “Understanding Bonded Child Labour in Asia 2007” (CWA, 2007).

- A child older than 18 years, defined by the United Nations Convention on the Rights of the Child, 1989
- working against a debt taken by himself/herself or his or her family members or guardians, and or working against any social obligation with or without his/her consent;
- under conditions that restrain his/her freedom and development, make her/him vulnerable to physical and other forms of abuse and deprive him/her rights (CWA, 2007).

However, the report on “Understanding Bonded Child Labour in Asia 2007 published by the Child Workers in Asia Task force explains that all the bonded child labour not enforced labour. Bonded labour can also be a matter of pattern within a community or society. Bonded labour can result from a deal or a promise which was approved” (CWA, 2007). Social exclusion and poverty are the main reason for child domestic labour within the family and society (ILO/IPEC, 2012). Apart from this, there are some pull and push factors also explained in the global domestic estimate of child labour by ILO and IPEC includes that “poverty feminization of domestic work, social exclusion, lack of education, gender and ethnic discrimination, violence suffered by children in their house, displacement, rural-urban migration and the loss of parents due to conflict and disease” (IPEC, 2013). Pull factors include “increasing social and economic disparities, debt bondage, in addition to the perception that the employer is simply an extended family and therefore offers a protected environment for the child, the increasing need for the women of the household to have a domestic replacement which enable more and more to the women in labour market, and illusion that domestic service gives child labours an opportunity for education” (Kids Rights, 2014; IPEC, 2013).

In the report by ILO and IPEC 2013 “Marking progress Against Child Labour-Global Estimates and Trends 2000-2012 (IPEC, 2013) showed that, globally the number of domestic child labour declined from 246 million to 168 million children since 2000”, (Kids Rights, 2014) but Asia and Pacific countries still have the largest number of the child working for population around 78 million (IPEC I. , 2013) around 98 million child

labour still surviving in the agricultural sector but “there are also some significant problems in the services, industries and informal sectors” (IPEC I. , 2013).

On a gender basis, the report shows a major gender difference in child domestic work. Since 2000, by 40 per cent of Child Labour among girls has decreased, compared to 25 per cent of boys (IPEC, 2013). “But based on age number of girls increased as the children get older so that domestic work among 15 to 17 years old affected boys 1.8 per cent and girls estimated 9.8 per cent” (IPEC, 2013). In 2012, a report published by ILO estimated that in the Global estimate of forced labour showing “20.9 million and 5.5 million are thought to be children in such hazardous work. There are more servitude situations, or who are victims of trafficking” (IPEC, 2013).

Convention on Right to Child plays a responsible role to ensure by the States to the safety and implementation of child rights; this issue requires more attention and activation on all the levels, from the government to other organisations. In recent years, many countries have adopted and implemented new laws to abolishing the forms of child labour and also working on improvements. “Worldwide, only 10% of all the domestic workers are covered by general labour legislation to the same extent as other workers, with more than a quarter excluded from national legislation all together” (IPEC I. , 2013). The Convention Right of the Child recognised duty and rights for assuring of their rights by the state governments as:

- In Article 2, 3.2 and 37, the role of the State
- Article 3.2, Parents, Guardians and individuals legally responsible for children
- Article 3.2, institutions, services and facilities for the care and protection of the child (UNHCR, 1989).

Throughout the years, the international labour organisation and “IPEC have made great efforts to improve the situation of domestic workers especially for the girl child, with all the efforts and involvement of governments and legislators, representatives and union

workers and more. The trade unions organised them globally and locally around the world have also accepted action against domestic child labour; they spread awareness with all the legal action. These children have been sheltered, rehabilitated and socially reintegrated” (IPEC, 2013).

Nepal, government undersigned or “signatory to many conventions and acts which protected children rights from labour, exploitation and abuse” (Kids Rights, 2014).

- ILO Worst Forms of Child Labour Convention number 182, 1999
- ILO Forced Labour Convention number 29, 1930
- ILO Minimum Age Convention number 138, 1973
- United Nation Convention on the Rights of the Child 1989 (ILO, 2007).

Nepal is also ratified to the convention of 1926, 1956 on the abolition of slavery. In the year to regulate legalisation of Child and Bonded Labour Act Nepal government undersigned these acts and conventions with:

- The Bonded Labour Prohibition Act 2000, this convention act prohibits bonded labour and frees all the bonded labourers, free from all debt that made with such agreements, and it is mainly focused on the Kamaiya system, as IPEC said that many girls had been freed as a result of the introduction of this act. The Government of Nepal implemented Free Labour and Monitoring committees and set fines of 15000 to 25000 those who practice bonded labour work any kind of work (Kids Rights, 2014).
- The Child Labour Act (Prohibition and Regulation) 1999, this convention indorsed and followed the convention number “138 and it has made significant amendments to the Labour Act 1992.” (Kids Rights, 2014). “The Child Labour Act lists specific works as harmful and prohibits the use of children below 16 years of age in such activities. The Act regulates

hour of work for children aged 14-16 and provides that no child shall be engaged to work during a period from 6 to 6 a.m. furthermore, it prohibits the engagement of children below 14 in any kind of employment (ILO/IPEC, 2012)

- The Labour Act 1992, also explained the prohibition on employing children under the age of 14 under the age of 18 perform dangerous work. (Commission, 1993)
- The Children's Act 1992, this act presents the rights of the children and to ensure their physical, mental and intellectual development. (Commission, 1996).

“The International Labour Organisation provides other legal provisions for restricted child domestic labour and other forms of bonded labour work. For example, Citizen Right Act 1955, begging Prohibition Act 1962, Common Law Code 1963, Public Offence and Punishment Act 1970, Foreign employment Act 1985, Trafficking Control Act 1986, Drug Trafficking Act” (ILO, 2007). “The Government of Nepal raised legal action and would take action against the owners those who keep Kamlari, child domestic labour as servants” (Kids Rights, 2014).

If, we look in the account of Nepal government efforts and legal steps for securing rights of Kamlari Nepal comes in the list of saving child rights on the 125th rank out of 165 countries on overall rank. This indicator based on “five categories for the implementation of child rights the right to life, health, education, protection and child rights environment” (Index, 2017).

The Kamaiya system abolished in 2002, those who worked as bonded labourers. After the abolition of Kamaiya system, many families left behind with no wages, land and food for survival in such condition only girl child or women was the only option to

send them for work on the landowner's house as the circle of bondage called Kamlari. This continued around 12 years after the abolition of Kamaiya, but the Government of Nepal ignored the continuation of the Kamlari system. The data of Nepal Survey says the facts about the Child Labour ratio that there are around 7.7 million children in Nepal under 5 to 17 age worked for existing.

“International Labour Organisation and Central Bureau of Statistics on Nepal examined in the reports that among them 21.6 million children whose work, breaking the rule of ILO Minimum Age Convention” (Baumann & Dharel, 2014). This includes fishery, agricultural, manufacturing, mining and household chores. The report estimated that “56.8 per cent attended school, and 43.2 per cent do not go to school. The percentage of boys is lesser than girls. Mostly girls perform household works, 81.9 per cent” (ILO, 1976) although there is no exact number of estimation on the Kamlari labourers, “it estimated at the international level as 10,000 to 12,000 in Nepal” (ILO, 2007).

4.2 State Response

In May 2013, with so many activists, campaigners and with few former Kamlari girls united themselves and carried a significant movement in the form of protest around ten days to put pressure on the Nepalese Government for rapid change (Pun, 2013). As practice in behind the close door it is recognised that mostly Kamlari girls worked for the upper and middle class they kept them as a slave with the same lawmakers, civil servants and teachers those secure them from such exploitative system. Until that, the Nepalese government had presented so many child labour and domestic child labour laws and policies, but it remains to be implemented.

The Kamlari system was officially banned by the Nepal government on 18th July 2013. However, in 2012, the Nepal government proposed many laws and government policies as the Kamlari Education Guideline to provide education and accommodation to the Freed Kamlaris (Pun, 2013). Manjita Choudhary said that many Kamlari did not have identification cards, and without cards they could not apply for the scholarship. The United Committee for the Elimination of Kamlari Practice (UCEKP) led the protest on

the streets, roadblocks strike to recognise the continuation of the Kamlari system and to act accordingly.

4.2.1 Social Welfare Act of 1992

The social welfare council has been established for making an effective change with co-ordination, co-operation and mobilisation of the social organisations. (Council, 1992)

The Government of Nepal established this act for the related programme:

- To provide welfare and kindness to the children, old age, helpless or disabled people
- To nurture participation in development and to promote and protect the welfare and rights of the women
- To rehabilitate and help to lead a life of dignity to the socially deprived people and also to child delinquency, drug addicts and similar people involved in another kind of addictions
- To help to lead a life with the dignity to the jobless, poor and illiterate people
- To take effective management and actions for the welfare of the backward communities and group” (Council, 1992).

4.2.2 Labour and Employment Policy 2062 (2005)

The Government of Nepal formulated Labour policies; Labour is one of the sources of development of human life, personality and civilisation. The “right to work considered one of the fundamental rights of the citizen” (GoN, 2019). For improvement of poverty, employment is one of the keys for generating income. In this context, it is the responsibility of the State Government to provide all the opportunity to the living individual for their livelihood with equal treatment and opportunities.

In this context, the GoN formulated and established the “National Labour Policy 1999” based on International Labour Organization’s rules to provide policies and

effective environment for organising the Labour sectors to take action on the possibilities. (Nepal, 2005)

The labour and Employment Policy 2062 has been publicised to the alleviation of poverty and to achieving goals with the 9th and 10th plans to face the continuing challenges and to grab opportunities into the employment sectors. Few and related Objectives of these policies as:

- Objective 3.2 says that to eradicating bonded labour, forced labour, and recognising pleasant labour relations through international standards of the workplace in both the informal and formal sectors
- 3.3, to create labour market safe, healthy and competitive
- 3.4, to improve the prospects of employment and self-employment by developing high quality and multi-skilled human resources
- 3.5, to ensure equal access of women, Dalits, indigenous nationalities and the displaced people to employment
- 3.6, to eliminate child labour (Nepal, 2005).

Objective number 3.2 further explained the effective policies that are into practice:

- 3.2.2 Employment shall be adopted as a cornerstone of poverty alleviation by developing labour relations according to the concept of decent work and ILO labour standard.
- 3.2.4 Right to engage in income-oriented employment of choice shall be guaranteed to every citizen by eliminating all forms of forced and exploitative labour relations.
- 3.2.7 Programmes shall be conducted to progressively remove gender, ethnic and other forms of discrimination prevalent in the employment sector.
- 3.3.7 Based on security shall be increased by formulating along with laws and establish Central Labour Advisory Committee, on central level.

- 3.3.9 Organise targeting groups for the involvement of workers and their families in all the formal and informal sector (Nepal, 2005).

Apart from all, objective number 3.4, 3.5, 3.6, 3.7 also presents the improvement in the system to contribute to capacity building, promotions administration and most importantly in boosting the moral of surviving people.

4.2.3 Ministry of Women, Children and Social Welfare

After the abolition of the Kamlari system in 2013, the Women and Child Welfare Ministry came forward with so many programmes. The ministry launched a new programme for training and education for freed Kamlari. “Effectiveness of Freed Kamlari Group Programme” within this programme they focused on the Five District- Banke, Bardiya, Kailali, Kanchanpura, and Dang (Baral, 2017). The programme was basically for the involvement of freed Kamlari women in various activities and training programmes to educate them with good skills. The specifics of these programmes include (Baral, 2017):

- Group formation and mobilisation
- Tutorial programme
- Skilled Training
- Business Formulation
- Education programme

Though the group formation and mobilisation, the government has attempted to provide financial savings programmes. While the people employed in the management of this programme belong to the group, the main purpose of this programme to make Kamlari women self-reliant in the matters of finance. This will facilitate in opening up new doors of business and employment for the Kamlaris. There have been instances where monetary constraints have forced the freed Kamlaris back into the system. As a result of these programmes, an overall 10 per cent freed Kamlaris have received benefits. Further, in the tutorial programmes, freed Kamlaris are given primary education which can enable them

to read and write so they could remain safe from the traps of terms and conditions in case they wish to avail any loans. This is also done to make them aware of the ongoing governmental schemes for their welfare. “Skill development programmes on the hand helped the freed Kamlari women in learning weaving, painting, designing, garment manufacturing, beautician training, mechanical training, agriculture farming and animal husbandry” (Baral, 2017). While women are engaged in skill training and other programmes, young girls are given the opportunity to enrol into government-run schools. This way, future generations of the freed Kamlaris are well aware of their human rights.

The business formulation is yet another successfully executed programme of the government in the rehabilitation and reintegration of the Kamlaris. Women who have benefitted from the skill development programmes have opened up small scale manufacturing units and with the help of business formulation and mobilisation; they have employed other freed Kamlaris. Among these, some are working as designers, managers, inspectors, and some are associated with the goods delivery mechanism which has benefitted their small scale businesses. The business formation has helped around 22 per cent of free Kamlari women who are actively engaged with the programme.

The programme conducted by the Ministry of Women, Children and Social Welfare and other social welfare organisations. Kamlari women directly benefited from these programmes to establish their careers in different entrepreneurship activities. The training programme is found in the educational sector that is involved in tutorial programs which are followed by skill training. Saving money and mobilisation and organisation, they took funds or loans and used it for different works like health facilities, farming, education, social work, land purchase, small business and various activities. “Around 22 per cent loan used in their family, 21 per cent for land purchase, 11 per cent for education expenses” (Baral, 2017). Meanwhile, the below table provides a detailed overview of the changes and no changes occurred due to the programme:

Table 1
Change in Efficiency after the Freed Kamlari Programme

SN	Change Facets	Found Chang (%)	Found No Change (%)
1	Self Decision Making in Family Matters	73.7	10.5
2	Make Decision in Social Group	47.4	26.3
3	Make Decision in Local Organization	36.8	31.6
4	About Breeding Health	63.2	10.5
5	Buy and Sell in Market	47.4	21.1
6	Buy and Sell of Fixed Properties	42.1	26.3
7	Daily Household Work	52.6	10.5
8	Buy and Sell in Livestock	42.1	26.6
9	Family Health	63.2	-
10	Education	73.7	-
11	Social Customs	63.2	-
12	Making Decision to Involve in Politics	21.1	36.8

Note: Table shows Change in Efficiency after the Freed Kamlari Programme.

Source: Baral, C. (2017, June 28). *Effectiveness of Freed Kamalari Group Formation Program*. Retrieved March 19, 2019, from Government of Nepal Ministry of Women, Children and Social Welfare. Retirived at:
<https://mowesc.gov.np/uploads/uploads/FIoVixGE7sajlljukYFozMjjCaZby0GfXTCFYxe.pdf>

After the involvement in Kamlari programmes, drastic changes were observed. They now can interfere and speak in decisions related to family issues, social group discussion, health issues, buying and selling in the market, property issues, living standard, education, social customs, politics as a change (Baral, 2017). “The results of the programme drawing participation and development in their life. As said in the report Launching the programme is not enough: it should get continuity for quality life” (Baral, 2017).

4.3 International and Institutional Arrangement Programme

Women, men, children are bonded to their owners; their salary recollects in to repay loans taken by them. Not only in Nepal, but it also happens in other South Asian countries like Pakistan, Bangladesh in different forms many works in brick making, textiles, domestic services, agriculture. It tends to very poor and uneducated people, mostly from low caste and minorities (Premchander, 2014).

In this context, Government of Nepal adopted International Labour Organisations Act 1999 signed on July 17, 2000 and ILO Convention 182 on January 3rd 2002 in doing so Nepal government took the courage to eliminate slavery in all forms and rehabilitate to survivors and affected families. To “think that financial help can help low-income families and bonded labourers who are hugely indebted” (Premchander, Prameela, & Chidambaranathan, 2014), loan service is the leading service in the type of availability. With organisations and other supporting groups took a broad view to implement and rehabilitates efforts.

To the achievement and outreach the effects of financing by institutional arrangements, the study and project divided into three approaches: PEBLISA (Prevention and Elimination of Bonded Labour in South Asia), SHG (Self Help Group), Village and self-reliant group (VB-SRG) (Premchander, 2014). Also, women want to improve their “literacy and management skills to help them manage their domestic savings as well as to exchange successfully with economic and other traditions” (Premchander, Prameela, & Chidambaranathan, 2014).

The project includes, “Sustainable Elimination of Bonded Labour (SEBL) in Nepal and various initiatives under the international programme on the Elimination of Child Labour (IPEC), particularly the Convergence Against Child Labour projects that included support to bonded labourer families or microfinance activities for the extremely poor” (Premchander, 2014). “Freed Kamaiya Livelihoods Development Project (FKLDP) of PLAN International in Nepal” (Premchander, 2014) formed microfinance partnership with the same partners and ILO’s principles for PEBLISA project in Nepal.

Chars Livelihood Programme (CLP): this project is firstly and mostly based on the geographical identity, to identify the situation based on geographical situation mainly work “on small islands called chars, which difficult to remote and reach. However, men can be migrated for work, but the women in these areas are vulnerable as they trapped or unable to settle on the central. They even have access to basic needs like sanitation, healthcare and education etc” (Premchander, 2014).

4.3.1 Microfinance Project

This project was mainly implemented to provide financial support to the freed bonded labours. In the microcredit, programme loans taken by women to release their husband from bondage. At that time there was no legal provision for realising people from bondage. Where PEBLISA was executed, it might be expected from the Government to take active participation and pursue to abolish bondage by identifying, realising and rehabilitation. Few steps would be:

- To identify bonded labours to release and rehabilitate work with the vigilance district committees
- Punishment by law those found guilty for bondage
- Arranged immediate relief and financial support to rehabilitate those released from bondage
- Providing them earning a source of income activities that can provide them stability (Premchander, 2014).

4.3.2 Institutional Arrangements

The approach examined and used for direct support to the beneficiaries through microfinance products. There are levels to link the community and organisation that provide financial services:

First, Grassroots level; according to the providing support to the bonded labourers this approach worked on three levels, Village Banking, Self-help Groups and Self-reliant Groups and these come under the Grameen Model (Premchander, 2014).

4.3.2.1 Grameen Model

With the group of 20 to 30 women, the “Grameen model has five members, and up to 8 groups come under, and they meet once in a week” (Premchander, Prameela, & Chidambaranathan, 2014), to collect information how they used the funds or loans. This model has some silent features as:

- Members received loan services on a disbursement pattern
- Big loans only provided based on previous use of the loans and their performance
- These are the collateral free loans, but group guarantees are a must
- 5 per cent of the provided loan deducted to form a group fund
- All loans provided based on repayment progression within 46 to 50 weekly investments (Premchander, 2014).

In Terai, “Banke district, NUBL also tested the SRG model, considered to be more flexible and appropriate for PEBLISA clients” (Premchander, 2014).

4.3.2.2 The Village Banking Model

The Government of Nepal also implemented based on International Labour Organisation principles another programme to rehabilitate freed bonded labour. In 2000, Nepal government introduced this model under the “Women Empowerment Programme”. They

called it ‘saving led village bank’, but they do not use any external financial support for this they only use internal resources.

- Rekha Village Bank in Banke District: This Rekha village banking group lead 31 dollars to 62 dollars per member. Members took loans for purchasing food, buying medicines, and electricity connections. It is noted that they do not use external loans because the facilitating non-governmental organisations did not have any commercial microfinance programme.
- Flexible loans from Village Banks: This model was channelled by ‘Mahila Upakar Manch’ (MUM) in PUBLISA in Nepal. Around 39 groups were provided loans with flexible repayment loans. With Banke district through 8 district village bank by established in three villages by district committees. In 2007, after establishing this project, and managed by the local women.
- Small loans for emergency needs: Only Savings as the loan used women’s by village bank fund. It is a limited sourced programme but still provides benefits to all the Kamlari (Premchander, 2014).

4.3.2.3 The Self-reliant Group (SRG) Model

‘Nirdhan Utthan Bank’ as established in Nepal’s Terai districts as a microfinance organisation to offer credit to the group that Mahila Upakar Manch could not provide. This model of the project offers emergency loans or income generating resources (Premchander, 2014).

Self-reliant group model includes:

- Profit Sharing
- Feeling of Ownership

- Capacity Building
- Bi-weekly meetings
- Membership growth

This model has been specially developed for the welfare of women. These programmes provide remote access to mobile banking services to provide emergency loans to develop income-generating resources. This way, freed Kamlaris have been able to be self-reliant in decision making and income generation. Under the programme, a meeting is held on a weekly and fortnightly basis to review the challenges and provide assistance in case there are ongoing problems that are faced by free Kamlaris. This programme has also helped Kamlari women across Nepal to connect socially as well as for business purposes. However, all the government implemented projects with ILO show that there is a special requirement of attention towards freed Kamlaris to give them a good livelihood and it is the primary need to support families that are free from bondage.

4.3.2.4 Socio-Economic and Political Awareness

The overall history of the Kamlari system in Nepal has primarily existed as a social challenge, and the people, especially the Tharu community who were caught in such systems have been marred by their social deprivation. Hence, through government programmes in association with the international agencies, social awareness among the groups have been pumped. It is done to aware freed Kamlari that their community might have been the victim of the traditional identity as bonded labourers, but it is not the case anymore. At present, freed Kamlari women are associated with a number of professions, and many of them are sectors where traditionally their inclusion could have been difficult.

On the economic front, the economic independence of the free Kamalaris with the help of welfare programmes have only enabled them to earn but also save money for emergency and utility purposes. Also, the social stigma that had been prevalent for long that women were only meant for domestic work is broken with the help of economic awareness. Freed Kamlaris are aware that through their small and medium scale ventures,

they too contribute to the national economy. This is helpful in their confidence building for their role in the nation building and national growth. As per 2018 government report “on the elimination of discrimination against women, the Government of Nepal with regard to the education of women” (MOWCSC, 2018) adds:

the government has been initiating school admission campaign to ensure the access of all children who have come of school age and compulsorily be admitted to schools. The GoN has made the basic level education free and compulsory with the aim to declare Nepal as "Literal Nepal" (Sakchyar Nepal) within the year 2020 in coordination and collaboration with State and Local Government. The annual policy and program of FY 2018/19, the GoN has introduced the school campaign program called Bidyalayalya-aun, tika-aun, sika-aun (All children must be brought to school, taught and remain in School). This campaign has been successful in bringing thousands of out of school children into the school. The GoN has implemented various scholarship programs to address the high dropout rate of students, particularly for girls. The major scholarship program includes 100 % girls scholarship program (GSP), Dalit Scholarship, poor and talented scholarship, disability scholarship, scholarship for marginalised and endangered and Karnali Zone scholarship. These targeted interventions helped in increasing students' enrolment rate and the school retention rate of girls (MOWCSC, 2018).

Through these mechanisms, the government has committed to enhancing access to education for the girls, poor and disadvantaged groups. On a brighter side, as a result of these programmes, “net enrolment rate in basic level has reached 96.6 per cent in 2017. The numeracy rate for all of 15 years and above reached 62.2 per cent and the literacy rate of the population of age 15 -24 years reached 88.6 per cent. Likewise, 81 per cent of the children have attended early childhood education programs. Gender parity has been achieved at a basic level and almost achieved at the secondary level, which is 0.99. The adult female literacy rate for the population aged 15 and older has increased drastically” (MOWCSC, 2018).

On the political front, the government has partially succeeded in providing political representation to women. Nepal is a leading example of successful political experiments. In 2006, political mainstreaming of the Maoists had led to the successful

transition of the country from monarchy to democracy. Similarly, there are successful stories of the freed Kamlari women who in the present day politics hold prominent positions that for many have been unconventional and surprising. As per the 2015 Constitution, women are to be given:

Inclusive representation in national structures including elected bodies at the Local, Provincial and Federal levels. Election Commission has been putting persistent efforts aimed at mainstreaming equal participation of women and men in the political process. The Commission has developed various policies to achieve its aim: Gender and Social Inclusion Policy (2013), Gender and Social Inclusion Strategy (2015- 2020), Gender and Inclusion Action Plan (2015- 2018). There are several legislations that ensure women's participation (minimum 33%) at all level of elected bodies as provided by Political Parties Act, 2017, House of Representative Election Act, 2017, Province Assembly Election Act, 2017, National Assembly Election Act, 2017, Local Level Election Act, 2016. In order to make Civil Service inclusive, the GoN has amended the Civil Service Act, 1992. All laws governing various government services, including Nepal Police, Nepal Army, and Armed Police Forces are having such provisions to ensure gender inclusion in those services (MOWCSC, 2018).

Among other national representations, “Articles 38, 40, 252, 253, 255, 256, 258, 259 and 261 of the Constitution have guaranteed representation of women and Dalit women through the principle of proportional representation in all bodies with special provisions for participation in public services and other sectors of employment” (MOWCSC, 2018). Also, “the Caste-Based Discrimination and Untouchability (Offence and Punishment) Act, 2011, Tharu Commission Act, 2017, Indigenous Nationalities Commission Act, 2017 are instances of serious efforts made by Nepal towards addressing the under representation of women from respective communities in respective commission” (MOWCSC, 2018).

As a result of these efforts on the part of the government, a good number of women representatives are part of the national parliament. They belong to various indigenous groups, castes, and demographics. With regard to representation of the freed Kamlaris, they have won national elections and presently part of many important national committees. Shanta Choudhari is one of the freed Kamlaris who successfully contested in

the 2013 Constituent Assembly elections and made an effective victory (Chaudhari, 2019). Krishna Tharus is yet another example of the political mainstreaming of the Tharu women in national politics. She joined Unified Communist Party of Nepal and contested for the member of the provincial assembly in 2017 elections. Even though she was defeated, she entered into the Assembly of the newly created Province no. 5 through proportional representation and in 2019; she was elected as the Deputy Speaker of the Assembly. In her testimony to a national daily she added that “I remember working from dusk till dawn for a pittance,” she says. “I then got married and continued the same work alongside my husband. That was the only way of life we knew; we couldn’t even imagine breaking the shackles of bonded labour and living a free life, whatever that meant” (Anmol, 2019). However, she is one of the very few women who have been successful in leading a political life. While the numbers remain minimal, the government has a long way to pave the way for more women representation in national politics.

To conclude, after Kamaiya system was outlawed in the year 2002, the Government of Nepal with the support of international, national and local Non-Governmental organisations has introduced laws and amended the existing legal establishment in order to facilitate and help the freed Kamaiya. Government policies have been implemented at the grass root level through the *Panchayat*, Federal and National Bodies. Similar mechanisms have been deployed in the case of Kamlaris in Nepal. Kamlari System was abolished and outlawed in the year 2013, and since then, re-integration and rehabilitation programmes have worked toward the betterment of the livelihood, lifestyle, educational reach, and health facilities. However, these mechanisms have met with serious challenges that have not only reasoned in making these deployed laws and other mechanisms ineffective but also, a limited outreach has been reported on many occasions. Among several challenges, the political instability in the country in the last two decades has caused severe institutional dysfunctional. Before the present administration elected in 2017, no past governments have been successful in completing a five-year administrative spell. As a result, the vaguely defined duties of the village *Panchayats*, block-level administrations and lack of coordination among the

Ministries at the national level have led to delay in implementing the government led programmes.

Meanwhile, the government-run programmes have provided a foundation for the reintegration and rehabilitation, yet their poor implementation leads for the human cry. On the community front, for long Tharus have/had been subjected to exploitation and forced to work as bonded labour under harshest conditions. Under the government programmes, financial support and land distribution are given priority in improving the living conditions of the Tharus. However, the existing societal structure has paid a lip service in making these programmes successful. Also, the ruling elites whose generations have been involved in taking the services of the Kamaiya and Kamlari, the abolition of the slavery has hardly made an impact due to their influential position (Mac Leod, 1927). Also, the incidents of several Kamaiyas and Kamlaris reverting back by joining these inhumane practices showcases the glitches in the government policies. Hence, while government led programmes and an active implementation of the laws are part of an ongoing and evolving process, fall-back on the previous efforts require the government to pay serious heed to the existing challenges.

Government is an important institution in forging policies and in the context of the Kamaiya and Kamlari system, role of the Government of Nepal has been extremely important. While failures have been observed in the process of implementation of the Government initiated welfare policies, there are other non-governmental agencies, which have not only worked as a booster for the government but kept a check on the Government in the cases of sluggishness and political unwillingness. In this case, the role of the International Agencies has been exceptionally successful in helping the Government to implement the welfare programmes. These agencies have also been successful in making the Government of Nepal accountable for its failure in the implementation of the international declarations in the context of protecting the rights of the Kamaiya and Kamlaris.

