Demystifying Care in Nepal for Domestic Workers Mapping of Care Policies in Nepal

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Introduction

In the FY 2021/22, a total of 623,842 Nepali citizens were reported to have been outside Nepal as migrant workers.¹ In the previous two fiscal years, foreign employment permits were issued for more than 700,000 individuals. According to Ministry of Finance, over 11 years from FY 2012/13 to FY 2022/23, contribution of remittances on GDP is progressively not less than 20 per cent.²

The inflow of remittances from foreign employment is, however, at the cost of several personal and social sacrifices. The data suggests that suicide is a major cause of migrants' death in the foreign soil.³ Within Nepal, the communities are tackling with scarcity of youth and men of work age-group.⁴ Consequently, women are compelled to engage in taking care of children, elderly family members and home. Also, it has increased feminization of agriculture in rural Nepal.⁵

On the other hand, among the total employed population in Nepal, 84.6 per cent (6 million) engage in informal work.⁶ And 90.5 per cent of women workers in Nepal engage in informal sector. Labour force participation for Nepali women aged 15-64 was only 26.3 per cent in 2017-2018, compared to 53.8 per cent among working-age Nepali men.⁷ Women are largely limited within unpaid domestic work, compromising their prospects in paid employment due to stereotypical gender roles and low level of education.

The Nepal Labour Force Survey (NLFS) - 2017/18 has estimated around 62 per cent people to be employed in the informal sector. Informal sector (non-agriculture) comprises those employed in enterprises that are neither incorporated nor registered with authorities. Informal (non-agriculture) sector accounted for 41 per cent of all jobs. Males mostly employed in informal non-agriculture sector were 45.8 per cent, while women were 32.9 per cent.

Such data suggests that Nepal is witnessing shrinking number of work-force within country and increasing proportion of elderly population and young children. This indicates that there is growing necessity of care within country. Consequently, women are compelled to shoulder a disproportionate burden of care work as well as household work.

Care Needs in Nepal

The proportion of population who require care is increasing in Nepal. In 2021, the population aged 14 years or below was 27.83% and the population aged 65 years or above was 6.93%. Therefore, elderly dependency ratio as per 2021 census is 10.63 per cent and overall dependency ratio is 53.28 per cent. Similarly, the 2021 census shows that 2.2 per cent of the total population have one or the other type of disability which was 1.94 per cent as per 2011 census.

¹ Nepal Labour Migration Report 2022.

² For details, see <u>- Dashboard (mof.gov.np)</u>

³ <u>वैदेशिक रोजगारी: 'आत्महत्या एक प्रमुख समस्या', समाधान कसरी खोज्ने? - BBC News नेपाली</u>

⁴ वैदेशिक रोजगारीले रितिदै छन गाउँ (gorkhapatraonline.com)

⁵ Tamang, et.al. (2014).

⁶ Report on the Nepal Labour Force Survey 2017/18. Central Bureau of Statistics

⁷ Ibid.

⁸ Central Bureau of Statistics, 2023.

There is no data available on the total number of population suffering from chronic diseases. Yet a study on prevalence of selected chronic disease in Nepal found a high prevalence of chronic non-communicable diseases. Cardiovascular diseases (24%), chronic respiratory diseases (21.1%) and neoplasm (11.2%) were the top three leading causes of death in 2019. Similarly, the migration of youth and working age group to foreign countries has also increased the care need within Nepal.

Care Infrastructure in Nepal

Nepal's care infrastructure can be understood as Social Protection Programme (SSP) that targets various social groups under social insurance, social assistance and labour market programmes. There are more than 80 social protection programmes which are implemented by 13 ministries and their agencies.¹¹

In fiscal years 2011-12, 2012-13, 2013-14 and 2014-15, the government spent 1.9 per cent, 2.1 per cent, 2.0 per cent and 2.4 per cent of GDP on social security, respectively. In FY 2022, 11.34 per cent of the federal budget was allocated for social protection. As per government's estimates, the expenditure in a set of five Social Security Allowances (SSA) covered 43 per cent of the government's social protection budget, that is, 1.71 per cent of gross domestic product (GDP). In a set of five Social Security Allowances (SSA) covered 43 per cent of the government's social protection budget, that is, 1.71 per cent of gross domestic product (GDP).

The SSA programme is the largest social assistance programme with an expenditure of NPR 41.2 billion in FY 2018-19, which constituted 48 per cent of total social assistance spending. Other key social assistance programmes include scholarships and midday meals under the Ministry of Education, Science, and Technology (MOEST); health schemes under the Ministry of Health and Population (MOHP); and the Prime Minister Employment Programme under the Ministry of Labour, Employment, and Social Security (MOLESS). The government's 15th Plan (FY19/20–23/24) aims to cover 60 per cent of the population with some form of social protection within its five-year period.

Approximately 32.9 per cent of the population was covered by at least one social security benefit in FY 2020-21. The total expenditure of social protection programmes in the same fiscal year was approximately 210 billion Nepalese rupees, equivalent to 4.9 per cent of the GDP and 16.6 per cent of total government expenditure.

⁹ Population Based prevalence of selected non-communicable diseases in Nepal. It reports that Chronic Obstructive Pulmonary Disease was the most prevalent (11.7%) followed by Diabetes Mellitus (8.5%), Chronic Kidney Disease (6.0%) and Coronary Artery Disease (Definite: 0.5%, Probable: 0.3% and Possible: 2.1%). CKD-Report-pdf-resize.pdf (nhrc.gov.np)

¹⁰ Nepal Burden of Disease 2019: A country report based on the 2019 global burden of disease study