Chapter Five

Role of International Agencies in Rehabilitation and Reintegration of Kamaiyas in Nepal

Historically, slavery has been the worst medium of exploiting the humankind. With generations, having witnessed and experienced slavery in one way or the other, slavery has neither found complete abolishment or witnessed a near to the end. In the present-day Century, 40 million (ILO, 2016; UNU, 2013) people live under the shadow of slavery worldwide, and the most vulnerable among all are the children and women (Basu & Chau, 2007). For centuries, slavery has existed as an institution showcasing the divide between privileged acting as an exploiter and the vulnerable class whose social and economic wellbeing was thought through their enslavement into various forms of labour, eventually keeping them away from the mainstream socio-economic and political process and benefits of the development process.

It is more astonishing that prior to the first antislavery movement that began in 1787, the system of slavery stayed strong at the behest of the law of the countries across the societies. However, by the dawn of the Nineteenth Century, anti-slavery movements were witnessed globally and the Twentieth Century acted as the Century of transformation where most of the slavery was abolished legally and criminalised in many cases. However, the Twenty-First Century proved to be a century of questioning and fundamentally abandoning it since the social aspect of slavery is showing the signs of existence. The remaining threads of slavery in the present-day world require the end of it, changing the system and structure that shelter it to flourish is necessary (Murphy, 2014). In doing so, the international organisations and their agencies have played a critical role in protecting the rights of the slaves as well as in rehabilitating and reintegrating them into the mainstream society.

Theoretically, from a realistic point of view, the absence of global order (Chatterjee, 2005) tends to minimise the chances to fight a universal vice in a collective manner. Thus slavery-like practices continue till date. Meanwhile, in the liberal order, the

international agencies have played a crucial role in not only establishing an institutional order (Keohane, 2012) globally which is respected, followed, admired, heard by the governments around the world and followed for their emergence as the keepers of the global peace and guardians of the global good. While the role of the international agencies since their inception as peace facilitator and maintaining the global order has not been away from the controversies; over the years, they have worked towards the keeping track of the global peace and later where necessary, intervened and often held the governments and the countries accountable in case of governmental failure in resolving the challenges that have/had been causing disharmony in the society (Gutner, 2017). However, the cardinal tasks before the international organisations to reform the world which evolved every aspect of the society, countries and the nation states (Sinclair, 2018). As the international agencies were being shaped actively in the 1940s; dedicated organisation dealing with specific issues within the global order also materialised (Sinclair, 2018).

After World War I (WWI), the League of Nations (LoN) (Waxman, 2019) was created in 1919 to prevent the outbreak of World War II (WWII). Despite the failure of LoN and the Wilsonian ideas, realisation to create an international body of needful agencies happened soon after the WWII, and thus the United Nations was created. In the follow-up, several other International Agencies and the Organisations emerged in the fields of military cooperation, development, human rights, refugees, trade and commerce, etc. Noteworthy, in the cold war era, the same LoN was taken as an example in establishing orderly international agencies in bringing the countries, governments, leaders and people together to provide adequate space to agreements and disagreements. Further, on the social welfare front, international agencies and agencies like UNHCR emerged to address the challenge of rehabilitation and resettlement of the refugees across the world, World Health Organisation (WHO) to track the health facilities across the countries and help the needy countries in addressing the health challenges (Luard, 1977), and the World Trade Organisation (WTO) to settle the trade disputes among the countries and deploy rules and norms for international agencies. Also, countries across the world created a great deal of agencies at the national level to address such issues.

Following the creation of international organisations and their agencies, programmes and conventions were introduced under their broader framework where the member countries were asked to be the signatories of such programmes and implement them at the national level. Agencies like the United Nations Development Programme in 1965 (UNDP) not only gave a global call to address the challenges of poverty, malnutrition, education, water, food, infrastructure, health, etc. but also, they provided financial assistance to the countries who have/had difficulties in implementing the welfare programmes; International Monetary Fund (IMF) came into existence in 1945 as part of the United Nations agency structure which tended to facilitate the economic and financial cooperation and provide stability to economic functionaries in the world along with assistance to least developed and underdeveloped countries towards their economic stability and progress. Further, in the Cold War Era, a global surge was witnessed in Non-Governmental Organisations (NGO) to deal with the socio-cultural, human rights including child rights, women rights, environment, economy, social justice, gender equality and poverty eradication related issues and their role has been precisely at the grass root level.

5.1 International Agencies and Slavery

In addressing the issue of Slavery, other than few, many of the countries have either been slow in abandoning the inhumane system of slavery or unwillingness is found at the national level due to the nexus between the slavery and religion, social structure, culture, economy, and poverty. With worsening conditions of the human lives under slavery and their fragile human rights condition, international agencies have worked independently or through the help of the national agents to protect and promote human rights and towards the rehabilitation of the exploited community through welfare programmes and reach out to the governments to implement them. However, in the known history, Slavery as a global challenge had appeared in the Universal Abolition of the Slave Trade in 1815 (Weissbrodt, 2002). The declaration was first of its kind in criticising and disapproving the global practice of slavery. With the rise of the anti-slavery movement across the United States, abolishing slavery had picked-up the momentum through mass movements and discussions led by the intellectual and academic community of the time.

5.1.1 League of Nations

By the end of the Nineteenth Century and in the early Twentieth Century, agreements concerning slavery had been signed both at the international and national level. To be precise, an estimated three hundred agreements and understanding had been signed and implemented between 1815 and 1957 to abolish slavery (Weissbrodt, 2002). However, due to the outbreak of the wars in several parts of the world, slavery was least of concern for many countries. In taking upon the issue of Slavery, LoN can be looked upon as the first organisation in the Twentieth Century that had effectively initiated a global discussion on slavery. “In 1919, when the First World War came to an end, there was a movement to establish an official intergovernmental organisation devoted to similar objects such as health, economy, disarmament and slavery” (Luard, 1977). Further, in due course, slavery was taken with acute attention from the days of the foundation of the LoN.

The advisory committee of the experts on slavery of the LoN in its resolution of the assembly in 1932 had proposed to study the question of slavery, and the organisation had composed the highest body of the members. Noteworthy, during the proceedings of the LoN’s expert committee on slavery, it was the questions that ‘if the slavery existed at that point of time.’ The indirect reference to this question lies with the works that had been done to end and abolish slavery in the previous century itself. Also, as the issues related to labours and their exploitation by the employers was witnessing an unrest, the League had initiated to analyse the issue of slavery because exploitation of the human kind through labour under the harsh living and economic conditions in League’s view fell under the broader spectrum of the slavery; hence, the resolution of 1932 is critical in this regard.

Before the 1932 resolution, the League in its ambit had appointed a Temporary Slavery Commission on June 12th, 1924. In the follow-up, a Slavery Convention was held at Geneva on September 25, 1926 “to revise the General Act of Berlin of 1885 and the General Act and Declaration of Brussels of 1890” (United Nations, 1926), and it had come into force on March 09, 1927. With 1924 Commission’s identification of the forms of slavery including domestic, compulsory, and paid-unpaid labour, it was at the 1926

Convention on Slavery that the definition of slavery was put forwarded in an international agreement. In defining slavery, the Art. 1 (1) stated that “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised” (UN, 1927) and art. “1(2) of the convention defined the slave trade as all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves” (UN, 1927). Also in an unprecedented decision at the convention, the subject of bonded labour was discussed, and it was stated that “forced labour could only be obtained for the public purposes” (UN, 1927).

5.1.2 The United Nations

Later, with the creation of the United Nations in 1945, the convention was amended on December 07, 1953 (United Nations, 1926). The expert committee of the Geneva Convention on Slavery during the “fourth Session of the Committee, Geneva, April 5th to 10th, 1937 discussed a wider spectrum of subjects concerning slavery including ratifications and reservations to the Slavery Convention of 1926; slave-raids, slave trade and captured slaves; born slaves; debt slavery, pawning and peonage; *Mui Tsai* system in China, the International Settlements of Kulangsu and Shanghai, in Hong-kong and Malaya, etc” (UN, 1937). The report noted the extensive existence of slavery as an institution, and in many cases, slavery was flourishing in complete knowledge of the state and with state protection to it. With the emphasis of the Geneva Convention on the issue of slavery, the subject had received international attention. In the follow-up, the workings of the United Nations become relevant to be considered in this regard.

The Universal Declaration of Human Rights (UDHR) is a considerably most important document on protection and promotion of human rights which covers a broader spectrum of fundamental “human rights to be universally protected” (UN, 1948). It is a landmark document drafted by the “representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United

Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations” (UN, 1948). The UDHR touched upon the issues from arbitrary detention to the equality for all. Among a total of 30 articles, Art 04 of the UDHR talked that “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms” (UN, 1948). Since then itself, it is the UDHR that has become the guiding base in shaping and drafting of the International conventions, rights charter, in the foundation of the International, national and local commissions for human rights. The law structure of the countries takes it into account. Hence, mentioning the subject of slavery in the very beginning of the UDHR showed the importance of addressing this socio-economic and challenges that violated rights of the human beings.

Further, after a strong case was made in the Universal Declaration of the Human Rights regarding slavery, the subject was further taken up by the United Nations Economic and Social Council (ECOSOC) which is one of the six apex bodies of the United Nations created in 1949. The ECOSOC in its requisition to the UN Secretary-General had put forwarded that despite being outlawed by the 1926 Convention, slavery was still an existing phenomenon and requested the Secretary-General to appoint an Ad Hoc Committee of Experts on Slavery to further broaden the ambit of the definition of slavery and new subjects and areas to be included to provide more cohesiveness to the existing destination. In its recommendations, the Ad hoc committee deployed the need for reviewing the 1926 Convention’s definition of slavery. After the conclusion of the Ad hoc committee’s meet, discussions on the Committee recommendations continued for seven years. In 1956, as desired, a supplementary Convention on Slavery, the Slave Trade and Institutions and Practices was adopted and ratified by more than 70 member countries of the United Nations (Luard, 1977; Weissbrodt, 2002).

The recommendations of the 1956 Convention “obliged States parties to abolish, in addition to slavery, the following institutions and practices, identified collectively as *servile status*” (Luard, 1977) and in addition to the definition of the 1926 Convention, the definition of the debt bondage and serfdom were broadened. With reference to debt

bondage, the Supplementary Convention added that “debt bondage, that is to say, the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined”; and the in later part concerning Serfdom, it added “Serfdom that is to say, the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status” (Weissbrodt, 2002). However, Section C of the 1956 Convention which deals with the enslavement of the women and their rights covers a critical part of the present study. The 1956 Convention adds:

Any institution or practice whereby: ii (i) A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or kind to her parents, guardian, family or any person or group; or (ii) The husband of a woman, his family, or his clan has the right to transfer her to another person for value received or otherwise; or (iii) A woman on the death of her husband is liable to be inherited by another person; (d) Any institution or practice whereby a child or young person under the age of 18 years is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour (Weissbrodt, 2002).

The concise study of slavery in the modern-day time was dealt comprehensively in the 1956 Convention. Meanwhile, in the follow-up to 1956 Convention, International Covenant on Civil and Political Rights (ICCPR) was adopted by the United Nations General Assembly (UNGA) on December 16, 1966, and ratified on March 23, 1976. Article 08 of the ICCPR categorically discusses that art. 8 (i) “slavery and the slave-trade in all their forms shall be prohibited” (OHCHR, 1976) and art. 8 (ii) “no one shall be held in servitude” (OHCHR, 1976). Notably, Art. 8 [3(a)] makes a strong case against the forced labour. It includes that “no one shall be required to perform forced or compulsory labour” (OHCHR, 1976). In the evolution of the human rights in the modern day institutional framework nationally and internationally, ICCPR along with the International Covenant on International Covenant on Economic, Social and Cultural

Rights (ICESC), provide ample advocacy for the human rights. While documents like UDHR are the cardinal force in defining human rights, these covenants have strengthened global advocacy as well as provided a timely emphasis on the subject. Noteworthy, even during the process of adaptation and ratification, the prime concern of the United Nations had been the existence of the slavery despite a number of attempts had been made on a global scale to abandon, abolish and outlaw slavery, there were active cases of the presence of slavery across the world.

To protect the human rights of the people held as slaves or servitude, the international mechanism has been armed with the close surveillance on the countries where slavery has not declined and abolished even though those states are signatories to the international arrangement, and they are made to safeguard the effective execution and monitoring of such mechanism. Since the 1926 Convention on Slavery, the later framework of treaties has worked as a robust international legal mechanism to take upon the issues in case reports from the countries on the progress made in this regard is not satisfactory or countries fail to provide a satisfactory answer in any matter.

5.1.3 International Labour Organisation

Further, the inclusive approach adopted by the international agencies, especially by the United Nations, had/has broadened the definition of the subject of slavery, so any knowledge of the slavery in any form is added to the description after their timely review. With attempts made to define slavery the other important task concluded by the international agencies included categorisation of the forms of slavery in the modern-day world and bring about specific conventions and assign the particular agencies under the ambit the United Nations to carefully observe the cases of slavery. In this regard, the ILO as a UN agency plays a prominent role. “The ILO has since its inception sought to establish a monitoring method that is acceptable to all States parties” (Weissbrodt, 2002).

The ILO process is widely regarded as one of the most effective systems of supervision, and many of the existing reporting procedures under other human rights treaties “owe much to the long experience of reporting under various conventions

adopted by the ILO' in an effective manner" (Weissbrodt, 2002). The ILO covers a range of issues concerning slavery in the context of labour. Since Forced Labour and Debt Bondage are among the classified forms of slavery under the UN framework which also "include Serfdom, Forced Labour, Debt Bondage, Migrant Workers, Trafficking, Prostitution, and the Forced Marriage and the Sale of Wives" (Weissbrodt, 2002), the ILO works as the mechanism to review the labour standards among the member states as deployed in the ILO Constitution.

By the year 2002, The ILO had "adopted some 183 conventions in the international labour code ranging from maternity protection issues to protection of the most vulnerable and poverty-stricken labourers. The ILO has four fundamental principles that it aims to achieve, namely: the elimination of forced labour; freedom of association, including the right to form or join a trade union; the effective abolition of child labour; and the ending of discrimination in employment" (Weissbrodt, 2002; Rodriguez, 1977). The primary in this regard is the Forced Labour Convention, 1930 (No. 29). Article 05 of the Convention reads:

No concession granted to private individuals, companies or associations shall involve any form of forced or compulsory labour for the production or the collection of products which such private individuals, companies or associations utilise or in which they trade. Where concessions exist, containing provisions involving such forced or compulsory labour, such provisions shall be rescinded as soon as possible, in order to comply with Article 1 of this Convention (ILO, 1930).

Even though the 1930 convention provided a secure mechanism to prevent the exploitation of the labourers globally, in 1955, a joint-report of the ILO submitted to the United Nations, narrating the emergence of the newest forms of the bonded labour to defy the 1930 convention. As a result, a Supplementary Convention was held in 1956 which further expanded the ambit of the 1930 Convention. Also, Abolition of Forced Labour Convention, 1957 (No. 105) gave discussed issues from "imposition of sanctions involving compulsory labour for non-compliance with restrictions on civil rights and political freedoms, imposition of forced or compulsory labour for purposes of economic development, violations of labour discipline punishable with sanctions involving

compulsory labour, sanctions involving compulsory labour as a punishment for having participated in strikes, and imposition of forced or compulsory labour as a means of racial, social, national or religious discrimination” (ILO, 2012).

On the Debt Bonded front which has been one of the several other forms of slavery defined by the United Nations. In the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery, Debt bondage refers to “status or condition arising from a pledge by a debtor of his personal services or those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined” (OHCHR, 1956). As per the mechanism of the ILO, debt bondage falls under the ambit of forced labour; hence, no separate mechanism has been deployed in this regard. However, 1962 Convention on Basic Aims and Standards of Social Policy deals with the issues that match the criteria forming the parts of the debt bondage. Additionally, the 1970 Convention on the Minimum Wage Fixing with Special Reference to Developing Countries. Also, ILO in working with the governments have deployed other instruments in this regard.

5.1.4 Other International Agencies working on Contemporary Forms of Slavery

Other institutional mechanisms have been deployed, and as per the United Nations, presently, there are more than 80 dedicated United Nations Agencies, Programmes, NGOs and Foundations working on Contemporary Forms of Slavery (OHCHR, 2019). The UN has enlisted the following:

Table 2

Name of the UN Agencies, Programmes, NGOs and Foundations

Sr.	Names
1	Amnesty International,
2	Human Rights Watch,
3	Derechos Human Rights,

4	Front Line,
5	The International Foundation for the Protection of Human Rights Defenders,
6	Human Rights Internet,
7	Human Rights Network International database,
8	Human Rights Resource Center,
9	Human Rights Web,
10	New Internationalist,
11	Anti-slavery,
12	Anti-slavery society,
13	American Anti-Slavery Group (ASSG),
14	Free the Slaves, Save a Slave,
15	The Wyndham Charitable Trust,
16	Polaris Project,
17	Committee Against Modern Slavery,
18	SOS Esclaves Mauritania,
19	Trafficking and sexual slavery United Nations Office on Drugs and Crime
20	The Emancipation Network
21	Coalition against Trafficking in Women
22	Project to end Human Trafficking
23	People Against Trafficking Humans
24	Ban-Ying (Germany)
25	Bangladesh National Women Lawyer's Association
26	Global Alliance Against Trafficking in Women
27	Global Rights
28	Initiative Against Trafficking in Persons
29	Human Trafficking Search (National Multicultural Institute)
30	International Organization for Migration

31	Prevention of Trafficking in Women in the Baltic States project
32	La Strada International
33	Perm Centre Against Violence and Human Trafficking (Russia)
34	Stop Albanian Slavery
35	The Barnaba Institute
36	Coalition to Abolish Slavery and Trafficking
37	Bilateral Safety Corridor Coalition
38	Shared Hope International
39	Action to End Exploitation
40	Protection Project
41	Forced labour and migrant exploitation International Labour Organisation
42	International Labour Rights Fund
43	International Organization for Migration
44	Kalayaan – Justice for migrant workers
45	Matahari Eye of the Day
46	Global Workers Justice Alliance
47	Human Rights for workers
48	Irish Congress of Trade Unions
49	International Confederation of Free Trade Unions
50	Sweatshopwath
51	Trades Union Congress the UK
52	Instituto Sindicale per la Cooperazione et lo Sviluppo
53	A coalition of Labour Union Women
54	International Organization of Employers
55	World Confederation of Labour
56	International Initiative to End Child Labor
57	ECPAT International (child prostitution and trafficking of

	children for sexual purposes)
58	Justice for Children International
59	Save the children
60	Child Labor Coalition
61	World Tourism Organization – Task to Protect Children from Sexual Exploitation in Tourism
62	South Asian Coalition on Child Servitude
63	Child Rights Information Network
64	Action Against Trafficking and Sexual Exploitation of Children (ALTEN)
65	Association pour la lutte Contre le Travail des Enfants au Niger (ALTEN)
66	Butterflies Programme for Street and Working Children (India)
67	Casa Alianza Latina America
68	Casa Alianza UK
69	Child Labour Awareness
70	Child Rights Information Network
71	Child Workers in Asia
72	Child Workers in Nepal
73	Concerned for Working Children
74	Free the Children
75	Free the Children India
76	Global March Against Child Labour
77	HAQ: Centre for Child Rights and Campaign to Stop Child Labour
78	International Federation of Free Trade Unions (Child labour section)
79	ILO – International Programme of the Elimination of Child Labour

80	Child Trafficking Digital Library
81	World Congress Against Commercial Sexual Exploitation of Children
82	The World Bank- Child Labour
83	Understanding Children’s Work: An inter-agency research cooperation project on child labour
84	Foundation – addressing the challenge of child labour in tobacco growing
85	World Congress against Sexual Exploitation of Children (CSEC)
86	RugMark Foundation

Source: List of United Nations Agencies, Programmes, NGOs and Foundations working on Contemporary Forms of Slavery, Office of the United Nations High Commissioner for Human Rights (OHCHR, 2019).

5.2 Slavery in Nepal: The Case of Kamaiya

The bonded labourers Kamaiya were declared free on 17 July 2002, and the bonded system was defined illegal though slavery and similar practices were abolished twice: first in 1996 by the then Rana prime minister Chandra Shamsher, and through the article 20 of the then Constitution of the Kingdom of Nepal in 1990. The Kamaiya Labour (Prohibition) Act was enacted in 2002, defining and determine necessary provisions for prohibiting the system and rehabilitating and rising the livelihood of those freed. Nepal has also ratified all the main international human right covenants and treaties over the years. They were free from Sounki, and all the previous contracts with their landlords, oral or written, were nullified. The declaration also pronounced punishment for those who continue with the system of bonded labour. Freed Kamaiya Rehabilitation and Monitoring Committees (FKRMC) were to be established in the concerned districts and Act set out their functions. The ministry of Land Reforms and Management was consigned responsible for the rehabilitation of the freed Kamaiya. Meanwhile, Nepal is signatory to following International Conventions and has introduced local laws with regard to slavery:

Table 3

List of International Conventions and National Laws in Nepal on slavery

Type	Name
UN Convention	Slavery Convention
UN Convention	Supplementary Slavery Convention
UN Convention	Optional UN protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
UN Convention	UN Convention on the Rights of the Child
UN Convention	Convention on the Elimination of All Forms of Discrimination against Women
SAARC Convention	Convention on Preventing and Combating Trafficking in Women and Children for Prostitution.
ILO Convention	Forced Labour Convention
ILO Convention	Abolition of Forced Labour Convention
ILO Convention	Minimum Age Convention
ILO Convention	Worst Forms of Child Labour Convention
Constitution	Safeguards against forced labour, servitude, slavery and trafficking
National Law	Bonded Labour (prohibition) Act, and declaration of liberation of Haliya

National law	Criminal code “Muluki Ain” elements
National Law	Children’s Act
National Law	Child Labour (Prohibition and Regularize) Act
National Law	The Human Trafficking and Transportation (Control) Act
National Law	Foreign Employment Act
National Law	Domestic Violence Act
National Law	Civil Code, Procedural Law and Sentencing Policy (Baumann & Dharel, 2014).

Source: List of International Conventions and National Laws in Nepal on slavery, (Baumann & Dharel, 2014).

The Government of Nepal updated the total number of registered freed Kamaiya and their families in 2000 around 18,400 making the total population of Kamaiya and their children to 101,522 (Nepal, 2008). A lot more freed Kamiaya families were reported left out of the registration process. Thus, the second registration process in 2002-2003 identified an additional 14,109 families as freed Kamaiya, bringing their total number of freed Kamiaya households up to some 32,000 households (Managment, 2009). The freedom not just achieved by the Kamaiya themselves but the movement to freedom was supported by the coalition of social and human right organisation, international organisations and other social activist and arrangements. The governmental and NGOs have been implementing various programmes from the time of preparation of freedom till now. It was based on two approaches- right based and welfare based (GEFONT, 2007). The focus of the strategies:

Right Based: Mainly on raising awareness, literacy, advocacy, lobbying, organising and policy interventions (GEFONT, 2007).

Welfare Based: focused on income generation, legal aid, payment and skill training (GEFONT, 2007)

According to one of the annual report (2011) issued by the land reform office, shows that in numbers, Kailali has the largest number of free Kamiaya households and second is Bardia. There is a total of 9762 (MoLRM, GoN., 2008) households and 2521 of them are still waiting for the land (MoLRM, GoN., 2008). Around 468 households are waiting for the use of provided land. For rehabilitation and reintegration, they set up different camps for the enrichment of them to sustain and maintain their livelihood.

In 2000, the Government of Nepal classified the freed Kamiaya households in two different identity groups under Category A and Category B, and thus, were prioritized for rehabilitation and reintegration (Managment, 2009). Rehabilitation and Reintegration consist of a systematic synchronised framework and process in the field of human displacement management. It is more than just an ad hoc relief measure. Forceful displacement of people is a major geopolitical and humanitarian crisis, and theoretical discourses have been developed to mitigate and minimise the pain of up-rootedness and facilitate their resettled life without altering their individual as well as group wellbeing. Those freed Kamiaya seeking rehabilitation and reintegration need to be identified and required careful analysis. The examination should be required not just the removal of their liberation from an exploitative cultural and economic system of Kamiaya Pratha. Their efforts to have a balanced and dignified life, but a sincere understanding of their rich customary communal practices, the state's policies of land reclamation and taxation, development projects and resettlement of non-Tharu population in their land, the process of landlessness and displacement from their rooted place.

The Government of Nepal arranged systematised framework with the cooperation and independent works of the agencies begun its resettlement program. Through the Ministry of Local Development supported housing plan with 35 cubic meter of wood and 10,000 cash, WFP (World Food Program) with food and GTZ (German Technical Cooperation) with mobilization and technical assistance, AAN (Action Aid Nepal) and LWF (Lutheran World Foundation) helped in community and houses buildings, and school construction; BASE (Backward Society Education), R2R (Room to Read) and other local agencies worked on education to freed Kamiaya children. The International

Fund for Agricultural Development (IFAD), the Office of District Development Committee worked on sensitisation, water and poverty alleviation project. But the only goal of the rehabilitation program is the land redistribution and the house construction support (Chaudhary, 2011, p. 85). Other basic components are skill development resourceful and occupation. Rational land distribution in the national agricultural economy is greatest importance to reduce poverty and inequality. After the categorisation of freed Kamaiya the Nepal government started distributing the land in size 0.45 Katha to 5 Katha, the maximum was one Katha, within municipal and highway areas to 5 Katha in rural areas (MoLRM, GoN., 2008).

Freed Kamaiya camps have thirty households settled in with a population of 177. The women population higher than men, with a population consisting of 51.98% of the total population. The average family size of the households is higher than those at the district or national level, the average family size of the camp is 5.9 persons whereas the national average is 4.7 persons (CBS, 2011). The report on national census of 2011 has projected Kailali district's average household size in ten years, the national census of 2001 had calculated the average household size to 5.44 (CBS, 2012). The majority of freed Kamaiya households have small family size, depending upon the number of individual members living as a family, followed by medium family 6-9 members and large family which consist of more than ten members (CBS, 2012).

The Central Bureau of Statistics of Nepal (CBSN) considers the population of age below 15 and those of over 60 years old as dependent population. CBS defines an economically active population as, "all persons of either sex who furnish the supply of labour for the production of economic goods and services as defined by the United Nation of National Accounts during a specified time reference period" (CBS, 2011, p. 21). Nepal Labour Force Survey by Central Bureau of Statistic does not consider students, domestic chores, childcare, collection of wood and drinking water and so on as economic activities (NLFS, 2009). A 10-year-old is also considered in any economic activity as an economically active population.

In agricultural based economy, population as below as ten years, and in a state that carries both feudal and semi-feudal features, population otherwise they considered as child labour, is involved in income-generating activities. So the engagement of the population in a rehabilitation setting has considered age 10 to 60 as economically active populations. The campus has the dependency ratio in terms of age 88.30, and it is above the national ratio as presented by NLSS-III is 84.4 (NLSS, 2011). A total of 83 individuals, with 69 below age fifteen and 14 above age 60, make the dependent population. Dependency ratio tends to increase where the earning population does not increase in proportion or comparatively more to the non-earning population. Dependency in terms of economic activities, which is 75.25 (NLFS, 2009) is lesser than the dependency in terms of age because some children, mostly male, and some of the aged population are involved in economic activities, economically active population who have been involved in income generating activities is 76 (NLSS, 2011).

Sharecropping is the second widely practised occupation. The land granted by the government as per the resettlement program to each family is approximately three Katha and twelve hours (Managment, 2009). It becomes near impossible to sustain their houses and household chores built on it. So they depend on other people, the nearby villagers with more land, through sharecropping. They prefer this occupation as agriculture has always been their way of living, but lack of human resource, physical assets and farming livestock have to lead them to choose other occupations, less preferred than farming. While considering the population of age 10 and above in terms of occupational distribution, their population is 136. The largest number of household member's occupation is Domestic chores, mainly family population and aged population are involved in it, and it makes 24% of the total occupational distribution. Most of the female prefer to look after their households. Going for work in India is the second most sought out occupation with 22.1% followed by daily wage labour and farming (NLSS, 2011).

5.2.1. Access to Facilities

The presence to certain developmental facilities is crucial while a new settlement is to be planned. Services and facilities not only provide an easy route to newly settled life, but they also open possibilities and increase those resettled people's capabilities.

Development facilities such as access to road, school, health centre, market place etc. There are four schools in and around the freed Kamaiya settlement with an access of half an hour; Buddha Children Academy is a private school located in the nearby Muda Bazar where two children from the Camp study, Jagannath Primary School and Kalika Lower Secondary School has got the most number of the Camp's children as Government of Nepal has financially supported two children from each household in these schools. Shree Rastriya Higher Secondary School, a higher secondary school where 12 years of schooling is done, is four kilometres away from the Camp. There are twenty-one tube wells in the camp. Six tube wells were built with the purpose of irrigation as well as drinking water, though the irrigation part has got no value with no water pump machine nor enough piece of land for plantation. Thirteen households have got a tube well each; seven households are sharing their tube wells with other seven households while three households have got a single tube well to share within themselves (Management, 2011).

There are four medical centres and one veterinary in Muda Bazar, two kilometres south-east of the camp, all of them private endeavour. The government health post-Dodhara Health post which looks the adjacent five VDCs, and Kota Tulsipur sub-health post six kilometres away from the camp. The nearby market centre is Muda Bazar. It is an old market. Bauniyan and Sukhad are some other semi-urban areas where wage labour for skilled and semi-skilled and literate labourers is always available.

5.2.2. Savings and Credit Groups

After seen the practice of group saving and cooperation soon after it was established, Maaya Namaara Mahila Bachat Samuha was the first of its kind to be run within the campus formed in 2001. Sahakari Bachat Mahila Samuha was established with organisational and financial assistance from FAYA Nepal, and Krishi Vikash Bachat

Samuha has established relations with the Government of Nepal. While the three saving groups have their members only from the camp, Samjhana Mishrit Bachat Samuha is open to other neighbouring communities as well and has half of its members other than the freed Kamaiya. The members at Samjhana Mishrit Bachat Samuha collect rupees 10 (Nepali) per member per month, for the other three saving groups the saving fund is 20 rupees per member a month.

The Saving groups of Podainataal Freed Kamaiya Camp are considered well managed and genuinely operated while the neighbouring Freed Kamaiya Camp has seen their saving groups emerge and disappear, and those in existence have failed to make a progressive impact. The saving groups of the camps have collected a total amount of NRs 277,90, and NRs 215,200 has been loaned to their members. On average, a household has deposited 7, 597 NRs 7,173 from the saving and credit groups. In the process of collecting and crediting funds, these groups have earned a total of NRs 21,500 in the forms of interest. These groups provide loan to their members with an interest rate of 2% and have determined an interest rate of 5% to the outsiders. The households have benefited from the provision of saving and credit; all the households rely on their own saving groups for a loan, a big sum of loan which these groups can't resist is only taken from money lenders. A total of six households (20.00%) have made additional loan besides those group-savings from money lenders within a year. The primary purposes of taking loan are health care and household (daily) consumption. With Government of Nepal having deployed the welfare programmes in coordination with the governmental agencies, a larger welfare and anti-slavery programmes are run by the United Nations and its Agencies, Programmes, International NGOs (INGO), NGOs, Local NGOs (LNGO) and Foundations (Management, 2011).

5.3 International Agencies, Programmes, and NGOs

Nepal was inherently an absolute system with absolute power lying with the King. The Hindu King who acted as the reincarnation of the Hindu god Lord Vishnu had none to challenge him in handling the socio-cultural and administrative matters of the country. After the inaction of Nepal as a Hindu country in the 1964 Constitution during King

Mahendra's period, the country witnessed a surge in the caste-based social order. The upper caste Hindu landlords were given privileges in acquiring the lands from the lower caste Hindus and in a major, a number of indigenous ethnic groups including the minorities had to move down from the hills to the plains in order to survive since their lands were forcefully encroached and in the absence of any support from the royal institution, many of the people ended up being enslaved. While slavery had not been a new phenomenon in Nepal, it had received little external attention. Meaning, due to the dominance of the King, no social reform movements had taken place until the 1960s so a curse like slavery could be addressed as it was happening across the world. During the Panchayat Era, few anthropological studies on Nepal had referred to long existing slavery in Nepal (Robertson & Mishra, 1997).

Meanwhile, it was in the year 1990 that the King was forced to reinstate a multi-party democratic order following a popular uprising, and it eventually opened up space for the rise of the social movements in the country. Non-Governmental Organisation (NGOs) began to take upon the social challenges at the national as well as at the local level (OMCT, 2001), especially in the case of *Kamaiya*. In the chronological order, by 1991-92, a survey was launched to detail the situation of the Kamaiya bonded labour in Nepal. The report was prepared by the Informal Sector Service Sector (INSEC) which pointed out that under the Kamaiya system, the worst form of slavery was being practised. The report added that more than 90% of the Kamaiya belonged to the Tharu Community living in western Nepal. An important data that the study included was the land ownership among the Kamaiya which stood less than 2%, and the majority of them were homeless and illiterate (Kattel, 2000). Importantly, the mass peasant movements against the landowners had begun. In the 1970s:

Kamaiyas of Khargauli village of Kailali district organised a mass protest, led by Joshi Ram Chaudhari, against the newly introduced wage system imposed by the landlords unanimously. The system changed wages into in kind payment replacing the earlier practice of providing a piece of land in the form of wages. Similarly, the kamaiya of Thumani Kuineti of Bardiya district launched a movement in 1979/80 demanding the abolition of the kamaiya system. All Nepal Peasants' Organisation (ANPA) has taken up

the issue of kamaiyas since 1985 with the aim of liberating peoples from slavery-type exploitation, eliminating illegal debts and distributing land to the tillers (GEFONT, 2007).

Although, prior to 1990s, movements against the Kamaiya system had existed, but they were fragmented, and lack of coordination among the leaders of the movements in different villages failed to make a strong impact on the national politics. Meanwhile, it was only by 1990s that the human rights advocacy for Kamaiyas picked up the moment, and it was found that they were living an inhumane life. By 1993, programmes were initiated by the INGOs to provide education to the Kamaiyas and soon after calls were made to abolish the Kamaiya system, and as a result to the popular demand reaching to the court of justice. In 1997, 'Anti-Slavery International (ASI) carried out a research and published a report entitled, *Forced to plough: Bonded Labour in Nepal's Agricultural Economy* in 1997. While in the past, NGOs and the INGOs had actively supported the mass movements against the Kamaiya system, the said report provided a data-based analysis of the situation. Also, in the 1990s, major international organisations that had supported an anti-Kamaiya included "Action Aid, Plan International and Lutheran World Federation in the 1990s" (OMCT, 2001). Further following the Maoist movement in 1996 against the newly established party-based political order and the Monarchy, other international organisations including "CARE Nepal, OXFAM Nepal, Terre de Hommes, Handicap International, USC Canada, Lutheran World Service, Helvetas Nepal, Save the Children Norway, Save the Children USA, Hellen Keller International, PACT Nepal, PLAN International, VSO Nepal, SHAPLA NEER Nepal, Water Aid, Echo Himal Nepal, Water Aid Nepal, and World Neighbours Nepal" (OMCT, 2001) came in solidarity with the existing approach of the INGOs against the Kamaiya bonded labour system in Nepal.

5.3.1 International Labour Organisation and Kamaiyas

With the arrival of the International advocacy against the Kamaiya system in Nepal, the King signed a "Memorandum of Understanding (MOU) with the International Labour Organization to launch a national programme to eliminate child labour in cooperation with the ILO's International Programme on the Elimination of Child Labour (IPEC)" (ILO, 2002). The programme focused on the protection and rehabilitation of the Child

Labours involved in the Kamaiya system in Nepal. Following the MoU, “the National Steering Committee on Child Labour was formed by the Ministry of Labour in accordance with the MOU” (ILO, 2002). In the follow-up, ILO through its several projects, especially “Sustainable Elimination of Bonded Labour in Nepal (2000-2003) in 10 districts of the far west, Midwest and west Nepal prevent, rescue and rehabilitate children...to enhance the income of parents with components of action that included direct action, capacity building, awareness raising, research, monitoring and tracking...along with...policy advocacy for adult, school support, and Kamlari rehabilitation need-based support for sustainable rehabilitation including micro-health insurance... and skill development, micro-finance, saving and credit, revolving fund...as well as awareness campaigns on rights” (ILO, 2002) attempted for the rehabilitation of the Kamaiya in Nepal. In the year 2000, through its project Sustainable Elimination of Bonded Labour, ILO began a strong course of action concerning the Kamaiya system with the support of the Government in reaching out to the community.

With the efforts of the ILO, Government of Nepal had outlawed the Kamaiya system in 2002. Meanwhile, ILO’s major participation in the elimination of the Kamaiya system has been in the field of the protecting the rights of the Kamaiya children who have been into the system due bond of their families with the landowners, and they have no option other than living with their parents and work along. As a measure to overall bonded slave situation in Nepal, a 3.5 million project was funded by the United States Department of Labour in the year 2000 aiming to abolish the bonded labour system in Nepal and bring forth a new form of rehabilitation and reintegration into the mainstream society (Chaudhry, 2000). The programme was supported by the International Labour Organisation. Soon after the Free Kamaiya Movement had picked up the movement and around 2000, several cases against the Kamaiya system were registered. The action groups working on the ideas of movement from ‘within’ and ‘above’ brought several families of the Kamaiya registered their cases before the court of law. Meanwhile, due to the close relationship between the landlords and the politicians who formed the largest group of keeping Kamaiyas could do away. However, with the support of the ILO and

other international organisations, the issues had received ample amount of global attention.

In the year 2000, there were around 13,000 Kamaiyas who had been set free after the intervention of the Government of Nepal, and by 2018, there were ‘37,000 freed Kamaiyas in Nepal; around 9,500 of them are in Kailali alone’ (Buhair, 2018). With the efforts of the ILO and others, the government had granted them land. However, Land Reforms have proved to be a poor way of support to them. In the Kailali District itself, “around 482 former Kamaiya families are awaiting their rehabilitation with 8,255 families already been rehabilitated” (Buhair, 2018). It is to be noted that Nepal is a signatory to ILO Convention on Forced Labour 1930, Abolition of Forced Labour Convention 1957, and Minimum Age Convention 1973. Meanwhile, Nepal has not signed the 2011 ILO Convention on Domestic Works. While other conventions have been taken into account in the rehabilitation and reintegration of the Kamaiyas, signing the Domestic Workers convention will protect the human rights of the domestic workers.

5.3.2 Lutheran World Federation

The Lutheran World Federation (LWF) has been an active INGOs since the launching of its Nepal chapter in 1984, working with an “objective to advance the socio-economic condition of freed ex-Kamaiyas and Kamlaris enhancing their access to livelihood assets and promoting equality and non-discrimination” (LWF, 2017). With its initial work focus on entire Nepal to take upon several social challenges, the LWF had made changes in its priority areas and focused more on the far-west region of Nepal where the cases of bonded labour were higher, and the region was a hub to the inhumane practice of Kamaiya. As a result, LWF focused on the empowering efforts for sustainable development during 2003-2007 (Mikkola & Thakali, 2008). “This meant empowering the disadvantaged, promoting greater control over their lives and livelihoods and reducing their poverty and disaster-related vulnerability through facilitating effective and responsive sustainable development” (Mikkola & Thakali, 2008). In the following years, LWF launched a programme in 2006 with funding from the European Commission. Named as “Socio-Economic Improvement Programme for ex-Kamaiyas and Other

Vulnerable Communities (SEIPEV)” (Mikkola & Thakali, 2008), the programme attempted to fulfil the gap that has been there since their focus on far-western Nepal.

In coalition with the local NGOs and Foundations, the LWF has assisted in building the houses for the ex-Kamaiya and worked towards providing and improving the education of the ex-Kamaiya children. In its 2009 Annual report, the LWF reported that it “continued to support advocacy initiatives for freed Kamaiya rehabilitation (by) working with local partners. 915 freed Kamaiyas received land from the government. The government policy and program are also now giving priority to this issue” (LWF, 2009). In the year 2005-2007, the European Union had awarded a 7 and 2 million Euro project to LWF to improve the life quality of the freed Kamaiya. The project was co-funded by the LWF; it had helped in improving the life quality, addressing the challenges like employment, poverty, social discrimination and the exclusion.

“The Socio-Economic Improvement Programme for ex-Kamaiyas and other Vulnerable Communities (SEIPEV), the newly launched bilateral project, is funded by the European Aid (EA) and co-funded by The Lutheran World Federation (LWF) - Nepal. The bilateral project attempts to address the prevailing poverty, inequality and social exclusion that have been further exacerbated by conflict in rural areas of the mid- and far-western regions of Nepal” (EU, 2007). The project had proved to be impactful and resulted in bringing positive changes in the lives of Kamaiya. The project had succeeded in:

to reach out to more than 7600 households, including ex-Kamaiyas (former bonded labourers) and marginalized households (of Dalits and landless) and school children, through various livelihood training and support initiatives, rehabilitation/construction of community assets and access to health and education (EU, 2007).

Among other achievements, LWF also succeeds in bringing social awareness among the freed Kamaiya and Kamlari Women and their children. Since landlessness has been at the heart of the problem, first that they were enslaved by the rich landlords in the upper hills of Nepal and as a result, they had to shift to Terai where they were landless and left with

an option to earn livelihood, the Kamaiya system prevailed; after Kamaiya were freed between 2000 and 2002, their rehabilitation witnessed major challenge of their employment. Since they had been involved in the agricultural work, allotting fertile land to them seemed more than a necessity. Hence, the EA and LWF funded project focused on lending the land and in many cases, through the help of the Government, they were provided lands. Also, modernising the farming practices by providing the freed Kamaiya new farming machines has also been one of the efforts among the many. Meanwhile, the overall efforts by the LWF have been the “the Intervention on both farm, and non-farm activities for improved livelihood is now helping ex-Kamaiyas and vulnerable communities to organise themselves and involve in farm and off-farm enterprises” (EU, 2007). Further, “As per it’s the Country Strategy for 2008 – 2013, the overall development goal of LWF Nepal is to support displaced, marginalised, oppressed and vulnerable people empowered to enjoy their rights and live a peaceful and dignified life” (Mikkola & Thakali, 2008).

5.3.3 Action Aid

Action Aid is one of the prominent players that played a critical role during the Free Kamaiya Movement as well as in the rehabilitation and reintegration of the ex-Kamaiya and Kamlari. With its focus on the spreading the awareness on Human rights and working towards protecting the human rights of the ex-Kamaiya and Kamlari, the organisation in association with other NGOs remained at the heart of the issue since 1997 itself. The country strategic plan of the Action Aid made the integral role of advocacy more explicit, by stating: “Advocacy, together with micro-project action and emergency work, will be one of the core strategies. The strategy included the provision that all projects must have an explicit advocacy value and advocacy objectives” (AAN, 2005). With its human rights-based approach, the Action Aid has constantly worked towards ensuring the rights of livelihood and rehabilitation. It has ensured that the ex-Kamaiya have the right to “Settle and settlements, land, housing, drinking water, health and health services, education, food, employment” (AAN, 2005).

5.3.4 Plan International

Plan international is among few premium INGOs in Nepal working to reduce “violence against girls and women and tackling discriminatory attitudes and practices to make communities free of child marriage, child trafficking and child labour. Promoting girls' sexual and reproductive health rights. Strengthening the resilience of communities to natural disasters.” (PIN, 2019) The organisation has been critical of the existing societal structures in Nepal, notably the male domination in every sphere of the life which has not only led to worsening of the lives of the women and girls but also the growth of the young generation has been affected. Since its arrival in Nepal in 1978, it has reached out in several districts of Nepal with the support of local NGOs and civil society. In the case of the Kamaiya and Kamlari, the major programme launched by the Plan International includes Freed Kamaiya Livelihoods Development Project (FKLDP) of PLAN International in Nepal which was implemented in 2008 and lasted till 2012. It was co-funded by the European Commission. The project was implemented in the Baradiya district of Nepal which has the largest population of the ex-Kamaiya. As per a report laid by the *Sampark* provides the details of the project that had been carried out. It adds that:

The project has provided access to loans by inviting NUBL to build capacities of the groups to do financial intermediation and then providing them with savings and loan services. As part of the project, 311 SRGs have been formed, covering 7700 FK families. The NUBL has opened four branches in the project area of 28 VDCs in Bardiya, and these branches have provided loans of over NPR 17 crores (\$.1.93 millions) to the SRGs. The SHGs themselves have saved an amount of NPR 13 crores (\$.147 million) of which most is kept with NUBL and some is rotated by the groups as loans for a variety of IGA or social purposes. At the individual level, women have been empowered through more knowledge, awareness, literacy, business and other skills, improved mobility and community and political participation. At the household level, enterprises have been diversified, most families report three or four types of IGAs. At the community level, made physical infrastructures related assets such as causeways, culverts improved mobility of adults to markets and children to schools and have access to markets to sell produce from agriculture, animal husbandry and buy inputs for agriculture and animal husbandry within villages which reduces cost of production (Premchander & Prameela, 2013).

The major part of the efforts led by the Plan International is emancipation oriented for the Kamaiya with their special focus on the ex-Kamaiya, especially Kamlari women and their children. Through the FKLDP, women have been made self-reliant and employable by providing them skills. Women are also encouraged to take part in the political system of the country, by mainstreaming themselves into the mainstream politics; it is only them who can raise their voice with the government for the betterment of their lives and their fellow women who have been time and again exploited in every way.

Other than United Nations and its agencies, Lutheran Nepal, Action Aid and the Plan International, several other international organisation and agencies, including programmes supported the European Union and individual countries including United States, Norway, Japan have been at the forefront to provide help and support to the ex-Kamaiya and Kamlari women. Meanwhile, most of the organisations are working with similar objectives in emancipating and rehabilitating the community and help them to gain their identity as part of the legal system in the country as well root back to their ethnic identity as Tharus.

5.4 Rehabilitation and Reintegration of Kamaiya and Kamlari

In the post-free Kamaiya movement, the most challenging task before the Government and the INGOs was the rehabilitation and reintegration of those people who have been part of an exploiting system for centuries. Their entire generation was involved into the Kamaiya system and their only source of income or livelihood rested on the rich landlords. Hence, it was near to impossible for the government and the INGOs to promptly provide an alternative mechanism. Meanwhile, few mechanisms were worked out and among those mechanisms; critical was to provide them land. In this regard, the table below provides status of the freed Kamaiya resettlement/rehabilitation as of June 2010:

Table 4**Status of the freed Kamaiya resettlement/rehabilitation as of June 2010**

Description	Districts					
	Dang	Banke	Bardiya	Kailali	Kanchanpur	Total
Total Households	1426	2316	14499	9762	4506	32509
Family need not to be rehabilitated	721	395	2948	787	88	4939
Family need to be rehabilitated	705	1921	11551	8975	4418	27570
Households rehabilitated	705	1921	7451	6153	4418	20648
Remaining households to be rehabilitated	0	0	4100	2822	0	6922
Distributed land (ha)	84.05	149.01	1098.46	811.95	661.2	2804.67

Source: (MoLRM, GoN., 2009; Chaudhry B. R., 2011).

Since Kamaiya system was focused on the forcing people into agricultural labour, providing them land fell into a priority way to rehabilitate and make them self-reliant.

5.4.1 Land Distribution and Financial Help

In order to facilitate rehabilitation of the Kamaiya, the erstwhile Royal Government of Nepal had initiated a Land Distribution framework. Since, Kamaiya system was prevalent in several districts; the task of the land distribution was given to the District Kamaiya Settlement Committees. It needs to be noted here that the committees were formed long before the Free Kamaiya Andolan had taken place. However, since their formation in 1996, they had been working with the NGOs and INGOs. Meanwhile, no effective planning had been worked out. The planning was done in accordance with the international conventions so any further international embarrassment could be avoided at the governmental level. In 1996, “the land distribution was carried out in the districts Dang, Bardiya, Kailali and Kanchanpur” (MoLRM, GoN., 2009). As per the Ministry of Land Reforms, the following distribution was carried out:

Table 5
Land Distribution to Kamaiyas

District	No. of Family	Distributed Land (Bigha-Katha-dhur)
Dang	40	5-0-0
Bardiya	42	5-0-2
Kailali	21	6-8-8
Kanchanpur	40	5-0-0
Total	143	21-8-10

Source: (MoLRM, 2009; Chaudhry B. R., 2011)

After Kamaiya were freed in 2002, land distribution has been pushed by the INGOs and the Government has been responsive to the programmes. As per the 2016 data, under “the free Kamaiya Programme, 26,000 former bonded labour families have secured land plots” (Land Links, 2018). Also, “in 2018, a total of 37,000 freed Kamaiyas were living in the Dang, Bardiya, Kailali, Kanchanpur districts of Nepal. Under the same programme, the Government of Nepal provided Rs. 355,000 (Nepali) to each free Kamaiya for the

purchase of the agricultural land and building a house” (Himalaya Times, 2017). However, despite efforts made at the Governmental and INGOs level, the rehabilitation and reintegration process has been partial and ineffectiveness of the efforts is wide in open and it is evident from the fact that in last 19 years of the welfare programmes, the allocated funds are left unused. “In 2016, Rs. 22 Million (Nepali) were allocated for the rehabilitation to the district agencies but it was frozen due to the financial irregularities found in the distribution system” (Panthi & Gulariya, 2017).

In the Kailali district alone, “budget allotted for the rehabilitation of more than 700 freed Kamaiya families went unused in the year 2016” (Panthi & Gulariya, 2017). According to District Land Reform Office, Kailali, “out of 370 million rupees allotted for the rehabilitation of Kamaiyas, 120 million rupees was not utilised” (Panthi & Gulariya, 2017). For the uneventful failure, the Land Reform Officer Laxman Bahadur Kathayat said that “rehabilitation of freed Kamaiyas became a challenging job because they demanded rehabilitation in the land near river banks, forest and other controversial areas. “However, the key reason for failure to spend the entire budget was lack of land” (Panthi & Gulariya, 2017). Hence, it is understood that the efforts made by the INGOs and the NGOs have/had a limited outreach.

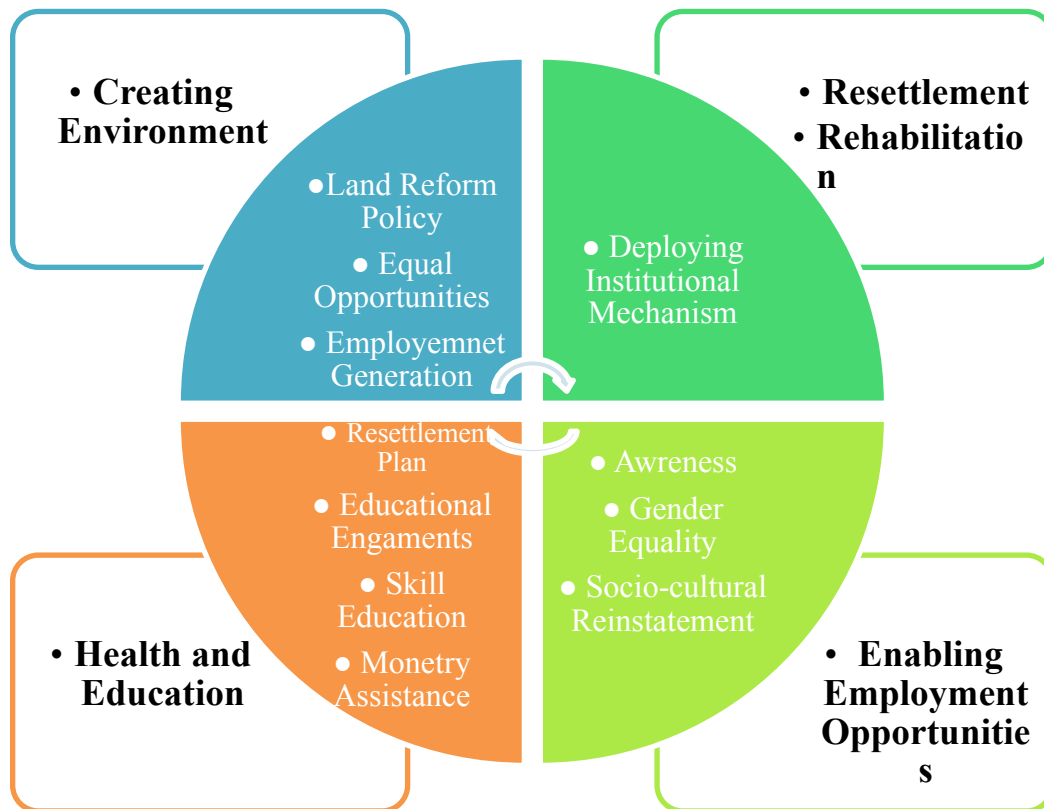
5.4.2 Education and Skill Development

In the case of Kamlari, the very recent law brought in by the Government of Nepal was the Kamlari Prohibition Act of 2013. Following the 2013 Act, “12,000 Kamlaris from Kailali, Kanchanpur, Banke, Bardiya and Dang were rescued. And from the Kailali District alone, 3,364 Kamlaris were rescued” (Deuba, 2015). The implementation of the 2013 was done in accordance with the Worst Form of Child Labour Convention 1999 of the ILO. As per the “Articles 3(a) and 7(2) (b) of the Convention, it demands abolishment of the child labour and time-bound measures to provide direct assistance for their removal and rehabilitation and social integration” (ILO, 2017). Since majority of the Kamlaris are young girls, the said ILO Convention has been an effective mechanism in making the Government of Nepal accountable. As a result to this, freed Kamlaris have been enrolled into awareness programmes and with the help of the INGOs and the NGOs

such as Nepal Youth Foundation to educate and provide vocational training. On Government's part, the District Welfare Board and Labour offices are given the responsibility. On the advocacy front with regard to rehabilitation and reintegration, the Freed Kamlari Development Forum (FKDF) has taken the important role. "FKDF is a Nepalese non-profit organization created and supported by the Nepal Youth Foundation (NYF) through their Empowering Freed Kamlaris program. Founded in 2010 and headquartered in Nepalgunj, the FKDF now has five local chapters with 1,375 members working on a variety of projects in their home communities in Western Nepal" (NYF, 2018). However, a broader framework of the programmes run by most of the INGOs in Nepal for the rehabilitation and reintegration of the Kamaiyas and Kamlaris is displayed in the graph below:

Figure 1

Integrated Approaches of Rehabilitation and Reintegration of Kamaiya and Kamlari



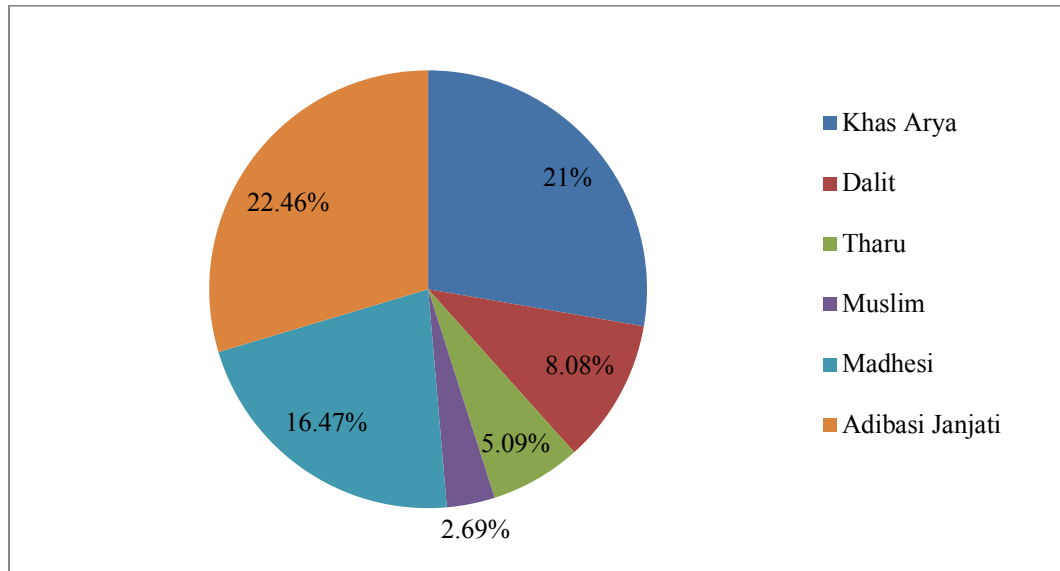
However, despite several vocational and other education programmes, rehabilitation programmes have witnessed tremendous fall out. In the year 2015, it was reported that “among 3,364 Kamlaris rescued from Kailali district, 35 have again started to work for their former employers, due to poverty” (Deuba, 2015).

5.4.3 Political Empowerment

Political representation is one of the key factors in empowering the marginalised communities, out-casted groups, women and other exploited groups of the society. Often political rights of such communities are protected by the constitution of the country. In the case of Nepal, a similar pattern can be observed. The last two constitutions, the Interim Constitution of 2008 and present Constitution of 2015 are two pillars that have specifically discussed political representation of the indigenous population as well as women. While international organisation have been an active contributors in socio-economical reintegration and rehabilitation, the government on the other hand brought national level policies followed by the political mainstreaming of the Indigenous population. But these policies have not been enough for the communities to represent themselves at the national and regional level.

During the implementation of the 2015 Constitution, Madhesis and Tharus had come out on the roads to protest against under representation of their communities in the National Assembly. As a result to the Madhesi movement that lasted for more than four months, bringing life in the Terai region to a standstill and much of the country felt the ire of the movement, the Government of Nepal “agreed to a number of amendments in January 2016 that would grant the Madhesis and Tharus greater political representation. However, disputing parties failed to reach agreement on boundary delineation and the protests only came to an end when fatigued Madhesi traders tore down the border blockade the following month” (UNHCR, 2016). Meanwhile, going by the numbers, in the present “National Assembly 55 percent of the MPs are Khas Arya, 22 per cent are Adibasi Janajati, 8.4 per cent Madhesi, 1.6 per cent Tharu and 11.8 percent Dalit” (Paswan, 2018).

Figure 2
Ethnic Distribution in Parliament



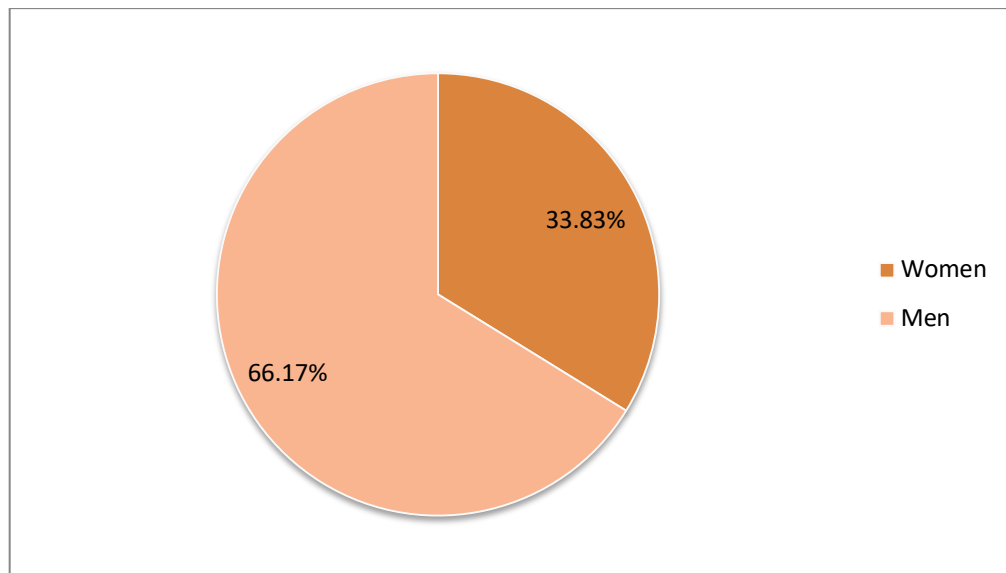
Source: The Record.

Accessible at: <https://www.recordnepal.com/data/dalits-and-women-the-most-under-represented-in-parliament/>

While Nepal is a multi-ethnic society, the dominance of the Khas Arya above every other ethnic community in the political sphere of Nepal has always caused the under representation of the communities like Tharu. However, as per the House of Representatives Election Law 2017 (ILO, 2017), Tharus are provided with certain quota of reserved seats along with women, Muslims, Adibasi-Janjati, Madhesi and Dalits. Hence, “Adibasi-Janajatis and Tharus, who are slightly less well-represented, have also organised along ethnic lines, although they have yet to build nationally-relevant political parties like the Madhesis” (Paswan & Gill, 2018). Meanwhile, at the local level “Adibasi-Janjatis fared well at the local level, garnering 33% of mayor/chair and 35% of deputy mayor/deputy chair seats – higher than their population share of 29%” (Paswan & Gill, 2018). In the 2013 Constituent Assembly II Elections, a combined representation of the Madhesis and Tharus accounted for “10 per cent seats in the 601 member house despite Madhesis and Tharus constituting 90 percent population in the Terai” (Jha, 2015).

Tharu women on the other hand have too actively participated in the political sphere of the country. As per the 2015 Constitution, 33 percent seats are reserved for the women candidates (Paswan & Gill, 2018). In the Constituent Assembly election of 2013, and Parliamentary and Provincial Elections in 2017-18, few Tharu women were able to make a mark. Shanta Chaudhry who was elected to the Constituent Assembly in 2013 and Krishna Tharu who became the Deputy-Speaker of the Provincial Assembly of the Province number five, are the two leading examples in this regard. In the present Parliament, women representation is shown in the below figure:

Figure 3
Gender Distribution in Parliament



Source: The Record.

Accessible at: <https://www.recordnepal.com/data/dalits-and-women-the-most-under-represented-in-parliament/>

However, does the political representation empower the marginalized communities? This is a question that has long been debated since the emergence of the democracy as a mode of governance. However, in last two centuries, greatest democracies around the world have not been able balance the ratio between the dominant communities and marginalized. Among various reasons, one which often appears to be the dominance of the one race, caste, ethnicity and almost no leadership has been able to change it. Rather

appeasement of the majority population has always taken the upper hand. In Nepal's case, the case is no different.

On a brighter note, Nepal has set an example of experimenting with the politics and war in 2006 that brought the Guerilla Maoist fighters to the mainstream political process of the country. The experiment was extremely successful and to date, Maoists have showcased their emergence that they have achieved through a decade long Maoist insurgency. Similarly, attempts are being made to mainstream the freed Kamaiyas and Kamlaris into the national politics. While it does not guarantee their complete rehabilitation and reintegration, it helps to reach out to platforms like Parliament and a further representation helps to community welfare oriented laws. Hence, at a time International organisations are pushing the government towards better education, health, financial support and employment, they are also putting efforts to convince the government to make marginalised communities politically strong which can enable them to make their voices heard on their own.

5.5 Testimonies of the Kamaiyas and Kamlaris

The testimonies of the ex-Kamaiya and Kamlari system are more horrible than they could possibly be portrayed in a research format. One of the ex-Kamaiya who works as an immigrant agriculture labour in Paramaribo in Suriname, in a personal interview to this researcher, he explained that despite the efforts of the INGOs towards reintegration and rehabilitation of him and his family, he was forced by his family to leave the country and work abroad. Meanwhile, despite being an educated person, his family employed him into an agricultural job in a third country. He added that:

Interview of Mr Sangit Choudhry in Suriname during a conference

My name is Sangit Choudhry, and I am an immigrant worker in Suriname from Nepal. I am a native of the Narayan Pur locality in the Dang District of Nepal. I immigrated to Suriname at the age of twenty. It was not a choice that I had made, but due to the deteriorating monetary condition of

my family that they made me come here. My parents took a high-interest loan from a landlord to send me to Suriname to work as agriculture labour. In Nepal, every third family has one or two members working abroad, and in most of the cases, it is the economic condition of the family that people move out of Nepal. While this reason is equally applicable in my case, it is my ethnic identity as Tharu that has played an important role in my arrival to Suriname.

I come from a low-income family where my parents worked as Kamaiya. After the Kamaiya system was abolished by the government in 2002, many of the Non-Governmental organisations came to our rescue in the way of rehabilitation. I was very young then but I can recall the hardships that my parents faced while working for a landlord for years and still our economic condition could not improve. After the freed Kamaiya movement, a leading organisation named Backward Society Education (BASE) began to help us. Firstly, they enrolled me and my family into skill development programmes as well as in providing primary education; and that is how I could get my diploma in Hotel Management and Computer Education. Even though these programmes were aimed at improving our life quality and make us diversify our employment opportunities, these programmes failed miserably. One of the reasons for the failure was that these programmes equipped us personally but socially, we were still an outcast. It was near to impossible that we could get jobs in the national capital Kathmandu due to our social background and ethnic identity.

Hence, my family opted to send me aboard to work. As an educated person, I had tried to look for different jobs other than field jobs, but it did not work. Working as labour was easier since it did not require any specific skills to be met and inherent ability as Tharu to work on the field was an easy way. My family members forced me to come to Suriname and work here. Just four days prior to my departure from Nepal, my family

arranged me a bride, and I got married, and I came to Suriname with my wife.

My employer pays me a handsome amount of money, and I am given a house near to agricultural land where I work. Although the work environment is very healthy, I miss my friends and family because of the cultural differences and language barrier that I face here and most of the time it is just my wife to talk to here. Now I have a new born son, and if I stay here for long, I am sure that he will benefit in a developed and educated environment and may not face the social hurdles as I encountered back home. Despite this, I wish to go back to my country now because I want to study and spend my days as a youngster. Due to my work aboard, I have managed to save some amount and bought some property back home. However, my parents do not agree with my decision that I should come back to Nepal. They tell me to continue to work because it's a well-paid job and it has helped them to live in good conditions in Nepal.

Lately, my parents have been calling me and my wife (Bindu) for the Naamkaran (naming) ceremony of my son as per the Hindu traditions. But it will be short trip trips as they want me to continue working here. Now I am in a dilemma that should I go back for a short period or stay here and give my son a completely new environment to live and get educated.

(Interviewed on June 25, 2018 at Welgedacht C Weg, Suriname, South America)

The case of Sangit is a lively example where new generation of the ex-Kamaiya are trying to change the pattern of their employment and attempting to working away from the traditionally imposed jobs to sow and crop the lands. The INGOs could successfully provide him skill development education yet the mind set has yet not been able to

improve their life quality. Also, during personal interactions with a number of ex-Kamlaris, a number of victims of this system shared their plight, and narrated that legally the system might have been outlawed, but its brunt has continued from the year 2002 onwards.

Shanta Chaudhry, a former member of the Constituent Assembly of Nepal was one of the victims. During an interview to this researcher, she narrated that:

I was born in the Dang district of Nepal. In a large family and under the prevailing poverty, I had no other option but to help my parents in whatever way I could so when my family was approached by a wealthy landlord for me to be leased as a Kamlari, my parents had agreed to send me off to that family. I was only eight and could hardly understand the challenges of a Kamlari. Since these were the struggling times for my parents and family, assistance of any kind from a third person could keep us indebted for rest of our lives. In this case, the land lord had come with a good amount of bottles of expensive alcohol which was near to impossible for my father to buy. In the gift box, there were new cloths and as a teen, what best I could expect in my life and my parents were promised an annual amount of Rs. 700 (approx. USD 100) in return to my services. It was in the year of 1989 that I left my home and started working as a Kamlari. In the initial days of my servitude as a Kamlari, I fell sick due to harsh work conditions and workload. Above my work hardships, I was accommodated in a temporary shelter which was a horrible place during rainy seasons. I was often beaten by the wife of the landlord for missing on work in case I fell sick. Like every other young girl, I aspired to study and go to school but it always remained as a dream. In search for safety of my life, I got married to my friend so the unwanted advancements from other males could be avoided. I have a specially challenged child and my second baby had died of malnutrition. However, unlike many other Kamlaris, I decided to raise my voice against the system so I joined the

social movements. In 2006, I was freed as a Kamlari and due to my background as a social activist, I joined the Unified Marxist Party of Nepal. After joining the mainstream politics of Nepal, I decided to become the voice of thousands of the women who have been victims of the inhumane Kamlari system. I was nominated to the First Constitution Assembly in 2008 after Nepal had begun to walk on the path of democracy after a decade long Maoists movement and People's War against the feudalistic Monarchy which rule the country for past several centuries. While being in the politics, I have realized that even the political system has its own way of dealing with the social challenges. Hence, till date, you will come across thousands of such stories who have remained Kamlari for their life, and many of them have met the uneventful conclusions.

(Interviewed on 14 April 2018 at Kathmandu, Nepal)

In another personal interview, Ms. Sangeeta narrated her story as:

I am 25 year married woman. I am an ex-Kamlari and I got into this system at the age of five. I was as a employed domestic help by my present landlord, who had promised a meagre annual amount to my family. Since, Kamlari system has been abolished by the government in the year 2000, my contract was changed from verbal one to a written one in the form of domestic help. Due to illiteracy of my parents, they could hardly understand the terms and conditions of the contract. The landlord made me to stay since the new contract was legal which he uses to his benefit. These rich people have utilized their political power to exploit our community and unlike me, many others are suffering and have no option other than going back to the old order of Kamlari.

(Interviewed on 14 April 2018 at Kathmandu, Nepal)

The shortfall of Sangeeta back into the system is not just one of its kind. However, in another interview with an ex-Kamlari, result was found to be different. In her interview she narrated that:

My name is Hema, and I am an ex-Kamlari. I am a twenty-five years old married woman and a native of Kanchanpur District in Nepal. I was a Kamlari till 2013 and after Kamlari system was outlawed, I was helped by the international organizations for rehabilitation and reintegration. With the help of Backward Society Education (BASE), I have been able to reintegrate myself into the mainstream social life. Since I am an educated, BASE helped me to seek jobs that are mainly social service related. Presently, I work with an international organisation as a helper in various projects being that have been deployed by the INGO. This is because of the INGOs that I am aware of my human rights and I am able to work towards achieving good standards of living.

(Interviewed on 14 April 2018 at Bhaktapur, Nepal)

It was one of the interactions where Ex-Kamlari was successfully reintegrated and employed. However, there are more incidents of the fallout of the re-integration and rehabilitation programmes than they have been successful. Among many reported incidents of these fallouts, few have been reported in media. Such incidents where ex-Kamlaris are “forced to work again as Kamlaris as we don’t have houses to live in and enough food items to eat” (Deuba, 2015). Also, report on the situation of the Freed Kamlari by the ILO needs to be taken into account. The report adds that:

The Government further indicates that a total of 12,000 freed *kamlari* girls have received education, including vocational training, since the implementation of the National Plan of Action Against Child Bonded Labour, 2009. The Committee notes, however, that the Committee on the Rights of the Child, and the United Nations Human Rights Committee on International Covenant on Civil and Political Rights, in their concluding observations of 3 June 2016 (CRC/C/NPL/CO/3-5, paragraph 67) and 15 April 2014 (CCPR/C/NPL/CO/2, paragraph 18), respectively, expressed

concern about the continuity of practices of bonded labour such as *Haliya* (agricultural bonded labour practice), *Kamaiya* and *Kamlari* in some regions of the State party. *While noting the measures taken by the Government, the Committee urges the Government to strengthen its efforts to ensure the complete elimination of bonded labour of children under 18 years of age and to pursue its efforts to ensure that child victims of bonded labour receive appropriate services for their rehabilitation and social reintegration, including access to education. The Committee requests the Government to continue to provide information on the measures taken in this regard and on the results achieved* (ILO, 2017).

In a clearer, at present the rehabilitation and reintegration of the *Kamaiya* and *Kamlari* is actively done at the Government level as well as push is provided by the NGOs and the INGOs. Meanwhile, as observed by the ILO and taking the testimonies of the freed *Kamaiyas* and *Kamlaris*, there are serious fallouts. As a result, many of freed bonded labours are forced to get into such inhumane system, precisely, due to the lack of employment, poverty and ineffectiveness of the government run programmes. One more element which needs to be considered here is the political instability in the country that has continued in last two decades. Even though, since 2017, an elected government has continued to work for the country yet there are failures at the governance level.

From 1990s, arrival of the International agencies in Nepal has over the years changed the outlook of the country. In the prevailing poverty and underdevelopment, the INGOs and monetary contributions made by countries to improve the quality of life and protecting the human rights of the people of Nepal. INGOs have proved to be strong advocates of human rights yet they cannot enforce programmes until there is willingness on the part of the government. In the post-Cold-War phase, the organisations like the United Nations have made the countries accountable for their short-sightedness. Meanwhile, the recommendatory nature of the international conventions and laws becomes a challenge for the international agencies to enforce any mechanism. And above all, any help and support provided to any social-economic challenge to the country goes through the government and it is left to the governments to implement them. Hence, in many cases, the benefits do not reach to the actual victims and welfare programmes keep running for decades. In the case of the *Kamaiya* and *Kamlari* system, it was the social and political awakening of the people of Nepal that free *Kamaiya* and *Kamlari* movements took place

and with the interventions of the UN and other agencies, these movements turned into an international cause. The rehabilitation process showed some promising results, especially the integration of the Freed Kamaiyas and Kamlaris into the mainstream political process of the country. However, testimonies of these ex-Kamaiyas and Kamlaris showcase a different narrative. Krishna Tharu who is presently the Deputy Speaker in the newly formed Province number five is an ex-Kamlari.

Hence, it is up to the will of the Government of Nepal to decide if it wishes to abolish such systems, and keeps itself away from the vulnerability.

Chapter 6

Conclusion

In the contemporary world order, every individual has civil, political, economic, cultural, and natural rights irrespective of the geographical location or the locality, caste, creed, ethnicity, sex, place of origin, political views, etc. However, despite national and international agencies along with the government mechanism are working towards ensuring that no entitlements of the human rights to any individuals are violated, and providing the awareness of these human rights, there are places in the world where due to the domination of the long-existing practices in the name of social, political, cultural customs, these rights are not only continuously violated but also life with dignity remains to be in danger. After the inception of the major international organisation in the mid-Twentieth Century, a surge in the social and political movements was observed. In many cases, these movements focused on the abolishing several inhumane practices, including slavery. Meanwhile, in dominant cultural societies, it took long for the people and the government to differentiate between cultural practice and its literal meaning it took even more time to build an infrastructure to take upon those practices at the international, national, local and community level. For instance, freedom is a relative term, and it has subjective characteristics in it. Therefore, a practice like Slavery might stand as a cultural part of the existing tradition in several societies, but in others, it is seen through the prism of legal and human rights perspective.

To begin with, Kamaiya as a bonded labour system was abolished in the year 2002. Due to the free Kamaiya movement, thousands of the Kamaiyas walk free today and are part of the mainstream society yet freedom for them is simply an escape from their landlords and the hard work and unregulated working hours are still the existing norms. Almost one and a half decade since the abolishment of the Kamaiya system was in 2002, the freed Kamaiya have rightfully utilised their voting rights, participated in the socio-political process of the country. The other positive outcomes of the movements that challenged the existing social structure and made a strong case for abandoning the slavery system in Nepal, existing in any form or pattern, has been the individual, group,

household, community sense of belongingness among the people who have been part of the exploitory systems like Kamaiya. Further, with the initiatives taken at the individual and community level along with the support from the Government and NGOs, the lives of the Kamaiyas have experienced drastic changes. People have moved out of the rehabilitation camps, and have begun their new lives by becoming an integral and equal part of society. The most credible outcome of these interventions has been that in the process of the rehabilitation, the awareness programmes have succeeded in generating awareness and confidence among the Kamaiya about their rights and provided them the information on financial support that they could avail from the public sector and private banks without being caught in the vicious circle of getting loans from the landlords on a higher interest rates.

The Rana oligarchy up to 1950 and later the Shah family led monarchy in Nepal, were the two modes of governance where religion played a critical role in the process of decision making and in introducing new laws. The Rana oligarch and the Shah rulers were Hindus, and before the downfall of the Monarchy in 2006, the Hindu King did not act against the existing caste and class oriented hierarchy in the society. While most of the enslaved people under the bonded labour system belonged to lower caste, their high caste landlords exploited the human to the worst standards due to their influence and contacts with the King and the place. Kamaiyas and Kamlaris, who belonged to the Tharu community, have been the victims of the caste and class struggle. In fact, “slavery and practices akin to slavery-such as the Kamaiya system- had been abolished at least three times in Nepal; in 1926 by the decree of the then Rana Prime Minister Chandra Sumsher; in 1990 through the Article 20 of the (then) Constitution of the Kingdom of Nepal and in 2000 through the cabinet decision” (OMCT, 2001).

The National Code of Nepal, also known as *Muluki Ain*, was first initiated centuries ago by the founder and unifier of the Prithvi Narayan Shah. While it is the foundation of the administrative, legal and governance system in Nepal, duties and social identity of every ethnic group, castes are clearly mentioned in the document and accordingly they have been attached to a certain kind of jobs. In the *Muluki Ain* Tharus

are described as the drunkards and as per the defined their duties, they are identified as farm labourers. Notably, the *Muluki Ain* was strictly the guiding principle of the administrative, social and cultural order of the country but it has been widely discussed as discriminatory and biased towards Hindus, especially high caste Hindus. Till the date, *Muluki Ain* remains an important foundation for Nepal as a country, yet changes over the years have looked promising for a better treatment of the discriminated ethnic groups and low caste people.

The Kings who were considered as the incarnation of the Hindu Lord *Vishnu* deeply believed in the societal order of the time and did not condemn any of the issues that might have violated human rights of an individual or a group. In the case of Kamaiya and Kamlari, it was the same case. Also, in Nepal, other than Kamlari system, other social norms are in direct violation of the Universal Declaration of the Human Rights, and despite being outlawed by the International Conventions and national laws, they are still in practice. Meanwhile, under the new republican government, newer understanding of the society was believed to have emerged. To an extent, the democratic governments brought more significant changes in the lives of the Kamaiya and Kamlari, but it is because they have been held accountable by the people as well as pressure from the International Organisation has prevailed.

Even though, over the years, national laws have been introduced and the government in adherence to the international conventions, norms and declarations, has introduced numerous programmes for the rehabilitation and reintegration of the exploited community including Kamaiya and Kamlari. However, over the years, political will of the erstwhile monarchy and present democratic government needs to be seen critically. For instance, at the time, people were coming together to voice against the Kamaiya system in the early 1990s, the royal court seemed to have been unaffected by the public uproar, and as a result, the movement could not make a full impact on the political leadership and the system. As the free Kamaiya movement weakened, protagonists and the activists argued that if these movements become another talking point, there were chances that existing inequalities will be further widened and become more chronic.

Hence, in the initial stage, due to hesitant public support and political unwillingness on the part of the country's administration, the movement could not produce desired results. Meanwhile, the fact that Kamaiya and Kamlari system had become part of society, the primary outcomes of the free Kamaiya Movements were non-surprising because as per the beliefs of the sociologists, it takes years for a social norm or system to become a reality and it takes centuries to abandon them. Hence, initial attempts to abolish the system were met with challenges, leading towards the weakening of the movement.

With the social acceptance of Kamaiya system, the practice has undoubtedly captured the cultural line. This cultural line has further worked as a curtain for the rich landlords in exploiting the women and young girls of the Kamaiyas who equally worked as domestic workers as Kamlaris in the houses of the landlords. These girls are as young as the age of five worked at the homes of the landlords till their adult age and many cases; these girls had no option other than staying back and work as bonded labour. Their exploitation for sexual urges of the landlords and other male members of the family over the years became part of the cultural practice. While it was wide in open that such systems of slavery were existing, neither the society nor the government came forward to abandon it (ONRT, 2006-07).

In the far western Nepal where the Kamaiya system had been widely practised, contracting Kamaiya as bonded labourers for a year on the *Maghi* festival stood as the part of the cultural practices. The newborn babies of the landlords were to be taken care of by the wives and daughters of the Kamaiya, and it was part of the existing cultural norm. Hence, on the one hand, Kamaiya system had a cultural connotation in the form of practice, and on the other side, religion stood as a common form of the mechanism that was available to landlords for manipulation. While fear created among the low caste Hindus, often their services are exploited to the worst in the name of the religion. In the case of the Tharus, there are extensive discussions on their religious identities, and in many of the studies, scholars have not been clear on the percentage of Tharus who follow Hinduism, Buddhism or any other indigenous religions. However, considering their wider spectrum of practices, Tharus are projected as Hindus. Meanwhile, in the late 1990s, a

surge was observed in Tharus taking *Deeksha* by Buddhist monks. These conversions were actually aimed at their social upgradation in terms of caste hierarchy that existed in the Hinduism because Buddhism was believed to refute the caste and class structure in the society.

Kamaiya system prevailed strongly as a social custom and later became an integral part of the society. An entire community was now aligned to a particular type of job that was to work in the farms of the rich landlords. They were forced to put themselves into the work contract system that was in return to the loans that they had borrowed from the landlords. Over the years, the socio-economic order was moulded in such a way by the landlords that it was near to impossible for the people to come out of the Kamaiya system. Additionally, this exploiting economic structure, which was developed by landlords created a dependency model of transactions for Kamaiyas. While male members of the Kamaiya families worked in the farms, their wives and daughters were engaged in the household works of the landlords, eventually making the whole Tharu family to be dependent. Also, the landlessness of Kamaiyas abandoned their chances of emancipation from the system because they were skilled in the farming works and in the absence of their lands to cultivate; they cultivated lands of the landlords.

With structure of the Kamaiya system becoming complicated and limiting their chances of emancipation because neither they were free from the control of the landlords, nor any financial help was extended to Kamaiyas and their families in return to their services so they could avail the facility of education, better healthcare, construct a house or buy land so their future generations could get away from the system. And those Kamaiyas who could send their children to school, it was not an easy way since they had to face discrimination in schools and often made discriminated due to their ethnicity and social status. Other than children of the Kamaiyas failing to benefit from the education system of the country, the exploitation of the women and girls of the Kamaiyas was worst. While they continued to be exploited at the homes of the landlords, the other social and cultural practices made their conditions even more pathetic. For instance, during the days of menstruation, Kamlari women and girls were sent to *Goth* (a mud hut away from

the house) to live which were mostly located near the animal farms (Verma, 2010). Hence, these filthy places increased the chances of them being infected by acute health diseases as well as in harsh weather environment; they were given the tasks of completing the domestic works. Also, forced to stay in those *Goths*, these women posed more risk to their sexual exploitation since these huts were away from the houses and no members of the families were around.

Nepal is predominantly a Hindu society, and for centuries, Hinduism had captured the socio-cultural and political space of the country. While the King stood at the helm of political affairs of the country, his identity as the incarnation of the Hindu Lord Vishnu gave him the leverage to use religion to his benefits by instructing the common public in the name of religion. Religion not only formed the identity of the state ruler as Hindu King but also constitutionally State in itself became the Hindu Kingdom. Since the majority of the population stood Hindu, the Hindu identity of the state entrusted the King to act as per his wishes in the absence of any political competitiveness. It is noteworthy that after 1950, a multiparty system was introduced by the King in light of the movements led by the revolutionary Nepali Congress and others political parties. While it was not an easy accommodation for the royal family, the royal court took every step to suppress the political indifference that could have been there in among the political parties in non-alliance with the activities of the King or decisions taken by the royal court. The direct role of the King in the political matters of the country and politics at large was very much visible during the *Panchayat* rule till the 1990s. Political parties existed, but anti-monarchy voices were either imprisoned, or they were forced to be in sync with the decisions of the Palace. As a result, this had led to frequent changes in the political leadership of the country in the later years of the 1990s. Therefore, King was an active altar of the political process in the country which held certain religious views in administering and sketching the social fabric of the country.

The nexus between religion, society and culture in Nepal is one such examples around the world. Some countries have declared their state religion, and any violation against the state held religious views are subject to the harsh sentence. While in Nepal,

other religions too have flourished, but more often they have received partial treatment from the state. Until 2006, Nepal remained the Hindu Kingdom, and it was only in 2015 under the democratic constitution that the country officially opted out of any state religion and became a secular country. Meanwhile, does constitution or the democratic order of the country has changed the socio-political and cultural identity of Nepal? The answer to this question will be no. To substantiate the argument, the case of Kamlari system is investigated here.

After a decade long Maoist movement, a number of social changes took place in Nepal, especially in the social justice sector. The Maoist Movement from 1996 to 2005, followed by the People's War in 2006 was aimed at providing social justice to the marginalised, peasants, labourers, women, girls, and unemployed. The Maoist Movement was an armed rebellion started by the political activists against the existing political system and the Monarchy. The movement was joined by the people across gender, caste and society. The main feature of the movement was the voices that were collective in raising the slogans against the discrimination by the state and demanded social justice. With the successful transition of Nepal from a Monarchy to democracy in 2006 and later grand victory of the Maoists into the newly formed Constituent Assembly had provided prospects of social justice and just society. However, the Maoists and the later governments failed to produce desired results. Till date, women remain the most exploited and their trafficking has yet not been entirely stopped despite there have been around ten democratic governments since the inception of the constituent assembly. About the Kamaiya system, it was abolished five years after a new democratically elected government had come to power. The Maoist government was believed to be the voice of the marginalised and discriminated, and despite the high prospects of justice under their administration, they failed to deliver. The Maoist government and the later governments have been well aware of the Kamlari system, yet it took five years to outlaw the system. With the Kamaiya system being outlawed in 2002, the subsequent governments could have taken the note of the plight of the women and the young girls who have been exploited under the inhumane systems like Kamlari.

In the national and international media, the cases of Kamaiya and Kamlari are reported very often. Even though these systems of slavery have been outlawed, exploitation has continued. In March 2019, Department of Foreign Affairs and Trade, Government of Australia in its Annual Country Information Report on Nepal added that:

Child labour and traditional practices of bonded labour such as Haliya (the system whereby agricultural tillers in the western hills of Nepal are indebted to their landlords), Kamaiya (a system of bonded agricultural labour outlawed in 2002) and Kamlari (domestic work undertaken by the unmarried girls of Kamaiya families) are still prevalent in some remote regions of Nepal. In June 2013, the government officially abolished the Kamlari system of bonded domestic slave labourers, and in July 2018 the Supreme Court ordered the government to provide rehabilitation services to victims within three years. Under the 2015 Constitution, every citizen has a right to choose their own employment and a right to fair remuneration (GoA, 2019).

It is surprising that despite the efforts and active support of the non-Governmental Organisations to the Government machinery working towards abolishing Kamaiya and Kamlari system, they are still prevalent in the remote areas of Nepal. The report mentioned above of the Australian Government is one such document exposing the fallacies of the Government data on bonded labour and overall existing slavery in Nepal. As per the report, Kamaiya and Kamlari systems are found in the remote areas of Terai, but while interviewing a number of Kamlaris in the suburbs of the capital city Kathmandu, many of the victims narrated their plight on being employed as a Kamlari at present. Also, other major players in Nepal have been vocal for the violation of the human rights of the population. India is the closest neighbour of Nepal, and it has raised the issues of inclusiveness in Nepal on friendly ground. In 2015, soon before the first democratic republican Constitution was to be implemented, a number of violent movements were witnessed at the India-Nepal border. People living in the Terai demanded an equal political representation compare to other regions of Nepal in the national politics and protested their treatment as the 'second class citizen' (Khalid, 2016) since there were discriminatory provisions related to citizenship. As a result to the political instability in the neighbourhood, India had sent it diplomatic representation to discuss the movements in the Terai which had the potential of spillover impact on India

due to an open border between the two countries. In a statement, the Ministry of External Affairs had added:

Throughout the process of Constitution making in Nepal, India has supported a federal, democratic, republican and inclusive Constitution. We note the promulgation in Nepal today of a Constitution. We are concerned that the situation in several parts of the country bordering India continues to be violent. Our Ambassador in Kathmandu has spoken to the Prime Minister of Nepal in this regard. We urge that issues on which there are differences should be resolved through dialogue in an atmosphere free from violence and intimidation, and institutionalized in a manner that would enable broad-based ownership and acceptance. This would lay the foundation of harmony, progress and development in Nepal. We extend our best wishes to the people of Nepal (MEA, GoI., 2015).

While India's friendly note to Nepal was not directly in the context of the Kamaiyas but during the Madhesi Movement in 2015, people across all the exploited communities, ethnic groups and castes had taken part to demand changes in the forthcoming new constitution. Hence, India, as a neighbour had stood by the people of Nepal and extended its assistance from time to time. On the other hand, countries like the United States, Canada and Japan have extended their timely help on an individual level as well as made their contributions through INGOs in Nepal for the Kamaiyas. The technical manipulation of the laws has not only secured the exploiters but also bonded labour seems to be meeting no end any time soon in Nepal. It is indeed unfortunate that in the last eleven years of Nepal as a democratic republican state, it has failed to achieve political stability. As a result, it has become more comfortable for the leadership to pass on the blame to every new government for not being able to keep the pace of the government schemes for the rehabilitation and reintegration of the Kamaiya and Kamlari.

Nepal is among very few countries where various forms of slavery are found till date. It has the worst forms of child labour, trafficking in women, sex slaves, human trafficking, and bonded labour, etc. In the last one and a half decades, a new phenomenon in the enslavement of the Nepalese migrant workers has been observed in foreign countries, especially those working in the Gulf countries. This phenomenon was very much visible during the 2015 earthquake that had caused massive destruction in Nepal,

especially in the Gorkha district, which was the epicentre of the earthquake. In the post-earthquake phase, the reconstruction process required the presence of the male family members, but due to the high scale male migration from the District, the district was left in shambles for long. Meanwhile, many of the male members were willing to return to Nepal from Gulf countries (Guardian, 2015) but due to the seizing of their passports by their employees, they had not been able to travel back to Nepal (Motaparthi, 2015). The case of migrant workers to Gulf countries is one such example among many of the challenges of the enslavement of the Nepali population. As long as Nepal's economy is moving towards the remittance centric economy, there seems no sign that the government will be able to take any stringent actions to pressurise the host countries for better treatment of its citizens. Similarly, slavery will remain an integral part of the Nepalese society because of the political unwillingness and the dominance of the high caste Hindus in the policy-making of Nepal. Even though the Maoist Movement had promised better opportunities to marginalised castes, leading administrative posts are held by the handful high caste people. The government might defend itself by projecting the provisions of the newly implemented constitution of 2015, but harsh reality can be analysed from the way new constitution was promulgated hurriedly. Hence, this nexus of the high caste and privileged ethnic groups holding the political and administrative posts has severe effects on ensuring the success and impact of the ongoing social movements and the constitutional provisions that not only condemn the system like Kamaiya and Kamlari but also they call for complete abolishment of such system that is in complete violation of the human rights of its citizens (Banyan, 2012; Online Khabar, 2019).

With cross ethnic linkages, Tharus have substantial settlements in the neighbouring state India. Tharus have different cultural identities in Nepal, but due to many common practices between and among these groups, they come together as Tharus. Majority of Tharus living in Nepal, but there is a portion of Tharu population that lives in India and demographically settled in the Indian state of Uttarakhand, Uttar Pradesh and Bihar. In 2010, a study on socio-cultural dynamics of Tharus in India reported that the population of Tharu tribe in India stood at 169209, with 83544 in Uttar Pradesh and 85665 in Uttarakhand (Verma, 2010). Language among the Indian Tharus show the

influence or are dialects, of important regional languages of North India, mainly Maithili, Bhojpuri, and Avadhi. Meanwhile, a significant number of similarities are found in the number of customs in India and Nepal. In terms of the work culture among Indian Tharus, they are predominantly associated with agriculture, but the practice of Kamaiya and Kamlari are not reported among the Indian Tharus. However, working in the harsh conditions in the fields of the landowners has been a common phenomenon among the Indian Tharus. For Instance, another important study on Tharus in the Indian state of Bihar reported that seemingly they are not listed in the official category of Scheduled Tribes of Bihar (Shukla, 1994). Further, a similar pattern is observed in the educational and economic well-being of the Tharus in India and Nepal (Shukla, 1994). India has also introduced laws that protect the rights of indigenous people, and over the years, under the laws, rights of the indigenous communities have been protected, including Tharus.

At the level of international agencies, there are noticeable changes in the lives of the Kamaiyas and Kamlaris. On the outcome front of the human rights advocacy, the literacy rate among both men and women has increased due to the efforts of the international agencies. Childrens of the Kamaiya have begun to enrol themselves into school and college level education plans, and in many cases, there are first generation children in *Tharu* community after internationally supported programmes started to put in their efforts. The cardinal view held by the international agencies with regard to slavery in Nepal was centred on the neglect of its existence by the society and the government. Agencies observed that Nepal has the highest level of slavery system that has been caused by the social-cultural structure of the country, ignorance of the development process in the rural areas at par with the urban sector development, poorly managed education for all irrespective of the class, caste, creed and age, discrimination against the low caste groups, delayed legal assistance to needy people, and poor functioning of the agencies to provide impartial credit and boosting the skill training programmes.

However, in terms of the impact of the presence of international agencies has benefitted the country. International agencies have a long track record of working in Nepal through their robust support system. Before the government had taken cognisance

of various issues, including slavery, poverty, education and health, these agencies were present on the in the most remote areas of the country. Later, with the intervention of the government agencies, these international agencies extended their support. Further, these agencies, in association with the national and local government, have developed policies where their long experience of working in the country has been put to higher use.

In rehabilitating and reintegrating the freed Kamaiya and Kamlari, the government has used the expertise of the international agencies, especially in sectors like education, adult literacy, health, employment, skill development, developing a monetary mechanism for the existing and ongoing welfare schemes, capacity building of the youth and women. Meanwhile, financial stability for free Kamaiya is seen as a critical step in the process of rehabilitation. The economic view of the Kamaiya system shows that the primary factor in the spread of the system was the financial status of the *Tharus* which forced them to lend money from the landlords and as a result to this never-ending repayment, human people were forced to labour under harshest condition. The international agencies have helped to shape the saving groups among the freed Kamaiya who await their rehabilitation and of those who have successfully been integrated into the mainstream socio-political sphere of the country. Education and awareness are provided to the freed Kamaiya to use the government agencies and banks for loans instead of going to the landlords. Hence, the financial challenges have been prioritised by the international agencies, so any shortfalls in the ongoing rehabilitation process could be avoided. There are other means of the income generation, including food cultivation on the lands that have been issued by the government under the various schemes. Kamlaris are given the skill training sewing, handicrafts, home décor, hotel management, and fair paid daily wage jobs, etc. to make them independent in earning and employment. Despite these figural achievements, the freed Kamaiyas and Kamlaris have not enjoyed as much of freedom they could have after seventeen and six long years of liberation respectively. There are countless lapses in each aspect of their lives (Kathmandu Post, 2018).

On the health front, Nepal had a poor mortality rate until the year 1990. The deployment of the 1999 Local Self Governance Act was aimed at improving the basic

sanitation, clean water and essential health services in Nepal, but it could not provide impactful changes. Meanwhile, after an active health support system provided by the international agencies, the health conditions in the country seemed to have improved. WHO and other international agencies assist women health care, and they have not only successfully reached in the remote areas, but the emergency response in the hill areas has improved as well. Considering the long physical exploitation of the Kamlari women (Giri B. R., 2010) and young girls, the international agencies prioritised their health during their stay in the rehabilitation camps. During 2015 earthquake, health services were critically affected, and till date, the government has not been able to reconstruct all the damaged health facilities in the country. Secondly, due to economic conditions, the Kamaiyas and Kamlaris have heavily relied on the services provided by the international agencies but in many cases unawareness of the fatal diseases among the freed Kamlari women reasons a bigger risk to their health conditions. Since these women were treated as commodities and traded in the open market, it is possible that they were hardly given a human treatment which could have evolved an awareness to be aware of the illness that they had been going through. Their physical exploitation had also increased the chances of them getting affected by sexually transmitted diseases. International agencies need to be acknowledged for their educational and awareness programmes among the Kamlari women. Also, in the Kamaiya system, a lot of physical work was required in the open farms. In the absence of the health mechanism or first aid services, their lives were also at risk. In both the cases, health challenges have been noted at the government and international agency level, yet the political will is, however, to be there on the government's part. Nepal has for long ignored the mental health condition, and it is a common phenomenon among the Kamlari women. Nepal is yet to come up with a powerful mechanism to develop these facilities in the country while international agencies play their part.

Overall, the existing structural deficiencies within the country at the administrative, political, economic, socio-cultural level have caused heavy damage to the *Tharu* community. It can be seen through their present-day living conditions, health, financial status, land ownership, human rights condition, and employment. As an

underdeveloped country, Nepal receives ample amount of funds and economic assistance from the international agencies including International organisation and the individual countries, but the government seems to have shied away from its role in the improving the living conditions of its people. In recent years, due to political reasons, the Government of Nepal has brought stringent laws to control the activities of the international agencies in the country. Precisely, in many cases, these agencies have been critical of government agencies for the slow pace and inadequate responses. In the newly implemented constitution in 2015, new laws have been brought in that have allegedly impacted on the smooth functioning of the local and INGOs (ICNL, 2019). Hence, it is at the will of the government that it has to see human plight through the prism of humanity; instead, the politics and political will has to be for the people focusing on individuals. However, the government can still improve its functioning through the following mechanisms:

- The government should take the lead in ensuring political stability in the country, so its executive operation is improved.
- Ensure the hassle-free functioning of the government schemes for the rehabilitation and reintegration of the Kamaiya and Kamlari.
- Ensure youth education, adult education, non-formal education, health, especially women and girls, economic assistance and access to formal finance, skill development, employment, land reform policies, and practical policy of minimum and equal wages etc. for improving the lives of freed Kamaiya and Kamlari. Gender-oriented government welfare schemes should be formulated in every field.
- Timely surveys are required to track any prevalence of abandoned slave systems like Kamaiya and Kamlari, and prompt responses are met.
- An adequate representation should be given to marginalised and discriminated castes and ethnic groups.
- The mechanism shall be put in place for a quick response and remedy to any fall-backs.

- Build confidence among the victims of the Kamaiya and Kamlari system towards governmental efforts.
- Efforts of the NGOs and INGOs shall be acknowledged, and government in association with these agencies should work towards achieving more significant results.
- Attempts should be made to minimise the trust deficit between the International Organisation and the political leadership.

While these recommendations may not present a complete solution to the prevailing challenges with regard to the welfare of the freed Kamaiyas and Kamlaris, during the course of the present study, these challenges frequently appeared in the past research works as well as observed during the personal visits to the affected areas by the researcher. Also, efforts made by the international organisation are tangible as well as present improved living conditions of the victims of such Kamaiya and Kamlari system.

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Questionnaire 1

Questions for the Freed Kamlari in Nepal

1. Name:
2. Age:
3. Religion:
4. Native place:
5. Present place and nature of the employment?
6. Education:
7. Marital status:
8. How old you were at the time of entering into Kamlari system?
9. What were the circumstances those forces you into this Kamlari system?
10. If comfortable to share can you please share the way your landlords treated you during your subjugation; any major incident?
11. What are the other challenges you face as a woman and being as a freed Kamlari?
12. Have your heard about Human rights, if yes then please share any that concern you the most?
13. Did you participate in any of the free Kamlari movements in the past?
14. Has the abolishment of the Kamlari system brought any changes in your life?
15. Have you ever been approached to work as a Kamlari recently?
16. Please provide the details on the organisations that have helped you personally and other freed Kamlaris; and to what extent these organisations have been helpful to you?
17. Do you think that government has done enough for the welfare of the Kamlaris?
18. What are the recommendations that can help the freed Kamlari community as a whole before the government and international agencies?

Questionnaire 2

Questions for the Freed Kamaiyas in Nepal

1. Name:
2. Age:
3. Religion:
4. Native place:
5. Education:
6. Marital status:
7. Present place and nature of the employment?
 - a. Why did you immigrated to Suriname which is far from Nepal and so different and culture, language and people?
 - b. What is your job here and why? Did they asked you about your past work and educational background?
 - c. Do you have any legal contract with your employed?
 - d. Do you know Kamaiya system has abolished from Nepal?
 - e. How do you see the role of international organisations and local Ngo's to rehabilitation and resettlement of the Kamaiyas?
8. Are you benefited from any programme organised by the Organisations for the Kamaiyas?
9. How old you were at the time of entering into Kamaiya system?
10. What were the circumstances those forces you into this Kamaiya system?
11. If comfortable to share can you please share the way your landlords treated you during your subjugation; any major incident?
12. What are the other challenges you face as afreed Kamaiya?
13. Have your heard about Human rights, if yes then please share any that concern you the most?
14. Did you participate in any of the free Kamaiya movements in the past?
15. Has the abolishment of the Kamaiya system brought any changes in your life?
16. Have you ever been approached to work as a Kamaiya recently?
17. Please provide the details on the organisations that have helped you personally and other freed Kamaiyas; and to what extent these organisations have been helpful to you?

18. Do you think that government has done enough for the welfare of the Kamaiyas?
19. What are the recommendations that can help the freed Kamaiya community as a whole before the government and international agencies?

Appendix I

Children's Act, 2048 (1992)

Date of the Royal Seal and Publication Date

2049 / 2 / 7 (Ma y 20 , 1992 A.D .)

Amendment Act

1. Child Labor (Prohibition and Regulation) Act, 20567 Ashad 2057 (June 21, 2000)

Act No.10 of 2049 B.S.

Act relating to protect the rights and interest of Children

Preamble: Whereas, it is expedient to make timely legal provisions in order to protect the rights and interests of children for the physical, mental and intellectual development of children;

Be it enacted by Parliament in the twenty first year of the reign of

His Majesty' s King Birendra Bir Bikram Shahdev .

Chapter-1

Preliminary

1. **Short Title and Commencement:** (1) This Act may be called as "(The) Children's Act, 2048 (1992 A.D.)."*

(2) It shall come into force on such date as Government of Nepal may appoint by a notification published in the Nepal Gazette.

2. **Definitions:** Unless the subject or context otherwise requires, in this Act,

-

(a) "Child" means a minor not having completed the age of sixteen years.

(b) "Guardian " means the guardian appointed under Section 22 for the purpose of protecting the Child.

(c) "Children Welfare Board " means the Central Children Welfare Board and the District Children Welfare Board

This Act has been appointed to commence on date 2050/1/1 B.S. (April 13, 1993 A.D.)

constituted under Section 32 for the protection and wellbeing of Children.

- (d) "Children Welfare Officer" means the Children Welfare Officer appointed under Section 33 by Government of Nepal and includes any other person or employee as prescribed to act on behalf of such Officer.
- (e) "Abandoned Child" means a Child, -
 - (1) Who has no father, mother or any other member of his family to look after him.
 - (2) Who has been neglected by his father, mother or any other member of his family even though they are living.
 - (3) Who does not have any means of livelihood.
- (f) "Children's Welfare Home" means the Children's Welfare Home established by Government of Nepal under Section 34 for the purpose of upbringing and maintenance of the abandoned child.
- (g) "Chief of the Children's Welfare Home" means and includes any person who works as the Chief of the Children's Welfare Home and the word also includes any person who acts on behalf of such Chief in his absence.
- (h) "Juvenile Reform Home" means Juvenile Reform Home established by Government of Nepal under Section 42 or any Juvenile Reform Home being used for that purpose.
- (i) "Prescribed" or "as prescribed " means prescribed or as prescribed in the Rules made under this Act.

Chapter -2

Rights and Interests of Children

3. **Right to name and determination of date of birth of Child:** (1) From birth, every child shall be granted a name according to the religion, culture and tradition by his father, if the father is not available by his mother and if the mother is also not available by any other member of his family. In cases where the father, mother or any other member of his family is not alive or their whereabouts are not known, the person or organization bringing up the Child shall give a name to such Child.

(2) In cases where the date of birth of any child is not traced, the person or organization bringing up the Child shall, in consultation with a registered medical practitioner, determine date of birth of the Child. Unless otherwise proved, the date so determined shall be deemed to be the date of birth of the Child.

4. **Right to maintenance and upbringing, education and health care:** (1) Parents shall be under obligation to make arrangements to bring up Child and to provide education, health care, sports and recreation facilities to child according to the financial status of their family.

(2) Parents or guardian of a child shall cause to administer vaccinations necessary to save the Child from diseases. The local authorities and related agencies of Government of Nepal shall render assistance in this matter.

(3) Government of Nepal shall render assistance in making arrangements for proper health care to the pregnant mothers and the mothers who have recently given birth to a Child.

(4) Government of Nepal shall render assistance in making arrangements for providing advice to family planning education

and services relating to preventive and curative health care to parents.

5. **Discrimination not to be made between a son or daughter and between sons and daughters themselves in matters relating to upbringing:** No discrimination shall be made between a son and daughter and between sons and daughters themselves in matters relating to their upbringing, education and health care.

6. **Discrimination not to be made between children born out of wedlock or in lawful wedlock or between the adopted or the natural Child:** (1) No discrimination shall be made between children born out of wedlock or in lawful wedlock in matters of their upbringing education or health care.

(2) No discrimination of any kind shall be made between the natural or the adopted son or daughter.

7. **Prohibition on torture or cruel treatment:** No Child shall be subjected to torture or cruel treatment.

Provided that, the act of scolding and minor beating to Child by father, mother, member of the family, guardian or teacher for the interests of the Child himself/ herself shall not be deemed to be violation of this Section.

8. **Facilities to be given to maintain contact:** (1) In circumstances where parents of a Child are living separately due to divorce or any other reason, the Child living with the father shall be given an opportunity to maintain personal relation and direct contact with the mother and vice versa on a regular basis or be allowed to live together with the other parents for some time.

Provided that, court may restrict to grant the facility of maintaining direct contact or living together if there is a reasonable ground to believe that such direct contact and personal

relation or living with the other parent may be detrimental to the Child's interest.

(2) If parents do not agree on the question of the frequency of maintaining direct contact or the duration of living with the father or mother under sub-section (1), it shall be as prescribed by the court.

9. **Adopted son or daughter to be permitted to make direct contact or correspondence with natural parents:** A person adopting a son or daughter having fulfilled the legal requirements shall, if such adopted son or daughter wills, permit him or her to maintain direct contact or make correspondence with his or her natural parents on a regular basis.

10. **Right to mention the name of mother and maternal grandfather:** In cases where a Child is required under a law to mention the names of his father and grandfather in connection with official proceedings or practice, the Child may, until the whereabouts of his father are traced, mention the names of his mother and maternal grandfather. In case of a Child either of whose parents are not traced, if the person or organization bringing up the Child certifies in writing that the parents have not been traced, such Child shall have right not to mention the names of his father, mother or grandfather.

11. **Child and Criminal Liability:** (1) If a Child below the age of 10 years commits an act which is an offence under a law, he shall not be liable to any type of punishment.

(2) If the age of the Child committing an offence which is punishable with fine under law, is 10 years or above and below 14 years, he shall be admonished and convinced and if the offence committed is punishable with imprisonment, he shall be punished with imprisonment for a term which may extend to six months depending on the offence.

(3) If a Child committing an offence is 14 years or above and below 16 years, he shall be punished with half of the penalty to be imposed under law on a person who has attained the age of majority.

(4) If a child commits an offence under advise or influence of any person, the person doing such act shall be liable for full punishment as per the law as if he/ she has committed such offence.

12 **Disqualifications or counts not be applicable:** (1) If a person is to be disqualified to hold any office or to enjoy any facility under a law for reason of committing an offence, such disqualification shall not be applicable with regard to the Child committing an offence during his/ her childhood.

(2) For the purpose of determination of counts of offence, an offence committed during childhood shall not be counted.

(3) Even if a Child commits the same offence more than once, he shall not be liable to additional punishment on the basis of additional counts of offence.

13 **Prohibition to engage Children in begging and to Shave hair:** (1) No Child shall be engaged in begging except during observing religious or cultural traditions.

(2) No child shall be shaved with the purpose of making such Child a *Sanyasi* , *Bhikchhu* or *Faki r* , and even if shaved, it shall not have legal validity.

(3) A Child who has been made *Sanyasi* , *Bhikchhu* or *Fakir* prior to the commencement of this Act may, if he/ she so wishes, give up such family life *vesh* and to join.

14 **Prohibition on offering of Child in name of God or Goddess:** (1) No person shall, for the purpose of fulfilling the promise made to God or for serving any other religious purpose, offer or surrender to any God or Goddess his own or anybody

else's Child having brought such Child, offering financial gain, under any kind of coercion or undue influence.

(2) No person shall, for any financial consideration, sell or otherwise handover his Child to anybody for the purpose stipulated in sub-section (1).

(3) No *Panda* , *Dhami* , *Priest* or the chief of any religious enshrinement shall incite to commit an act referred to in sub-section (1) nor shall perform or permit to perform religious rites or formalities in cases where a person brings a Child to any temple with the purpose of offering or surrendering to God or Goddess.

(4) If any act is committed after the commencement of this Act, in violation of sub-sections (1), (2) and (3) above, the father, mother or any member of the family shall take custody of the Child and make arrangements for upbringing, education and health care of such Child on equal footing with other members of the family as if such act is not committed.

(5) Notwithstanding anything contained in sub-section (4), a Child referred to in sub-section (1) and (2) who is below the age of 16 years at the commencement of this Act shall be brought by either of the living parents.

15. **Prohibition on imposing rigorous punishment:** Notwithstanding anything contained in the exist in g laws, no Child shall be subjected to handcuffs and fetters, solitary confinement or be committed to live together in prison with prisoners having attained the age of majority in case a Child is convicted for any offence.
16. **Children not to be involved in immoral profession:** (1) No person shall involve or use a Child in immoral profession.

(2) No photograph of a Child shall be taken or allowed to be taken, nor such photograph shall be distributed or exhibited for the purpose of engaging a Child in immoral profession.

(3) No publication, exhibition or distribution of photograph or personal events or descriptions of a Child tarnishing the character of such Child shall be made.

(4) No Child shall be involved in the sale or distribution or smuggling of intoxicating substances, narcotic drugs or any other drugs.

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19. **Children's case not to be entertained in absence of legal practitioner:**

(1) The Court shall not entertain or decide a criminal charge brought against a Child unless there is a legal practitioner to defend the Child.

(2) In circumstances referred to in sub-section (1), the concerned Court shall make available the service of a legal practitioner appointed on behalf of Government of Nepal or of any other legal practitioner willing to provide such service.

20. **Enforcement of rights:** (1) For enforcement of rights set out in this Chapter, every person shall have the right to file a petition on behalf of the Child to a District Court of the district where the Child is residing. On receipt of such petition, the concerned Court may, upon inquiry into the matter, enforce the right by issuing the appropriate order, direction or writ.

Provided that, in matters relating to the prohibition on maintaining direct contact or living by the Child in pursuance of the proviso to sub-section (1) of Section 8, such action may be

× Repealed by Child Labor (Prohibition and Regulation) Act, 2056 (2000 A.D.).

initiated or an order may be issued only on the basis of a petition of the father or mother of the concerned Child.

(2) In cases where a person is aggrieved as a result of infringement of any right conferred by this chapter, the Court may issue order, direction or writ pursuant sub-section (1), and decide to make payment of a reasonable amount of compensation.

Chapter -3

Provisions relating to the protection of the Child and relating to the Guardian

21. **Looking after an orphan and custody of his property:** (1) If the Children Welfare Officer or the Chief District Officer is informed of the fact that a Child does not have any relative of the same home to look after the Child, the Children Welfare Officer or the Chief District Officer, as the case may be, shall make necessary arrangement for upbringing and maintenance of the Child. In doing so, the Child shall be, as far as practicable, given to the custody of the nearest relative of the Child. In case of non-availability of such a relative, the Child may be given to any person or organization willing to take the custody for his maintenance and upbringing. In case of non-availability of any relative, person or organization willing to take the Child for his maintenance and upbringing, the Child shall be referred to the nearest Children Welfare Home.

(2) In cases where the Child referred to in sub-section (1) has any property, the Children Welfare Officer or the Chief District Officer shall prepare a statement thereof in the presence of at least two local witnesses and shall keep one copy thereof in his office and the other one shall be given to the person or

organization responsible for upbringing and maintenance of the Child.

(3) The statement of property prepared under sub-section (2) and the property mentioned therein shall be given to the custody of the person, organization or the Children's Welfare Home responsible for upbringing and maintenance of the Child and such person, organization or the Children's Welfare Home shall certify in writing the taking of the custody. Pending the custody of the property of the Child, the responsibility of taking care of or of protecting the property shall lie with the Children Welfare Officer, and if he is not available, with the Chief District Officer.

(4) The income accrued from the property mentioned in sub-section (3) may be used by the person, organization or the Children's Welfare Home taking responsibility for the maintenance, upbringing, education and health care of the Child. The person, organization or the Children's Welfare Home taking responsibility for the maintenance and upbringing of the Child shall, in respect of such property enjoy the same rights and comply with the same terms and conditions as those of a Guardian appointed under this Act.

22 **Appointment of Guardian:** (1) In cases where a Child is deprived of his family for reasons of not living of his parents or adult relative belonging to the same home, or even if they are living but are unable to bring up or look after the Child for reasons of physical or mental incapacity, every person may, for the purpose of being a guardian to the Child, submit an application to the Children Welfare Officer. On receipt of such application, the Children Welfare Officer shall, upon necessary inquiry into the matter, appoint a Guardian for the Child subject to the provisions of this Section.

(2) In appointing a Guardian under sub-section (1), priority shall be given, as far as practicable, to the nearest heir.

Provided that, if it is not appropriate to appoint the nearest heir as the Guardian for reasons of family feud or confrontation, or for any other reason, the Children Welfare Officer may, stating the reasons thereof, appoint a distant heir or any other person as the Guardian of the Child as he deems appropriate.

(3) In appointing a Guardian pursuant to sub-section (2), consent of the appointee to that effect shall be obtained.

(4) Notwithstanding anything contained in sub-section (2), the following persons shall not be qualified to be appointed to or hold the office of the Guardian :-

- (a) If he is suffering from mental disease,
- (b) If he has not attained the age of 25 years,
- (c) If he is relieved of the office of Guardian in accordance with Section 28,
- (d) If he is convicted of any offence involving moral turpitude by a court, or
- (e) If he is bankrupt.

(5) If nobody agrees to act as Guardian of the Child or if no appropriate person is available to be the Guardian, the Children Welfare Officer shall make arrangements to send the Child to a Children's Welfare Home.

(6) In case there is any property, it also shall be handed over while handing over the Child to the Guardian pursuant to sub-section (2) or the Children's Welfare Home pursuant to sub-section (5). While handing over the property, its statement shall be prepared and one copy shall be kept in his office and the other one shall be given to the Guardian or Chief of the Children's Welfare Home who receives the property.

(7) The Guardian or Chief of the Children's Welfare Home may spend the income accrued from the property handed over pursuant to sub-section (6) for the maintenance, education and health care of the concerned Child and keep its account.

23. **Interest and property of Child to be Protected:** (1) The main duty of the Guardian shall be to protect interests of Child.

(2) The Guardian shall, *inter alia*, give special attention to the following points:-

- (a) To bring up Child in a way that will enhance the physical and mental development of the Child,
- (b) To arrange for education which may help intellectual development of the Child,
- (c) To prevent the Child from being involved in bad habit or company,
- (d) To keep updated record of the Child's property and to protect it.

(3) The Guardian shall initiate necessary proceedings in order to realize the property or income of the Child misappropriated by others and to release the impended property. For this purpose, the Guardian may submit application, complaint or suit in the office or court or may initiate other necessary legal proceedings on behalf of the Child.

24. **Works may be Performed by the Guardian:** The Guardian may, to bear the expenses necessary for the maintenance, education or health care of the Child, give any property of the Child to any person for earning more property or on rent.

25. **Works not to be Performed by the Guardian:** The Guardian shall not do any of the following works: -

- (a) To engage the Child in work that requires more labor than his physical capacity can bear.
- (b) To engage the Child in any work which may hurt in his religious or cultural traditions or to use his property on such work, or
- (c) To sell the Child's property to others with an intention of retaining it by himself.

26. **Report to be submitted by the Guardian:** (1) The Guardian shall, in each year within the month of Baisakh (April 15 to May 15), submit a report to the concerned Children Welfare Officer stating all the particulars relating to the expenses incurred on his part for the maintenance, health care and education of the Child and the income accrued from the property of the Child and the expenses incurred out of such income for the maintenance of the Child

(2) The Children Welfare Officer may, if he deems necessary, check the reliability of the statement or statistics mentioned in the report submitted pursuant to sub-section (1), inspect to or cause to inspect the Child and the place where his property is placed. For this purpose, the Children Welfare Officer may order to present the concerned Child before himself and also make necessary inquiry with the Child. In case the Children Welfare Officer issues an order to present the Child before him, it becomes the duty of the Guardian to present the Child.

27. **The Guardian may retire with approval:** (1) In case a Guardian appointed pursuant to this Act desires to retire being unable to discharge his duty, shall submit an application stating the reason thereof to the Children Welfare Officer at least one month in advance. The Guardian shall also have to submit, along with the application, the statement of the property of the Child that

he has taken in custody and the expenses incurred up to the date of the application.

(2) If the reason stated in the application submitted pursuant to sub-section (1) is deemed reasonable, the Children Welfare Officer shall cause to handover the property in the custody of the Guardian to any office or person and permit him to retire.

28. **Guardian may be removed:** The Children Welfare Officer may remove the Guardian, in case it is proved that he has done any work in contravention to Sections 23, 24 or 25 or gives a false statement while submitting the report pursuant to Section 26.

29. **Another Guardian to be appointed:** (1) In case any Guardian dies or the Guardian cannot be retained due to prevalence of any situation pursuant to sub-section (4) of Section 22 or the Guardian is retired pursuant to Section 27 or removed pursuant to Section 28, the Children Welfare Officer shall, subject to Section 22, appoint another Guardian instead of such Guardian.

(2) If the Guardian, who is removed from the guardianship or is not retained as a Guardian pursuant to sub-section (1) has any property of the Child in his custody, he shall handover such property and the related documents to the office or person specified by the Children Welfare Officer.

30. **Maintenance of the Child having no sufficient income:** (1) A Guardian may submit an application to the Chief District Officer for Government assistance if he could not bring up the Child in a proper way due to insufficiency of income or property or the property is consumed by any other in an illegal way, and the Chief District Officer shall, if he deems the statement reasonable, make available necessary Government assistance. In case such assistance is not available, an arrangement shall be made to keep the Child in the Children's Welfare Home.

(2) In case any Child is handed over to the Children's Welfare Home, the responsibility of the Guardian shall be deemed to be terminated from the date of such handover.

31. **Guardian to be entitled to remuneration:** (1) The Children Welfare Officer shall specify the remuneration of the Guardian on the basis of the property and income of the Child.

(2) The Guardian may take, in the form of remuneration, five percent of the reasonable expenses incurred for the realization of the property or income of the Child pursuant to sub-section (3) of Section 23 and the current price of the property so realized or the income.

(3) In case the Guardian has spent some amount on his part for the maintenance, education or health care of the Child, he may also realize such amount from the income of the Child.

Chapter-4 Welfare

Provisions

32. **Constitution of Central and District Children Welfare Board:** (1) Government of Nepal shall, by publishing a notification in the Nepal Gazette, constitute a Central Children Welfare Board consisting of twenty one members at the maximum including the members from amongst the social workers, woman social workers, medical practitioners, Child psychologists and teachers. The Name of the chairperson and members of the Central Children's Welfare Board shall be as prescribed in the same notice. The Board shall work subject to the policy and directives of Government of Nepal.

(2) A District Child Welfare Board shall be constituted in each District under the convener ship of the Chief District Officer. In the District Children Welfare Board, there shall be the persons,

inter alia, as appointed by the Chief District Officer specially from amongst the following persons: -

- (a) Persons involved in social service,
- (b) Social workers involved in works relating to rights and interests of children,
- (c) Women social workers,
- (d) Medical practitioners,
- (e) Child psychologists,
- (f) Teachers.

(3) The tenure of the officials of the Central Children Welfare Board and District Children Welfare Board shall be of four years and they may be eligible for reappointment.

(4) The chairperson of the District Children Welfare Board shall be the person prescribed by the members of District Children Welfare Board from amongst themselves and until such chairperson is appointed, the Chief District Officer himself shall act as the chairperson of the Board.

(5) Each District Children Welfare Board shall have to submit an annual report relating to children welfare activities conducted in the district level to the Central Children Welfare Board within the month of Baisakh (April 15 to May 15 A. D.). The Central Children Welfare Board shall prepare a nation-wide report relating to the Children on the basis of the annual reports received from the District Children Welfare Board and submit it to Government of Nepal in each year within the month of Ashad (June 15 to July 15).

(6) Functions, duties, powers and procedures of the Central Children Welfare Board and the District Children Welfare Board, other than those referred to in the Act, shall be as prescribed.

33. **Appointment of Children Welfare Officer:** (1) Government of Nepal may appoint Children Welfare Officer in required number. Government of Nepal may designate any other person or personnel to act as the Children Welfare Officer pursuant to this Act until the Children Welfare Officers are appointed.

(2) The Children Welfare Officer appointed or designated pursuant to sub-section (1) shall work subject to the general control and directives of the District Children Welfare Board.

(3) Functions, duties, powers and terms and conditions of service of the Children Welfare Officer, other than those referred to in this Act, shall be as prescribed.

34. **Establishment and operation of Children's Welfare Home:** (1) Government of Nepal shall establish Children's Welfare Home in the various regions of the Kingdom of Nepal as may be necessary.

(2) Government of Nepal may utilize Children's Welfare Home, orphanage or center operated by any other person or organization, for the purpose of keeping the Children until the establishment of Children's Welfare Home pursuant to sub-section (1).

Provided that, nothing stated in this sub-section shall be deemed to have given powers to Government of Nepal to interfere in the operation of such Children's Welfare Home, orphanage or center.

35. **Abandoned Child to be kept in the Children's Welfare Home:** (1) The Children Welfare Officer and Police personnel shall handover an abandoned Child they have found or handed over to them by any person, to the nearest Children's Welfare Home after keeping the records of the Child stating therein the name, surname, address, photograph, any special mark on his body and

thumb-impressions and as far as practicable the name of his father and grandfather in their office.

(2) The Chief of the concerned Children's Welfare Home shall take into its custody the Abandoned Child brought to handover pursuant to sub-section (1) except in case of lack of place for living.

(3) In case the Chief of the Children's Welfare Home did not take into its custody the Abandoned Child due to the reason mentioned in sub-section (2), such Child may be handed over to any other Children Welfare Home.

(4) Abandoned children residing in the Children Welfare Home shall be kept separately on the ground of sex.

(5) The Children Welfare Officer, Police Officer or Chief of the concerned Children Welfare Home may, for the purpose of tracing the father, mother, relatives or Guardian of the Abandoned Child, cause to publish a notice stating the description and photograph of such Child in any paper or cause to transmit through any other medium of communication.

36. **Duration to be kept in the Children's Welfare Home:** (1) An Abandoned Child shall, normally, be kept in the Children's Welfare Home until he attains the age of sixteen years.

Provided that, if it seems that the Child of such age released from the Children Welfare Home may have to face the problem of livelihood, he may be kept in the Children Welfare Home until he attains the age of eighteen years.

(2) Notwithstanding anything contained in sub-section (1), the age bar to live in the Children's Welfare Home does not apply in case of blind, disabled or mentally retarded Abandoned Child, until they are sent to the Children Welfare Home established for their living.

(3) Notwithstanding anything contained in sub-section (1), if the father, mother or the Guardian of the Abandoned Child desires to take the Child with them, the Chief of the Children Welfare Home shall allow to take the Child at any time and prepare a document for such hand over of the Child.

37. **Assistance to provide Vocational Training or job:** (1) The Abandoned Children residing in the Children's Welfare Home shall be involved in vocational training or teaching and learning on the basis of their interest and knowledge.

(2) Government of Nepal shall provide assistance to engage an Abandoned Child who has already obtained any knowledge or skill in any vocational jobs suitable to his knowledge or skill.

38. **Child may be kept in the Children's Welfare Home on the condition of payment:** (1) In case the father, mother or relatives of the Child who often runs away from the home agrees to bear all the expenses required for his maintenance, the Chief of the concerned Children's Welfare Home may allow to keep such Child in the Children's Welfare Home having prepared a document of agreement to bear such expenses.

(2) When the Child kept in the Children's Welfare Home pursuant to sub-section (1) completes the specified period in the Children's Welfare Home, the Chief of the Children's Welfare Home shall handover the Child to the custody of his father, mother or relatives. While handing over the Child the balance amount, if any, of the money deposited for the maintenance of such Child shall also be returned along with the statement of expenses incurred for his maintenance.

(3) In case any Child kept in the Children Welfare Home pursuant to sub-section (1) has escaped from the Children Welfare Home or is dead, the Chief of the Children Welfare Home shall

immediately give this information to the father, mother or relatives of the Child and do everything possible to trace him in case of escaping.

(4) The Chief of the Children's Welfare Home shall, while giving the Child to the custody of his father, mother or relatives pursuant to sub-section (2), also return his immovable property, if any, and the related documents.

(5) In case the Child escaped pursuant to sub-section (3) is not found or the Child is dead, any goods or immovable property of the Child shall be returned to his father, mother or relatives and realized from them the due expenses relating to the Child, if any.

39. **General punishment may be given to maintain the discipline:** (1) In case an Abandoned Child does not comply with the terms and conditions to be compiled with while staying in the Children's Welfare Home or commits any act which violates discipline, the Chief of the Children's Welfare Home may impose any of the following punishments on such Child:

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(a) To deprive him from the facilities available in the Children's Welfare Home for a period not exceeding three days at one time or,

(b) To realize full or partial amount belonging to the damage, in case anything belonging to the Children Welfare Home is knowingly broken or damaged.

(2) Notwithstanding anything contained in sub-section (1), it shall not be deemed to have conferred powers to the Chief of the Children's Welfare Home to batter or detain the Child in solitary confinement or to stop giving food and water to such Child.

(3) For the purpose of realization of the amount of the damage from the Abandoned Child pursuant to clause (b) of sub-

section (1), the Chief of the Children's Welfare Home shall realize the amount from income of the concerned Child or from his salary, if he is getting any for working there, and shall have to reconcile the account by remitting the remaining amount.

40. **Expenses may be realized handing over the Child to his father, mother etc:** (1) In case it is known that the father, mother or a member of the family of any Child has enrolled him to a Children's Welfare Home, orphanage or such other center giving a false statement that he is an Abandoned Child or an orphan, the Chief of the Children's Welfare Home shall have to handover such Child to his father, mother or a member of the family whoever comes into contact.

(2) In the situation pursuant to sub-section (1), the concerned Children's Welfare Home, orphanage or center shall have to realize all the expenses incurred for the maintenance of the concerned Child as a Government due from the father, mother or a member of the family of the Child who has enrolled him fraudulently.

Provided that, the concerned Children's Welfare Home, orphanage or center shall not realize the expenses incurred for the maintenance of the Child in case the father, mother or a member of the family of the Child has no income or property to realize.

41. **Chief of the Children's Welfare Home to keep records and to report:** (1) The Chief of the Children's Welfare Home shall have to prepare personal records of all the Abandoned Children residing in the Children's Welfare Home. If any punishment is imposed to any Child, pursuant to sub-section (1) of Section 39, that also shall be mentioned in such record.

(2) The form of personal records to be kept pursuant to sub-section (1) shall be as prescribed.

(3) The records maintained pursuant to sub-section (1), shall be maintained confidential and such records shall not be shown or given to any person other than the Children's Welfare Board or Children's Welfare Officer or the person or office having permission from such Board or Officials.

Provided that, this restriction shall not apply to the records required by the Court in relation to a case.

(4) The Chief of the Children's Welfare Home shall send reports in the prescribed form stating all the activities carried out by the Children's Welfare Home in the last year, to the District Children Welfare Board and Children Welfare Officer in each year within the month of Baisakh (April 15 to May 15).

42 **Establishment and operation of Juvenile Reform Home:** (1) Government of Nepal shall establish Juvenile Reform Home as required.

(2) The following children shall be kept in the Juvenile Reform Home established pursuant to sub-section (1): -

- (a) A Child accused of any offence and to be imprisoned pursuant to existing law for investigation or adjudication,
- (b) A Child to be imprisoned having been punished with imprisonment punished to existing law,
- (c) A Child addicted to narcotic drugs,
- (d) A Child who is used to run away from father, mother or the family,
- (e) A Child who has company with persons involved in immoral or untoward activities or takes part in the activities of such persons or depends upon their earnings,

(f) Children of the categories prescribed by Government of Nepal.

(3) Government of Nepal may utilize the private Children's Welfare Home, orphanage or center operated by any person or body in the form of Juvenile Reform Home temporarily by obtaining permission of such person or body until the Juvenile Reform Home is established pursuant to sub-section (1).

(4) In case the Child mentioned in the clause (d) of sub-section (2) is kept in the Juvenile Reform Home with the consent of his father, mother or a member of the family, his father, mother or a member of the family shall have to bear the expenses incurred for his maintenance.

(5) The operation of the Juvenile Reform Home and the facilities, training and education to be provided for the children residing therein as well as the terms and conditions to be followed by the children shall be as prescribed.

43. **Establishment and operation of orphanage and center for mentally retarded Children:** (1) Government of Nepal shall establish orphanage and center for mentally retarded children as required for the maintenance and dwelling of orphans, disabled or mentally retarded children having no parents.

(2) Government of Nepal shall provide necessary education for the children residing in the orphanage or center for mentally retarded children pursuant to sub-section (1).

(3) Notwithstanding anything contained in sub-section (1), Government of Nepal may, under an agreement, utilize the orphanage or center for mentally retarded children operated by any other person or organization, for the purpose of this Act.

44. **Inspection of Children's Welfare Home, Juvenile Reform Home, Orphanage etc:** (1) The Central Children Welfare Board

may inspect or cause to inspect all Children's Welfare Home orphanages or centers established within the Kingdom of Nepal at any time and the District Children Welfare Board or Children Welfare Officer may inspect or cause to inspect the Children's Welfare Homes, orphanages or centers within their own area at any time.

(2) The Children Welfare Officer shall inspect the Children's Welfare Homes, orphanages or centers at least twice a year within his area and while carrying out such inspection, in case it is found that any act to be done pursuant to this Act and the Rules made there under is not done or any act is committed in contravention to the existing law, he shall have to send its report to the District Children Welfare Board.

(3) The Children Welfare Board of Children Welfare Officer may issue directives to regularize irregularities found in the Children's Welfare Home, Juvenile Reform Home, Orphanages or such other centers and it shall be the main duty of the Chief of the Children's Welfare Home, Juvenile Reform Home, Orphanages or centers to follow such directives.

45. **Provisions relating to the Children's Welfare Home, Juvenile Reform Home, Orphanage etc:** The person to operate the Children's Welfare Home, Juvenile Reform Home, Orphanage etc. power to be used by him, terms and conditions of his service and the rules to be followed and the education and training to be provided for the Children residing in such Children's Welfare Home, Juvenile Reform Home, orphanages or center shall be as prescribed.

Chapter -5

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Chapter -6 Miscellaneous

49. **Only certain persons to attend in cases relating to Child:** (1) While proceeding of a case relating to a Child under this Act or prevailing laws is going on, the legal practitioner, the father, mother, relatives or Guardian of the Child and, if the officer hearing the case deems appropriate and permits, any person or representative of the social organization involved in protection of rights and interests of Children may appear to the bench.

(2) The case pursuant to sub-section (1) and particulars of the incident relating to it shall not be published in any paper without permission of the investigating officer of the case or the officer hearing the case. Such restriction shall also apply to correspondents or the press photo representatives.

50. **Investigation of case and suspension of punishment:** (1) In case the officer hearing the case deems it not appropriate to keep a Child in prison having considered to the physical condition, the age of the accused Child who is to be investigated having detained in prison pursuant to existing law, circumstances during the time of commission of the offence and the place of imprisonment, he may issue an order to handover the Child to the custody of his father, mother, relatives or Guardian or any social organization engaged in protection of rights and interests of the Child or the

^x Chapter -5 is repealed by Child Laborer (Prohibition and Regulation) Act, 2056 (A.D.).

Juvenile Reform Home on the condition to present him as and when required and to continue investigation or proceedings of the case.

(2) In case the officer hearing a case deems it not appropriate to imprison a child convicted of an offence and imposed a sentence of imprisonment in a prison having regard to his physical condition, age, circumstances in which the offence has been committed and times of commission of the offence, he may suspend the sentence to the effect of not undergoing the sentence for the time being or he may prescribe to undergo the sentence residing in a Children Rehabilitation Home or in guardianship of any person or organization. In case the same child having had his sentence suspended in such a way is convicted of the same offence or any other offence and is imposed a sentence of imprisonment within a period of one year, the officer hearing the case may order to execute the sentences of punishment having added the earlier sentence imprisonment.

51. **Case May be filed on behalf a Child:** (1) In case a suit or complaint is to be filed or a case has to be defended in any matter involving rights of a Child, his father, mother or Guardian may file a suit, complaint or defend the case. In case the child has no father, mother or Guardian, the claimant of the child shall be entitled to the right.

(2) The case relating to an offence punishable under this Act may be initiated on the complaint of any person or of Government of Nepal.

52. **Statistics relating to the Child and restriction in its use:** (1) A police office shall keep the statistics of the Child apprehended on the charge of any offence in confidential manner having stated his name, address, age, sex, family background, economic conditions, offence committed by him and if any proceeding is

initiated on it , its particulars and a copy of such statistics shall be sent to the Police Head Quarter in every six month.

(2) In case the statistics maintained pursuant to sub-section (1), are to be published for any study or research work, it may be published or utilized on the basis of age or sex without mentioning the name, surname or address of the Child.

53. **Punishment:** (1) Whoever commits any offence in contravention to Section 13, [×]..... or abets others to commit such offence or attempts to commit so, he shall be liable to a punishment with a fine up to three thousand rupees or with imprisonment for a term which may extend to three months or with both.

(2) Whoever commits any offence in contravention to Section 14 or abets others to commit s such offence or attempts to commit so, he shall be liable to a punishment with a fine up to ten thousand rupees or with imprisonment for a term which may extend to five years or with both. If it is proved that any person has sold a Child for taking an y amount, such amount also shall be seized from the person selling the Child and in case such amount could not be realized, he shall be liable to an extra punishment of imprisonment for a term that may extend to two years.

(3) Whoever commits any offence in contravention to Section 7 or 15 , he shall be liable to a punishment with a fine up to five thousand rupees or with imprisonment for a term that may extend to one year or with both. In case of torture and cruel treatment, he may be made liable to pay a reasonable amount of compensation to the Child.

(4) Whoever commits any offence in contravention to sub-section (1), (2) or (3) of Section 16 or abets others to commit such offence or attempts to do so, he shall be liable to a punishment with a fine up to ten thousand rupees or with imprisonment for a

[×] Repealed by Child Labor (Prohibition and Regulation) Act, 2056 (1999 A.D.)

term which may extend to one year or with both and the photographs taken with an aim to engage the Child in an immoral profession and all the publications printed with an aim to publish may be seized by the order of the Court.

(5) The person engaging a Child in the business in contravention to sub-section (4) of Section 16 shall be punished with imprisonment for a term which may extend to five years in addition to the punishment to be imposed pursuant to existing laws.

(6) In case character of a Child is hurt or adverse effect is caused in his health or his physical organ is damaged due to the reason that any person has caused the Child to engage in any prohibited act pursuant to Section 16, ^{*}..... the officer hearing the case may cause to pay a reasonable amount of compensation in proportion to such damage to the Child from such person in addition to the punishment to be imposed pursuant to sub-section (1) or (4).

(7) In case the Guardian violates or does not follow anything referred to in Sections 23, 24 or 25, he shall be punished with a fine up to three thousand rupees or with imprisonment for a term that may extend to three months or with both.

(8) In case the Guardian submits a report in contravention to Section 26 or does not return the property to be returned pursuant to Section 29, he shall be punished with a fine upto six thousand rupees or with imprisonment for a term which may extend to six months or with both and the property misappropriated shall also be realized from him.

(9) In case the Chief of the Children Welfare Home discloses or provides the personal particulars maintained pursuant to Section 41 to any unauthorized person or in case any person

publishes particulars of a case in violation of Section 49 or discloses the confidentiality of statistics relating to the Child or brings it in use or publishes it in violation of Section 52, he shall be punished with a fine upto three thousand rupees or with imprisonment for a term which may extend to three months or with both and all the papers and books relating to the offence shall also be confiscated .

[×] (10).....

54. **Limitation:** Complaints relating to an offence punishable under this Act shall be filed within one year from the date of commission of the offence.

Provided that, the complaint may be filed when so ever in case property of a Child is sold with malafide intention and complaint may be filed within three years from the date of such happening in case a Child is caused to engage in an immoral profession.

55. **Officer hearing cases and procedures relating to case:** (1) Government of Nepal shall, by publishing a notification in the Nepal Gazette, constitute a Juvenile Court as may be necessary. The territorial jurisdiction and seat of such Court shall be as prescribed in the same notice.

(2) Except in the situation of Section 20, the Juvenile Court constituted pursuant to sub-section (1) shall have powers to first initiate and decide cases in which a Child is either a plaintiff or defendant.

Provided that, the Juvenile Court shall not hear and decide a case in which a Child is involved along with a person having attained the age of majority.

[×] Repealed by Child Labor (Prohibition and Regulation) Act, 2056 (2000 A.D.).

(3) The concerned District Court shall have powers to hear and decide the case pursuant to sub-section (2) until a Juvenile Court pursuant to sub-section (1) is constituted, and after the constitution of the Juvenile Court, cases filed in the District Court shall be transferred to the Juvenile Court.

(4) There shall be a Children's Bench in each District Court for hearing and deciding the case to be heard from the District Court pursuant to sub-section (3).

(5) Government of Nepal shall prescribe the procedures relating to constitution of the Children's Bench pursuant to sub-section (4) on the advice of the Supreme Court and while prescribing the Bench it may include social worker, child specialist or child psychologist in addition to the judge.

(6) The procedures to be followed by the Juvenile Court or District Court for hearing and deciding the cases shall be as prescribed and until such procedures are prescribed those Courts shall follow the procedures of the Summary Procedure Act, 2028.

56. **Appeal:** Any person not satisfied with decisions made by the Juvenile Court or District Court pursuant to Section 55 may file an appeal to the Appellate Court within thirty five days from the date of such decision.
57. **Priority to be given in hearing cases:** Any case under this Act in which a Child is either a plaintiff or a defendant shall be accorded priority for hearing and deciding.
58. **Power to frame Rules:** Government of Nepal may, in order to implement objectives of this Act, frame necessary Rules.
59. **Repeal and Amendment:** (1) Nos.1 and 2 on the Chapter "*of Pauper*" of *Muluki Ain* (the country code) are hereby repealed.

② The figure "1 " appearing after the word "Mahal" (Chapter) contained in No. 6 of the Chapter "of Pauper" of Muluki Ain (the country code) is deleted.

③ The words "the Child below the age of 8 years or" appearing in No.1 of the Chapter "of punishment " of the Muluki Ain (the country code) and parts of sentences, "If the age of the minor is 8 years or above 8 years and below 12 years and he commits an offence which is punishable with fine under law, he shall be warned and if the offence is punishable with imprisonment, he shall be punished with imprisonment for a term which may extend to two months depending on the offence. If the minor who is 12 years or above 12 years and below 16 years commits an offence, he shall be punished with half of the punishment to be imposed on a person who has attained the age of majority. The minor or" appearing in the same No. have been deleted.

Appendix II

Child Labor (Prohibition and Regulation) Act, 2056 (2000)

Date of authentication and publication

7 Ashar 2057 (June 21, 2000)

Act No. 1 of the year 2057 B.S.

An Act to provide for Child Labor (Prohibition and Regulation)

Preamble: Whereas, it is expedient to prohibit engaging children in factories, mines or similar risky activities and to make necessary provisions with regard to their health, security, services and facilities while engaging them in other activities;

Be enacted by Parliament in the 29th year of reign of His Majesty's the King Birendra Bir Bikram Shahdev.

Chapter - 1 Preliminary

1. **Short Title and Commencement:**
 - (1) This Act shall be called "The Child Labor (Prohibition and Regulation) Act, 2056."
 - (2) This Act shall come into force on such date as Government of Nepal may appoint by a notification published in the Nepal Gazette.
2. **Definition:** Unless the subject or context otherwise requires, in this Act, –
 - (a) "Child" means a minor not having completed the age of sixteen years.
 - (b) "Enterprise" means any factory, organization, association, firm, company or their groups established as per prevailing law with objectives of operating any industry, business or service.
 - (c) "Entrepreneur" means the person taking final decision with regard to an activity of an enterprise and the word also includes the person appointed as chief of any part or unit of any enterprise having powers to exercise final authority or having final responsibility thereof.

- (d) "Day" means a period of twenty-four hours beginning from midnight.
- (e) "Week" means a period of seven days beginning from the midnight of Saturday or the midnight of any other day prescribed by the Department of Labor.
- (f) "Medical Practitioner" means a medical practitioner prescribed by the Department of Labor.
- (g) "Certificate of Qualification" means the certificate given pursuant to Sub-section (4) of section 7.
- (h) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.

Chapter - 2

Prohibition on Engaging a Child in works

- 3. **Child not to be Engaged in work:**(1) No child having not attained the age of 14 years shall be engaged in works as a laborer.
(2) No child shall be engaged in any risky business or work referred to in the schedule.
- 4. **No Child to be Engaged in Works Against Will:** No child shall be engaged in works as a laborer against his/her will by way of persuasion, misrepresentation or by subjecting him/her to any influence or fear or threat or coercion or by any other means.

Chapter - 3 Provisions Relating to Engaging a Child in Works

- 5. **Information to be Given:** (1) Entrepreneur who has been operating risky business or activities referred to in the schedule at the commencement of this Act shall, within thirty days of the date of commencement of this Act, furnish written information to the labor office having mentioned the following particulars;–
 - (a) Name and Address of the Enterprise;

- (b) Name and Address of the Entrepreneur;
- (c) Nature of the business or activities conducted by the Enterprise, and
- (d) Other particulars as prescribed.

(2) After the commencement of this Act, the Entrepreneur who operates risky business or activities referred to in the schedule shall, within fifteen days of the date of operation of such business or activities, furnish the information referred to in Sub-section (1) to the labor office.

6. **Approval to be obtained:** (1) In case any Enterprise has to engage a child in works, an approval has to be obtained from the concerned labor office or any authority or official prescribed by that office and from the father, mother or guardian of the child.

Provided that no approval pursuant to this Section shall be required to engage a child in cultural programs or any activity for greater protection of interest of children to be organized by an academic institution approved by Government of Nepal or by an organization established according to the prevailing law for protection of rights or interests of children.

(2) While giving approval to engage a child in work pursuant to Sub-section (1), the labor office may impose appropriate conditions with the objective of developing skills and qualifications of the child or providing education to the child, and the Enterprise shall have to follow it.

7. **Qualification Certificate to be Obtained:** (1) Prior to engage a child as a labor in an enterprise, certificate of qualification has to be obtained that the child is able to work as a labor.

(2) In order to obtain the certificate pursuant to Sub-section (1) the enterprise shall submit an application at the labor office stations the nature of the work that the child has to carry out and his/her age.

(3) Upon receipt of the application pursuant to Sub-section (2), the labor office shall cause to conduct medical test of the child by a medical practitioner.

(4) The medical practitioner shall upon conducting medical test by the medical practitioner pursuant to Sub-section (3), give qualification certificate in the prescribed format if such child seems fit for the work.

(5) The qualification certificate given pursuant to Sub-section (4) shall be valid for one year.

(6) The enterprise shall cause to renew the qualification certificate given pursuant to Sub-section (5) by the medical practitioner.

(7) The enterprise shall borne the fees to be paid for obtaining and renewing the qualification certificate .

(8) The enterprise engaging the children attaining the age of fourteen years at the commencement of this Act shall, within thirty days from the date of commencement of this Act, have to obtain the qualification certificate.

8. **Particulars to be Given:** (1) The Enterprise engaging a child in work after commencement of the Act shall, within fifteen days from the date of engaging in the work, submit the following particulars along with photograph of such a child to the labor office: –

- (a) Name and address of the enterprise,
- (b) Name and address of the entrepreneur,
- (c) Date of operation of the enterprise,
- (d) Business or work conducted by enterprise,
- (e) Name, address and age of the child,
- (f) Name and address of the father, mother or guardian of the child,
- (g) Date of engaging the child in work,
- (h) Nature of the work the child has to do,
- (i) Amount of remuneration and other benefits the child is entitled to,
- (j) Qualification Certificate of the child, and

(k) Other Particulars as Prescribed.

(2) The enterprise engaging a child having attained the age of fourteen years at the commencement of this Act shall submit the particulars pursuant to Sub-section (1) to the labor office within thirty days from the date of commencement of this Act.

9. **Time to Engage in works:** (1) No child shall be engaged in work for a period after six o'clock at the evening to six o'clock at the morning.

(2) No child shall be engaged in work for more than six hours in a day and more than thirty-six hours in a week either giving or not giving additional remuneration.

(3) A child is entitled to a leisure of half an hour after engaging in the work for a consecutive period of three hours and one-day leave given in every week.

(4) The half an hour leisure time for each day and one day leave in every week shall be deemed to be the duration of work.

(5) A child already engaged in one enterprise shall not be caused to engage in the work of another enterprise on the same day.

10. **Remuneration and Benefits:** (1) An enterprise engaging children as workers shall not discriminate on the grounds of sex, race, religion, caste or tribe and shall provide equal remuneration and benefits for the same works.

(2) Remuneration, allowances, leaves and other benefits to be entitled to a child engaged in an enterprise shall be as prescribed.

(3) No entrepreneur shall engage a child in his/her enterprise providing less remuneration and benefits than the remuneration or benefits prescribed pursuant to Sub-section 2.

11. **Provision Relating to Health and Safety of Child:** The provisions to be made by an entrepreneur with regard to health and safety of the child engaged in an enterprise shall be as prescribed.

12. **Disputes Relating to Age**: (1) In case of dispute relating to age of a child engaged in an enterprise, his/her age as per the date of birth referred to in the birth registration certificate shall be deemed to be his real age.

(2) If any child is not having the birth registration certificate, the date determined upon examination by a medical practitioner shall be deemed to be his/her actual age.

13. **Registration Book to be Maintained**: (1) With regard to a child engaged in an enterprise, the entrepreneur shall maintain a registration book having stated the following matters: –

- (a) Name and Address of the child,
- (b) Name and Address of the father, mother or guardian,
- (c) Date of birth or age,
- (d) Date of engaging in work,
- (e) Nature of work
- (f) Time for engaging in work,
- (g) Time for rest
- (h) Remuneration and other benefits
- (i) Other matters as prescribed

(2) The registration book referred to in Sub-section (1) shall be given to the employees deputed from labor office as and when required.

14. **Notice to be**: The entrepreneur shall compulsorily affix notices in notice board about the matters relating to works in which a child should not be engaged, the remuneration and benefits which a child is entitled to, facilities and weekly holiday and punishment to be imposed if child is engaged in works against this Act.

Chapter - 4 Provisions Relating to Inspection

15. **Inspection and Action:** (1) The labor office may depute an employee from time to time to inspect an enterprise engaging children.
- (2) The entrepreneur shall have to allow the employee deputed pursuant to Sub-section (1) to enter and to inspect in the enterprise at any time. The entrepreneur shall make available the matters required to examine and to know by the employee deputed for inspection in such a way.
16. **Removing from Works:** (1) While inspecting an enterprise pursuant to section 15, if a child is found to have been engaged against sections 3 or 4, the employee inspecting the enterprise shall immediately handover such child to his/her father, mother or guardian and order the entrepreneur to remove the child from works.
- (2) If a child does not have father, mother or guardian or if none of them are traced, the entrepreneur shall have to keep such child in any child welfare home or any organization providing care for children.
- (3) The enterprise shall have to bear costs to be incurred while handing over the child to his/her father, mother or guardian or the costs to be incurred while keeping the child in a child welfare home or organization as per rules of such home or organization.
17. **Inspection Report:** (1) The employee inspecting an enterprise pursuant to section 15 shall, within fifteen days from the date of completion of the inspection, submit report to the labor office having stated in detail as to whether any enterprise is engaging children against the provisions of this Act or not whether or not the provisions to be made pursuant to this Act or Rules framed thereunder including provisions of health and safety of the child engaged in works are made the labor office may conduct inquiry as to whether or not the employee deputed in such a way has carried out works according to this section and whether the report submitted is realistic or not and may take action according to law if it is found otherwise.

(2) In case it is found, according to the report submitted pursuant to Sub-section (1), that any enterprise has not made the provisions to be made as per this Act or Rules made there under, the labor office may order the entrepreneur to make such provisions as soon as possible within the appropriate time-frame.

(3) The entrepreneur shall have to make provisions as per the order within the time-frame prescribed by the labor pursuant to Sub-section (2).

18. **Suspension of Facilities:** In case the concerned enterprise does not make necessary provisions as per the order given by the labor office pursuant to section 17, the labor office shall refer to in writing to the concerned agency to suspend the facilities to be given as per prevailing laws to the enterprise for the prescribed time.

(2) If it is referred to from the labor with regard to any enterprise pursuant to Sub-section (1), the concerned body shall suspend the facilities to such enterprise and given information thereof to the labor office.

Chapter - 5

Provision Relating to Punishment and Appeals

19. **Punishment:** (1) Whoever commits any act in contravention of Sub-section (1) of section 3 shall be liable to a punishment of imprisonment of three months in maximum or a fine of Rs. 10,000/- in maximum or the both.

(2) Whoever commits any act in contravention of Sub-section (2) of section 3 and section 4 shall be liable to a punishment of an imprisonment of one year in maximum or a fine of fifty thousand rupees in maximum or the both.

(3) In case any entrepreneur commits any act in contravention to sections 6, 7, 9, 10 or 11, he/she shall be liable to the punishment of an imprisonment up to two months or a fine of five thousand rupees in maximum or the both.

(4) In case any entrepreneur commits any act in contravention of sections 5, 13 or 14, he/she shall be liable to a punishment of one month in maximum or a fine of three thousand rupees in maximum or the both.

(5) Whoever commits any act in contravention of this Act, except as referred to in Sub-sections (1), (2), (3) and (4) this section or the Rules framed under this Act, he/she shall be liable to a punishment of imprisonment of 15 days in maximum or a fine of one thousand rupees in maximum or the both.

(6) Whoever commits the same act again after having been punished pursuant to Sub-sections (1), (2), (3), (4) or (5), he/she shall be liable to double of the punishment referred to in the same Sub-sections.

20. **Complaints and limitation:** (1) With regard to an offence punishable under this Act, the following person or organization may file complaint at the concerned labor office: –

- (a) Employees inspecting an enterprise pursuant to section 15,
- (b) Police of the concerned area,
- (c) The concerned child or his/her father, mother or guardian,
- (d) The concerned Village Development Committee /Municipality,
- (e) Trade union of enterprise level, or
- (f) Any agency or non-governmental organization established pursuant to prevailing law and engaged in protection of rights and interests of the child.

(2) With regard to an offence punishable under this Act, complaint shall be filed within one year from the date of commission of the act.

21. **Power to Impose Punishment:** (1) The labor office shall have powers to impose punishment pursuant to section 19 on persons violating this Act and Rules framed there under.

(2) While imposing punishment pursuant to Sub-section (1), if the labor office has to impose punishment of imprisonment, it shall refer the matter to the labor court and do according to the decision of the court.

22. **Appeal:** The person not satisfied with the punishment imposed by the labor office pursuant to section 21 may file appeal at the labor court within thirty five days from the date of order of the punishment.

Provided that in case of punishment of imprisonment, appeal shall be filed at the Appellate court.

Chapter - 6 Miscellaneous

23. **Child Labor Prohibition Committee:** (1) Government of Nepal shall form Child Labor Prohibition Committee in order to provide for health, safety, education, vocational training to children engaged in an enterprise; in order to provide for appropriate employment for children; to discourage to have children involved in works and to get necessary suggestions and opinions for prohibiting

child labor.

(2) In such a committee, provision of appropriate representation of governmental and non-governmental organizations and experts engaged in child labor sector shall be made.

(3) The formation procedures, functions, duties and powers and procedures of the Child Labor Prohibition Committee shall be as prescribed.

24. **Child Labor Prohibition Fund:** (1) Government of Nepal shall form a Child Labor Prohibition Fund for child working in an enterprise for their health, security, education, vocational training and for suitable employment of child to discourage to have children involved in works and to eliminate child labour.

(2) The following amounts shall be deposited in the Child Labor Prohibition Fund: -

- (a) Grants amount received from Government of Nepal,
- (b) Grants, donation, fee and amount of assistance to be received from various national and international organizations and associations,
- (c) Amounts to be received from other sources.

(3) Amounts to be deposited in the Child Labor Prohibition Fund and operation of the fund shall be as prescribed.

25. **Directives May be Issued:** (1) Government of Nepal may, in order to execute objectives of this Act, issue necessary directives to the Entrepreneur, trade unions, child welfare homes and child care organizations for protection of rights and interests of the children.

(2) It shall be the duty of the all concerned parties to abide by the directives issued by Government of Nepal.

26. **Alteration in Schedule:** (1) Government of Nepal may add more risky jobs in the schedule having published notice in the Nepal Gazette.

(2) While adding and risky job in the schedule, Government of Nepal may, if it deems fit, seek opinion of the Child Labor Prohibition Committee.

(3) After 30 days from the date of publication of the notice pursuant to Sub-section (1), the amendment shall be deemed to have been changed.

27. **Power to Frame Rules:** In order to enforce objectives of this Act, Government of Nepal may frame necessary rules.

28. **Repeal and Amendment:** In the Labor Act, 2048, the following amendments

have been made.

- (a) Clause (i) of section 2 is repealed.
- (b) The words "of sixteen years" are substituted by removing the earlier words "of fourteen years of age"
- (c) Sub-section (1) of section 5 has been repealed.
- (d) After section 32, the following sections of section 32A and 32B are inserted: –

32A. **Minor not to be engaged in Works without Adequate Guidelines or of Vocational Training**: (1) No minor shall be engaged in works without adequate directives about the concerned working areas or vocational training.

(2) Provisions with regard to adequate directives about the concerned working areas or vocational training to be given to minors pursuant to Sub-section

(1) shall be as prescribed.

(3) The entrepreneur engaging a minor in work against Sub-section (1) shall be liable to a punishment of imprisonment up to three months in maximum or a fine of ten thousand rupees in maximum or the both.

32B. **Disputes Relating to Age**: (1) In case a dispute arises with regard to age of a minor engaged in an enterprise, the age as per the date of birth certificate of the minor shall be deemed to be his/her actual age.

(2) In case a minor does not have birth registration certificate after having carried out medical tests the age determined by a medical practitioner prescribed by the Department of Labor shall be deemed to be his/her actual age:

–

(3) In the Children's Act, 2048 (1991)

- (a) Sections 17 and 18 have been repealed.
- (b) Chapter 5 has been repealed.
- (c) Words '17' and '18' appearing in Sub-section (1) and (6) of section 53 have been deleted.
- (d) Sub-section (10) of section 53 has been repealed.

Schedule -1

(Relating to Sub-section (2) of Section 3)

Risky Business or Works

- (a) Business relating to tourism including tourism, residence, motel, hotel, casino, restaurant, bar, pub, resort, skiing, guiding, water rafting, cable car complex, Pony trekking, mountaineering, hot air ballooning, parasailing, gulf course, polo, horse- riding and so on;
- (b) Service-oriented business such as workshop, laboratory, animal slaughterhouse, cold storage and so on;
- (c) Public transport and construction business;
- (d) Works relating to manufacture of cigarette, *biri*; carpet, weaving, dying; wool cleaning; fabrics weaving, dying, washing and printing strips; leather tanning; cement manufacturing and packing; production, sale and distribution of matches, explosives and other flammable materials; production of beer, liquor and other drink items; production of soap; production of bitumen; production of pulp and paper; production of slate, pencil, insecticides, lubricating oils; collection of garbage; processing and electroplating; photo processing and works relating to rubber, synthetic, plastic, lid and mercury;
- (e) Works relating to water resources, air, solar power, coal, natural oil or gas, bio-gas or the like works relating to producing energy and its transmission and distribution;
- (f) Works relating to mines, mineral substances, exploration, processing and distribution of natural oil or gas.
- (g) Works relating to rickshaw and carts pulled by human beings.
- (h) Works relating to cutting machine.
- (i) Works to be done in underground, under water or in excessive height.
- (j) Works to be done having contact with chemical substances and
- (k) Other risky works or business prescribed by the prevailing laws.

Appendix III

Bonded Labour (Prohibition) Act, 2058 (2002)

Date of Authentication and Publication 2058.11.15 (2002-4-20)

Act Number 21 of the Year 2058 (2002)

An act made to provide for provisions relating to prohibition on bonded labour

Preamble: Whereas, it is expedient to make provisions in order to put a ban on bonded labour (*Kamaayshram*), to rehabilitate the freed bonded labourers and to uplift their livelihood from the perspectives of social justice.

Now, therefore be it enacted by the Parliament in the first years of reign of the His majesty the King Gayanendra Bir Bikram Shahdev.

Chapter - 1

Preliminary

1. **Short Title and Commencement:** (1) This Act may be called "Bonded Labour (prohibition) Act, 2058(2002)."
(2) This Act shall come in force immediately.
2. **Definition:** Unless the subject or context otherwise requires; in this Act-
 - (a) "Bonded labour (*Kamaya shram*)" means the labour or service to be rendered for a creditor for the following reasons without wages or with nominal wages.
 - (1) To pay back the debt obtained by him/ her or family and to pay the interest thereof.
 - (2) To pay back the debt obtained by his/her ascendant and to pay back the interest thereof.

- (3) To pay back the bonded debt of bonded labourer by a person who has given a guarantee before the creditor on behalf of a bonded labourer.
- (b) 'Bonded labourer' means a person who is working as a bonded labourer in the name of *Bhaisawar, Gaiwar, Bardikar,, Chhekarwar, Haruwa, Charuwa, Hali, Gothlokamalariya* or by any other similar name.
- (c) "Bonded debt" means the cash, commodity or kind obtained by the bonded labourer from a creditor and this expression also includes "*Sauki* or other debt.
- (d) "Creditor" means a person who provides debt to a bonded labourer.
- (e) "Family" means father, mother, husband, wife, son or unmarried daughter and this expression also includes coparcener of bonded labourer if the bonded labourer is the head the jointfamily.
- (f) "Freed bonded labourer" means a bonded labourer who has been set free pursuant to Section 3.
- (g) "Committee" means Freed Bonded Labourer Rehabilitation and Monitoring Committee constituted pursuant to Section 8.
- (h) "Welfare Officer" means the welfare officer as referred to in Section 10.
- (i) "Fund" means the Fund as referred to in Section 12.
- (j) "Agro-labour" means a person who carries out the work prescribed by the Government of Nepal by publishing a Notification in the Nepalgazette.
- (k) "Prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.

Chapter - 2

Provision relating to prohibition on bonded labour

3. **To be freed from bonded labourer**: Every person who is serving as bonded labourer at the time of the commencement of this Act shall, *ipso facto*, be freed from bonded labour after the commencement of this Act.
4. **Prohibition against employment to serve as a bonded labourer**: No one shall keep or employ any one as a bonded labourer after the commencement of this Act.

Chapter 3

Provision relating to bonded debt

5. **To be freed from bonded debt**: After the commencement of this Act, no bonded labourer shall be obliged to pay back the bonded debt obtained by him/her from any creditor.
6. **Deeds (instrument) or Agreement to be void**: Notwithstanding anything contained in the prevailing law, all the deeds (instrument) or written or gentleman agreement (verbal agreement) concluded between the creditor and the bonded labourer in respect of debt shall *ipso facto*, be void after the commencement of this Act.
7. **Obligation to refund the property taken as a mortgage or guarantee**: The creditor shall refund the property taken by him/her as a mortgage or guarantee, if any, in the course of providing debt to the bonded labourer to the concerned person within a period of Three months after the commencement of this Act.

Chapter -4

Constitution, functions, duties and powers of the Committee

8. **Constitution of the Committee:** (1) In order to work in respect of rehabilitation of freed bonded labourer, there shall be a Freed Bonded labourer Rehabilitation and Monitoring Committee in the districts as prescribed by the Government of Nepal.

(2) The composition of the Committee shall be as follows.

- | | | |
|-----|---|--------------|
| (a) | Chairperson of District Development Committee | -Chairperson |
| (b) | Chief of District police office | -Member |
| (c) | Chief of the District Education Office | -Member |
| (d) | Officer of District administration office | -Member |
| (e) | Chief of District Forest Office | -Member |
| (f) | Chief of District land Reform Office | -Member |
| (g) | Chief of Labour Office | -Member |
| (h) | Chief of District Agriculture Development Office | -Member |
| (i) | One person from among the chiefs of banking officer in district level | -Member |
| (j) | One person from among union or association of peasants in district level | -Member |
| (k) | Maximum three persons from among the Trade union or association | -Member |
| (l) | One person from among the non-governmental organizations which has worked in respect of bonded labourer | -Member |

(m) One person form freed bonded labourer -Member

(n) Welfareofficer - MemberSecretary

(3) The chairperson shall nominate the member as referred to in Clauses (i), (j), (k), (l), (m) of Sub-section(2).

(4) Procedure relating to the meetings of the Committee shall be as determined by the Committeeitself.

9. **Functions, duties and powers of the Committee:** Functions, duties and powers of the committee shall be asfollows:

- (a) To cause to prepare the up-to-date record of the freed bonded labourers.
- (b) To make necessary arrangement for the rehabilitation of the freed bondedlabourers.
- (c) To implement the programme approved by the Government of Nepal for the rehabilitation of the freed bondedlabourers
- (d) To monitor as to whether anyone has employed as a bonded labourer or not.
- (e) To recommend the Government of Nepal, Bank or financial institution for providing required loan to the freed bonded labourers to carry out the business relating to incomegeneration.
- (f) To keep co-ordination with various bodies or institutions in respect of the residence, education or employment oriented skill development training for the freed bondedlabourers.
- (g) To perform necessary functions to protect the right and interest of the freed bondedlabourers.
- (h) To perform other functions asprescribed.

Chapter - 5

Welfare Officer and other provisions

10. **Welfare officer**: The Government of Nepal may designate any of its' officer to work as a Welfare Officer in order to perform the work, as may be required, in respect of the right and interest of the freed bonded labourers
11. **Functions, Duties and powers of the Welfare Officer**: The functions, duties and powers of the Welfare Officer shall be as follows:
- (a) To maintain the record of the freed bonded labourers,
 - (b) To perform the work as directed or assigned by the Committee in respect of the right and interest of the freed bonded labourer,
 - (c) To implement or cause to implement the decision made by the Committee.
 - (d) To perform other functions as prescribed.
12. **Fund**: (1) In order to perform the work, as may be required, in respect of the right and interest of the freed bonded labourer, there shall be a Fund and the following moneys shall be deposited on the Fund.
- (a) Money obtained from the Government of Nepal as a grant.
 - (b) Moneys obtained from foreign person, government or institution or organization through the Government of Nepal.
 - (c) Money obtained from other sources.
- (2) The money collected on the Fund shall be deposited in an account of a Bank
- (3) Welfare officer shall operate the Fund by adopting the method prescribed by the Government of Nepal and as per the direction of the Committee.

13. **Power to determine the rate of minimum wage:** (1) The Government of Nepal shall, by a Notification in the Nepal gazette, determine the rate of minimum wage for agro-labourer.
- (2) No agro-labourer shall be employed without paying wages or with lower wages than the minimum rate determined pursuant to Sub-section(1).
14. **To provide settlement and employment:** The Government of Nepal shall provide the facility of settlement, employment and income generation as prescribed to the freed bondedlabourers.

Chapter -6

Complaint, penalty and appeal

15. **Complaint may be lodged:** (1) If someone commits any act violating the provisions of this Act, the victim him/herself or a member of his/her family, union, institution or an official of a local body may lodge a written complaint or forwards verbal notice before the Adjudicating Authority along with the evidences so collected in this regard
- (2) If a person forwards a verbal notice pursuant to Sub-section (1) the Adjudicating Authority shall cause to prepare such verbal notice as a written complaint and cause to put the signature of the complainant. (3) Notwithstanding anything contained in the prevailing law, the complainant referred to in Sub-section (1) shall not be obliged to appear on the date for the trial of the case
16. **Penalty:** (1) If a person employs any one as a bonded labourer violating Section 4, the Adjudicating Authority shall impose a fine on him/her not less than Fifteen Thousand Rupees and not exceeding Twenty five thousand Rupees; and shall provide the two-fold amount of the minimum wage as determined pursuant to this Act for the each day of employment to the victim from such employer(offender).

(2) If a person fails to refund the property taken as a mortgage or guarantee pursuant to Section 7, the Adjudicating Authority shall impose a fine on him /her not less than Ten Thousand Rupees and not exceeding Fifteen Thousand Rupees and shall cause to refund the said property to the concerned person.

(3) If a person employs any one without paying wages or with lower wages than the minimum rate, the Adjudicating Authority shall impose a fine on him/her not less than One Thousand Rupees and not exceeding Three Thousand Rupees; and shall provide the two-fold amount of the minimum wage as determined pursuant to this Act for the each day of employment to the victim from such employer(offender).

(4) If a person hinders or obstructs to anyone in the course of investigation of any act committed contrary to this Act, the Adjudicating Authority shall impose a fine on him/her not less than Three Thousand Rupees and not exceeding Ten Thousand Rupees.

(5) Save as provided in Sub-section (1), (2), (3) and (4), if a person commits an act in contravention of this Act and the Rules framed here under, the Adjudicating Authority shall impose a fine on him/her not less than One Thousand Rupees and not exceeding Three Thousand Rupees.

(6) If a person knowingly/willingly or with an intention to make trouble to anyone lodges a fake complaint, the Adjudicating Authority shall impose a fine on him/her not less than One Thousand Rupees and not exceeding Three Thousand Rupees.

(7) If a person, who has committed an act as referred to in Sub-section (1), (2), (3), (4), (5) and (6), holds an office of public profit or a person who has been already punished under this Act, again commits the same act, the Adjudicating Authority shall impose two-fold punishment of the punishment mentioned in the concerned Sub-section

17. **Adjudicating Authority**: The Chief District Officer of the concerned district shall have the powers to adjudicate the case under this Act.
18. **Appeal**: A person who is not satisfied with the decisions made by the Adjudicating Authority under this Act may file an appeal with Court of Appeal within Thirty Five days of the decision.

Chapter -7

Miscellaneous

19. **Procedure of case**: The Adjudicating Authority shall, while trying the case under this Act, follow the procedure as referred to in Special Court Act, 2059.
20. **Onus of Proof**: If a question arises as to whether a deed or agreement has been prepared for the purpose of providing debt, the onus of proof lies with the person who claims that the said deed or agreement has not been prepared for providing the debt.
21. **Duty to submit the report**: (1) Concerned Village Development Committee or Municipality shall inspect within its' jurisdiction as to whether a person has employed any one or not in contravention of this Act and submit a report with its' own opinion to the Committee for at least once in every six months.
(2) The Welfare Officer shall, every year, submit an annual report on the works performed by the Committee, to the Government of Nepal.
22. **The Government of Nepal may issue directives**: The Government of Nepal may, for the rehabilitation of the freed bonded labourers, issue directives to the Committee and Welfare Officer and it shall be the duty of the Committee and Welfare Officers to abide by such directives.
23. **Power to frame Rules**: To implement the objectives of this Act, the Government of Nepal may frame necessary Rules.

Appendix IV

Child Labour (Prohibition and Regulation) Rules, 2062 (2006)

Royal Seal and Published on Nepal Gazette

2062/10/7 (20 January 2006)

In exercise of the powers conferred by Section 27 of the Child Labour (Prohibition and Regulation) Act, 2056 (1999 A.D), Government of Nepal has framed the following Rules.

Chapter -1

Preliminary

1. **Short Title and Commencement:** (1) These Rules may be called " Child Labour (Prohibition and Regulation) Rules, 2062 (2006 A.D).
(2) These Rules shall come into force immediately.
 2. **Definitions:** Unless the subject or the context otherwise requires in this Rule,-
 - a) "Act" means Child Labour (Prohibition and Regulation) Act, 2056 (1999A.D).
 - b) "Committee" means the Child Labour Elimination Committee formed pursuant to Rule 29
- © "Child Labour Elimination Fund" means Child Labour Elimination Fund established pursuant to Section 24 of the Act.

Chapter - 2

Notice for Operation of Risky Professions or Activities

3. **Matters to be disclosed by the Manager while issuing a Notice:** The Manager operating a risky profession or activities shall notify the Labour Office about the following matters in addition to the description mentioned in Sub section (1) of Section 5 of the Act :-

- (a) Time of operation of the Enterprise,
- (b) Time of operation of the Enterprise and Daily Working Hours,
- (c) Date of Operation of Risky Activities or Profession,
- (d) Number, Name, Age and Address of the Workers Working in the Enterprise
- (e) Service provided to the Worker by the Enterprise,
- (f) Remuneration and Other facilities given to the Worker,
- (g) Contact Address of the Enterprise,
- (h) Provisions Relating to Health and Security,

4. **Certificate of Eligibility:** (1) Before, employing a child as a Labour an application shall be filed in the Labour office to examine his /her health in relation to his/her ability and inability to do the work, mentioning about the nature of the work and the age of the child.

(2) After obtaining an application pursuant to Sub- rule (1), the Labour Office shall cause a doctor to examine the health of the child.

(3) If on an examination done pursuant to Sub- rule (1), the child is found to be capable for the work, the doctor shall provide a certificate of eligibility to pursuant to the Schedule.

5. **Particulars to be included while giving Description:** An Enterprise which employs a child shall submit the following details to the Labour Office in addition to the particulars mentioned in Sub-section (1) of Section 8 of the Act:-

- a) Working Hours of the Child
- b) Photocopy of Appointment Letter upon stating the nature of activities whether it is Permanent or the Temporary.
- c) Whether the facility of quarter is provided or not
- d) Section or Division where the Child works

Chapter -3

Remuneration, Leave and other Facilities

6. **Remuneration and Allowance:** A child working in an Enterprise shall get the monthly remuneration and allowance not less than prescribed by the Government of Nepal by publishing a notice in Nepal Gazette from time to time, pursuant to Labour Act 2048.
7. **Leave:** The child working in an Enterprise shall get the following leaves:
 - a. Public Holiday
 - b. Home Leave
 - c. Sick Leave
 - d. Obsequies Leave
 - e. Special Leave
 - f. Educational Leave
8. **Public Holiday:** (1) A child working in an Enterprise shall get at least Thirteen days public holiday with full salary each year.

(2) The annual public holiday of a child so provided pursuant to Sub-rule (1) shall be determined at the beginning of each year.
9. **Home Leave:** (1) A child working in an Enterprise shall be entitled to paid home leave at the rate of One day for every twenty days of the period of work performed by him/her. The child shall have to take prior approval from the Manager before going for such a leave.

Explanation: For the purpose of this Rule, "Period of work" means one day weekly holiday, public holiday and other paid holidays taken during the period.

(2) The home leave to be enjoyed pursuant to Sub- rule (1) may be accumulated for a maximum period of Thirty Six days.

(3) In case any child resigns from his/her post or retires from service for any other reason, he/she shall be entitled to receive lump sum amount for his/her accumulated home leave at the rate of the wage Which he/she was getting at the time of his/her severance from service.

10. Sick Leave: (1) Every child working in the Enterprise shall be entitled to get a sick leave of Twenty Four days each year.

(2) A child shall be entitled to get full salary while in the sick leave.

(3) In case a sick leave of more than Seven days of a child is going to be approved the manager may cause to submit a medical certificate issued by a doctor recognized by the Government of Nepal.

(4) In case a child has to take sick leave due to the sudden illness, he/she has to inform about it to the Manager by the fastest means.

11. Obsequies Leave: (1) If the child working in an Enterprise is required to observe ~~obsequies himself/herself~~ as per the rites and rituals such employee shall be entitled to obsequies leave for up to Fifteen days.

(2) A child who is in such obsequies leave shall be entitled to get full salary.

12. Special Leave: Any child who does not have any other leave accumulated may be entitled to special leave for a period of Thirty days in one year, not amounting to more than sixty days in the entire period of service, with prior approval in case a special situation for going on leave has occurred.

(2) A child staying on a special leave pursuant to Sub- rule (1) shall not be entitled to the salary of such period.

(3) Notwithstanding anything contained in Sub –rule (1) and (2), if any girl child is impregnated due to the conditions not under her control or due to forced pregnancy; such girl shall get a total of Ninety- days special leave computing the days before and after delivery. The girl child shall be entitled to get full remuneration for a period of such leave.

13. Educational Leave and Determination of Time of Work: (1) A child who goes to school shall get Ten days educational leave during the annual examination in a year.

(2) enterprise shall determine the time so as not to overlap the school time and the time of work The the child who is studying in a school pursuant to Sub- rule (1).

14. **Official Empowered to Approve Leave:** The leaves mentioned in this chapter shall be approved by the Manager or the authority so prescribed by the bye law of the enterprise.

15. **Action to be taken Against Child for not Approving the Leave:** (1) No child shall be absent in the Enterprise without the prior approval of a leave.

(2) In case a child remains absent from the enterprise for more than Thirty days without information of remaining on leave, he/she may be removed from the service deducting of his/her absent.

Provided that, he /she shall not be denied from an opportunity of hearing on such removal.

(3) Notwithstanding anything contained in Sub-rule (1) and (2), if an employee remains absent without prior sanction of leave in an

emergency condition and his/her leave is sanctioned later on retrospectively, in such case the provision of this Rule shall not be deemed to have been violated.

16. **Gratuity:** (1) If, a child serving a year or more in an Enterprise resigns or relieved from the service due to any other reason, he/she shall get gratuity at the rate of one month's remuneration for every year of service so rendered.

(2) Any child who continues his/her service to a Enterprise upon reaching age of majority shall get gratuity in accordance with the prevalent laws in addition to the gratuity received pursuant to these Rules, upon the approval of resignation or in case he/she is relieved from the activities for any other reason.

(3) The child working in the Enterprise before the commencement of this Rule shall also get gratuity pursuant to this Rule.

17. **Gratuity Fund:** (1) Each Enterprise shall establish a separate actativity Fund for the purpose of depositing gratuity received by the child pursuant to Rule 16.

(2) The Enterprise shall have to deposit the gratuity amount to be given to the child pursuant to Sub- rule (1) of Rule 16 in the Gratuity Fund established as per Sub- rule (1), every year.

(3) The Enterprise shall have to maintain separate accounts of the child showing clearly the amounts to be received by every child.

18. Provident Fund: (1) The Enterprise shall deduct Ten percent amount from the monthly remuneration of the child appointed permanently in the Enterprise add on equivalent amount and deposit it in their name in the provident fund as referred to in Sub- rule (2) .

(2) The Manager of an Enterprise shall open an account in the name of a child working in the Enterprise in the Provident Fund approved pursuant to Income Tax, 2058, to deposit the amount as referred to in Sub- rule (1)

(3) The total amount deposited in the name of a child pursuant to Sub- rule (1) shall not be withdrawn before retiring from activities of the Enterprise.

(4) If a child dies prior before drawing his/her money from the Fund, his/her nominee shall receive the money; or if the nominee has died or no such nominee has been appointed the nearest heir of such child shall receive the money. If there is more than One such heir, they shall be paid the amount so deposited in the *pro rata* basis.

(5) The concerned child may take loan up to Fifty percent as per the Bye-laws of the Enterprise from the amount deposited in the Provident Fund as referred to in these Rules. The loan amount shall have to be recovered deducting One Forth of monthly remuneration of the child until such loan is fully recovered.

(6) If any child continues his/her activities in the Enterprise upon entering the age of majority, the money collected in the Provident Fund pursuant to this Rule shall be valid while deducing Provident Fund pursuant to the prevalent laws.

19. Medical Facilities: It, the Government recognised medical practitioner certifies that a child working in an Enterprise is suffering from illness and has to go for medical treatment, the child shall be provided with a maximum of two month's remuneration in his/her total service period.

20. Insurance to be done: The Manager of the Enterprise shall get the insurance done of every child working in the Enterprise in accordance with the prevailing laws.

21. Tiffin Allowance: The Manager shall provide to every child working in the Enterprise, equal to the Ten percent of the remuneration so received, as tiffin allowance every month.

22. **Dashin Expenses:** (1) The Manager shall provide to the child the money equivalent to his/her monthly salary as *Dashin* expense fifteen days before *Ghatasthapana* every year.

(2) While providing *Dashin* expense pursuant to Sub- rule (1) the remuneration of a month ahead of *Bada Dashin* shall also be provided even if the month has not completed.

23. **Facilities in case of Disability or Injury:** (1) If a child suffers an injuring while working in the Enterprise in such a way that it causes hindrance in his/her capacity enhancement even though it may not have resulted in his/her retirement from the service, such child is entitled to assistance of lump sum fifteen thousand depending on the condition of the child.

(2) If, a treatment is deemed necessary to an injury sustained pursuant to Sub- rule (1), the child shall get an additional sick leave with full salary for the period of treatment, to the effect that none of his/her other accumulated leaves shall be deducted.

(3) While carrying out the treatment as referred to in to Sub- rule

(4) the child shall get such treatment expense from the Enterprise.

(5) Receiving of treatment expense pursuant to this Rule shall not be deemed to have prevented the child to get treatment expense pursuant to Rule 19

24. **Receipt of Facilities Pursuant to the Prevalent Laws:**

Notwithstanding anything contained in this chapter, if the child working in a Enterprise is entitled to get more facilities than mentioned in these Rules, in such case he/she shall get the facilities in accordance with the same laws.

Chapter -4

Provisions relating to Health and Security

25. **Provision to be followed for the Health and Security of the Child:** The Manager shall follow the following norms pursuant to Section 11 of the Act for the Health and Security of the child:-

(a) Make necessary arrangements for everyday cleanliness of the workplace, through the use of pesticides, necessary facilities of drainage as well as time to time painting to avoid the odor of the wastes,

- (c) Arrange for a good ventilation light and temperature in the working rooms, Avoid the collection of dust, smoke, polluted air, vapor as well as other pollutants in the working room.
- (d) Arrange for adequate drinking water,
- (e) Arrange for the separate toilets for boys and girls in the accessible place,
- (f) Keep necessary fire extinguisher to prevent fire,
- (g) Open a canteen inside the compound of the Enterprise at subsidy rates,
- (h) Not to make a child carry or transport a weight exceeding fifteen kilograms,
- (i) Teach safety and security measures to be followed while doing the work, and
- (j) Make arrangements for the shifts so as to allow the child to rest between the working hours.

26. Other matters to be Mentioned in the Registration Book: The Manager shall include the following matters in the Registration book in addition to the matters mentioned in Sub section (1) of Section 13:

- (a) Nationality of child,
- (b) Certificate of Eligibility or whether one is Trained or not,
- (c) Name of the Department or Section of Work,
- (d) Whether the child is temporary or permanent in the Enterprise,
- (e) Details of Leave,
- (f) Description of assigned activities,
- (g) Time of work,
- (h) Details of other facilities.

27. **Labour Office Authorized to Examine:** (1) The Labour Office may cause for a sudden field visit by its staff to cross examine the honesty of the staff assigned to check whether the Enterprise employing the child has deployed him/her to work against the provisions of the Act, has made necessary arrangements for the safety and security as well as has made other necessary arrangements pursuant to the Act and this Rule.

(2) The Labour Office shall examine the truth of the inspection report submitted pursuant to Section 17 Sub Section (1) of the Act by comparing the record in the Labour Office and the cross examination report submitted pursuant to Sub- rule (1).

(3) If on an examination done pursuant to Sub- rule (1) or (2), it is found that the staff has not completed the work with honesty or if the report presented is untrue then he /she shall be liable for departmental action.

28. **Period for Sequestration of Facility:** (1) If any Enterprise is found not making necessary arrangements pursuant to the Act or these Rules, the Labour Office shall order the Manager to make necessary arrangements as soon as possible, by giving relevant date.

(2) For not making necessary arrangements on getting order pursuant to Sub- rule (1), the Labour Office shall write to the concerned authority to sequester the facilities given to the Enterprise in accordance with the prevailing laws for six months.

(3) The Labour Office shall have to write to the concerned authority to sequester the facility given to the Enterprise in accordance with the prevalent laws until any other arrangement is made if the Enterprise does not make necessary arrangements in a case of holding facilities for six months as referred to in Sub-rule (2).

(4) Notwithstanding anything contained in Sub- rule (2) or (3), the Labour Office shall release the facilities sequestered pursuant to this Rule, anytime, if the Enterprise presents the evidence of making necessary arrangements pursuant to the Act or these Rule.

Chapter - 5

Miscellaneous

29. **Formation of Committee:** A Child Labour Elimination Committee shall be formed pursuant to Section 23 of the Act to give advise to the Government of Nepal, relating to health, security, education, vocational training, to arrange

for the appropriate employment, to discourage the deployment of child in any work and to eliminate child Labour consisting of the following members:

- a Secretary, Ministry of Labour and Transport
Management -Chairperson
- b Joint Secretary, Ministry of Labour and
Transport Management (looking Labour relations and Child Labour
Elimination Section)
- Member
- c Director General, Department of Labour and
Employment Promotion- Member - Member
- d Representative, Ministry of Women, Children
and Social Welfare - Member
- e Representative, Ministry of Industry, Commerce and Supplies - Member
Two representatives of Federation of Nepalese
- f
Chamber of Commerce and Industry - Member
- g Four representatives from Federation of
Nepalese Trade Unions- Member - Member

One representative officer from among Non Governmental Organizations, working in the field of child and child Labour

- Member

I Officer deputed by Government of Nepal – Member

Secretary

(2) The Committee may invite experts of the related required.

30. Functions, duties and proves of the Committee: The Committee shall

have the following functions, duties and rights:-

- (a) To recommend the Government of Nepal to make necessary reforms in prevalent policies and law, relating to child labour elimination.
- (b) To advice the Government of Nepal to make necessary arrangements for the health, education, safety as well as vocational training of the child working in the Enterprises,
- (d) To promote mutual relation between the Manager and the Government of Nepal to take necessary steps to eliminate child Labour
- (e) To recommend the Government of Nepal by identifying the suitable areas for employing the children.
- (f) To make necessary arrangements to monitor whether or not the Enterprise has made necessary arrangements for discouraging child Labour and to eliminate child Labour,
- (g) To make plans for the utilization of Child Labour Elimination Fund and to determine the priorities.
- (h) To receive substantial opinion by forming a sub committee to perform special task relating to Child Labour Elimination.

31. Meetings of the Committee and Procedures: (1) The meeting of the Committee shall be held at least Four times a year.

(2) The meeting of the Committee shall be held on such date, time and venue as specified by the Chairperson. The Member-Secretary shall notify the members at least Seven days in advance about the meeting of the Committee.

(3) The majority opinion shall prevail in the meeting of the Committee and in case of a tie; the Chairperson shall exercise a casting vote.

(4) The Member Secretary shall authenticate the decisions of the Committee.

(5) Other procedures relating to the meeting of the Committee shall be as determined by the Committee itself.

(6) The Chairperson and the Members of the Committee shall get meeting allowance as prescribed by Government of Nepal for participating in the meeting.

32. **Operation of Child Labour Elimination Fund:** (1) The money collected in the Child Labour Elimination Fund shall be deposited by opening an account in any of the Commercial Banks within Nepal.

(2) The money so collected shall not be spent anywhere except for the purpose as referred to in Sub Section (1) of Section 24 of the Act.

(3) The operation of the Child Labour Elimination Fund shall be made by the joint signature of the Chairperson of the Committee or the member of the Committee appointed by him/her and the Member Secretary.

33. **Account and Auditing:** (1) The accounts of the income and expenditure of the Child Labour Elimination Fund shall be kept in accordance with the prevalent laws.

(2) The auditing of the Child Labour Elimination Fund shall be made by the Department of the Auditor General.

Note:

1. The following alteration has been made by the Motor Vehicle and Transportation Management (First Amendment) Rules, 2061 in the schedule of the original Rules:-

The words "Ministry of Labour and Transport Management" instate of "

Ministry of Construction and Transport"

2. Words altered by Some Nepal Acts Amendment Act, 2063:-"Government of Nepal "instead of" His Majesty's Government".

Appendix V

Bonded Labour (Prohibition) Rules, 2067 (2010 AD)

Date of Publication in Nepal Gazette

2068/8/26 BS (12/12/2011AD)

In the exercise of the powers conferred by the Section 23 of the Bonded Labour (Prohibition) Act, 2058 (2001 AD) the Government of Nepal has framed the following Rules.

1. **Short Title and Commencement:** (1) These Rules may be called “Bonded Labour (Prohibition) Rules, 2067”.
(2) These Rules shall come into force immediately.
2. **Definitions:** Unless the subject or the context otherwise requires, in these Rules:
 - (a) "Act" means the Bonded Labour (Prohibition) Act, 2058.
 - (b) "Certificate" means the Certificate of Class Registration issued pursuant to Rule 14 of the Act.
 - (c) “Ministry” means the Ministry of Land Reform and Management.
 - (d) “Group” means the group of the freed bonded labors registered pursuant to the Rule 14.
3. **Classification of Freed Bonded Labours:** Upon the recommendation of the Committee, the Ministry will classify the freed bonded labour to make their settlements, employment and engage in activities relating to income generation as follows:
 - (a) Class “A” for those who do not possess a house and land in his/her own

name or his/her familyname.

- (b) Class “B” for those who are settling in public or government land and do not possess any land in his/her own name or his/her family name.

- (c) Class “C” for those who possess up to two *Kaththa* land and a house in his/her own name or his/her familyname.
 - (d) Class “D” for those who possess more than two *Kaththa* land and a house in his/her own name or his/her familyname.
4. **To Issue Identity Card:** (1) The Welfare Officer shall issue the freed bonded labours identity cards based on the classification prescribed pursuant to Rule 3.
- (2) While issuing identity card pursuant to Sub rule (1), red coloured Identity Card shall be issued to the class ‘A’ freed bonded labours , blue coloured Card to class the ‘B’ freed bonded labours, yellow coloured Card to the class ‘C’ freed bonded labours, and white coloured Card to the class ‘D’ freed bonded labours.
5. **To Recommend Land:** (1) The Committee shall ascertain land necessary for settlement and cultivation for the freed bonded labours, and recommend to the Ministry.
- (2) While recommending land pursuant to Sub-rule (1), the location of the land, plot number, four boundaries, area, including the number of the freed bonded labours that can be settled in the land shall be mentioned.
- (3) The Committee, while recommending pursuant to Sub rule (1), shall recommend the land which is the most suitable for settlement and cultivation from among the following lands:
- (a) Land, registered in the name of the Government of Nepal, government companies, Committees formulated by the Government of Nepal, commissions or committees formulated pursuant to Development Committee Act, 2013 (1956 AD), but not used by the Government of Nepal, such a

Committee or Commission,

(b) Public or private land, devoid of dense forest and vegetation.

(c) Land of community or forest area devoid of dense forest and vegetation.

- (d) Leftover land of public or government after separating the river-sides and riverboundaries.
 - (e) Public or government land located at the boundary of the plot of any person.
 - (f) The land brought into the possession of the Government of Nepal again pursuant to Rule 10 after allotting it one-time to the freed bonded labours.
6. **To Allot Land:** (1) The Government of Nepal shall allot a maximum of five *Kaththa* land from the lands recommended by the Committee pursuant to Rule 5 for settlement and cultivation for the family of the freed bonded labours of class 'A' and 'B'.
- (2) While allotting land pursuant to Sub rule (1), as far as possible, the land being used by the freed bonded labours shall be allotted.
- (3) Provided that it is not possible to allot land to the freed bonded labours pursuant to Sub clause (1), the Government of Nepal may purchase land, and make an allotment.
- (4) Notwithstanding anything written in the Sub rule (1) and (3), the freed bonded labours who have secured loans pursuant to these Rules for procurement of land, shall not be allotted land.
7. **Ceiling of Land to be Allotted:** While allotting land to the freed bonded labours pursuant to Rule 6, allotment shall be made in the following areas, as follows:
- (a) Maximum one *Kaththa* in the municipalities or bazaar areas adjoining the national highways.
 - (b) Maximum two *Kaththas* in the areas adjoining the national highways other than those of the division (a).
 - (c) Maximum five *Kaththas* in areas other than those of the divisions (a) and (b).

8. **To Distribute Land Ownership Registration Certificate:** (1) Subsequent to the decision of the Government of Nepal to allot land pursuant to the Rule 6, the Welfare Officer may issue Land Ownership Registration Certificates to the respective freed bondedlabours.

(2) In the Land Ownership Registration Certificates in pursuance of Sub rule (1), it shall also be stated that such a land is not allowed to mortgage or transfer ownership by anyreason.

9. **Not Allowed to Mortgage or Transfer Ownership:** (1) the land allotted to the freed bonded labours by the Government of Nepal shall not be allowed to secure the loan by mortgaging the land in any financial or other institution or transfer ownership to anybody by anyreason.

(2) Notwithstanding anything written in Sub-rule (1), there shall be no restriction to share the property among the legal sharers of the freed bonded labour, and to transfer ownership to his/her heirs after his/herdemise.

10. **Shall Be Established in the Name of the Government of Nepal:** (1) Under one of the following situations, the land allotted to the freed bonded labour shall be removed from the name of the freed bonded labour and registered in the name of the Government of Nepal.

(a) After allotment of the land, if it comes to the light that somebody had obtained the land by submitting false documents of identity card of free bonded labour or based on such an identitycard.

(b) If the person himself/herself or his/her family does not settle in the land allotted to the freed bonded labour, or if the land is not occupied for a period of three consecutive years ormore.

(c) Conditioned that he/she could not be settled in the land set for the freed bonded labours prior to these Rules came intoforce.

(2) In the event of Part (c) of Sub clause (1), the freed bonded labours will be allotted land elsewhere.

11. **Shall be provided Money and Construction Materials**: Those freed bonded labours of class ‘A’ and free bonded labours of class ‘B’ without a house or having houses but displaced from the place, who have been allotted land pursuant to these Rules, shall be provided money and timber onetime for construction of a house as decided by the Government of Nepal as a cost for construction of the house.
12. **Other duty, Responsibility and Authority of the Committee**: In addition to the duty, responsibility and authority stated elsewhere in the Act and these Rules, the following shall be the duty, responsibility and authority of the Committee:
- (a) To identify appropriate land for settlement of the freed bonded labours, and recommend to the Ministry.
 - (b) To prepare an up-to-date roster of those freed bonded labours who were allotted land for settlement pursuant to these Rules, those remaining to be allotted land, and those who received land but could not yet been able to possess and use the land for various reasons.
 - (c) To coordinate the programmes conducted by different agencies, non-governmental institutions and organizations.
 - (d) To assist in the effective implementation of the programmes introduced by the Government of Nepal for income generation, business and employment promotion of the freed bonded labours.
13. **Duty, Responsibility, and Authority of the Welfare Officer**: In addition to the duty, responsibility and authority mentioned elsewhere in the Act, and these Rules, the Welfare Officer shall have other duty, responsibility and authority as follow:
- (a) To conduct income generating programmes through contact and coordination with different governmental and non-governmental organizations and institutions for the freed bonded labours.

(b) To prepare an up-to-date roster of freed bonded labours that have received income generating training, and submit in the Ministry fifteen days before the end of every fiscal year.

(c) To conduct training programmes approved by the Government of Nepal for income generation, business and employment promotion for the freed bonded labours.

(d) To follow up whether the freed bonded labours who received loans from the Fund have been carrying out businesses as per the agreement.

(e) To recover loans provided to the freed bonded labours.

(f) To encourage and assist the freed bonded labours to be united and mobilized as per the spirit of cooperatives.

(g) To collect information about employment and inform the freed bonded labours through proper media.

14. **To Form Groups:** (1) the freed bonded labours may form Groups consisting of at least twenty five families of the freed bonded labours for carrying out any income generating business in union.

(2) The freed bonded labours who choose to form a Group pursuant to Sub rule (1), may apply to the Welfare Officer for the registration of such a Group enclosing an application fee of Rupees fifty in the format prescribed in the Schedule-1.

(3) On verification of the application along with the documents received pursuant to the Sub rule (2), and if found suitable to register the group, the Welfare Officer shall register the Group of the freed bonded labours and issue a certificate to the applicant in the format prescribed in the Schedule-2.

(4) To facilitate the freed bonded labours in the registration of the Group pursuant to these Rules, the Ministry shall make provision of providing the bylaw of the Group through the Welfare Officer by preparing samples of other necessary documents.

15. **Provision Relating to Renewal:** (1) the validity period of the Certificate shall remain till the end of fiscal year.
- (2) The Group intending to renew the certificate shall apply to the Welfare Officer fifteen days before the expiry date of the Certificate with a renewal fee of Rupees fifteen.
- (3) On receiving an application pursuant to Sub rule (2), the Welfare Officer may renew the certificate.
- (4) Notwithstanding anything written in Sub rule (2), if any Group approaches for renewal within three months of the expiry of the certificate, the Welfare Officer may renew the certificate charging an additional fee of Rupees hundred.
16. **May send on Foreign Employment:** The Government of Nepal may make adequate provision for sending on foreign employment to those freed bonded labours that choose to go to foreign employment.
17. **Loans may be Provided:** (1) The Government of Nepal may provide loan for one time for procurement of up to two *Kaththa* land to those freed bonded labours of class 'A' and 'B' who have not received lands pursuant to these Rules.
- (2) The Government of Nepal may recommend to the concern entity for providing loans to the freed bonded labours of class 'C' and 'D' for operating a business.
- (3) The Government of Nepal may provide loan on individual or Group basis to those freed bonded labours or Group who intend to do any income generating business.
- (4) The Government of Nepal may provide loans for buying of airplane tickets to the freed bonded labours who intends to go to foreign employment.
- (5) The loans pursuant to Sub rule (4) and (5) shall be provided from the amount accrued in the Fund.

(6) The annual interest rate of the loans provided under these Rules shall not be more than threepercent.

18. **May Request for Loan:** (1) In pursuance of Rule 17, if any freed bonded labour or a Group intends to secure loan, an application shall be submitted to the Welfare Officer in the format prescribed in Schedule-3.

(2) On verification of the application received pursuant to Sub rule (1), if found justifiable to provide loan to the applicant, the following authority or entity may provide the loan to the freed bonded labour or theGroup.

(a) If it is up to a Rupees fifty thousand by the related Welfare Officer,

(b) If it is more than a Rupees fifty thousand, but less than Rupees hundred thousand by theSub-committee.

(c) If it is more than Rupees hundred thousand by the Secretary of the Ministry on the recommendation of theSub-committee.

(3) In pursuance of Part (b) of Sub rule (2), a Sub-committee, consisting of head of Revenue Office and head of Survey Office, shall exist in the coordination of the WelfareOfficer.

(4) Notwithstanding anything written in Sub rule (2), the Secretary of the Ministry shall provide loans pursuant to Sub rule (1) and (5) of Rule 17 on the recommendation of theCommittee.

19. **Shall make an Agreement:** Following the decision to provide a loan pursuant to Rule 18, the Welfare Officer shall make an agreement with the freed bonded labour or the Group in the format prescribed in Schedule-4 before offering the loan.

20. **Loan to be Expend for Related Work:** (1) the loan received by the freed bonded labours pursuant to these Rules shall be expended in the work for which the loan was taken.

(2) The Welfare Officer may recover the loan amount anytime in the event that the freed bonded labour or Group expands the loan amount in contradiction to Sub rule (1).

21. **Progress Report to be submitted:** (1) The Group shall submit a report with details of work progress to the Welfare Officer every threemonths.

(2) The Welfare Officer may inspect the work progress of the Group anytime and give necessary instructions to the Group.

(3) It shall be the responsibility of the Group to follow the instructions given pursuant to the Sub rule (2).

22. **To Monitor:** (1) The Welfare Officer may or cause to monitor as regards to the used of the land allotted to the freed bonded labours along with whether the programmes initiated for income generation and employment for the freed bonded labours have been effective or not, and whether the freed bonded labours who received loans pursuant to these Rules have or have not used the loans as per the Agreement.

(2) The Welfare Office shall submit reports with factual details following the follow-ups pursuant to Sub rule (1) regularly to the Ministry.

23. **To Enforce by Preparing Working Procedures:** To implement these Rules, the Ministry may prepare necessary working procedures and enforce them.

24. **May Change in the Schedules:** The Government of Nepal may change in the Schedules by publishing notices in the Nepal Gazette.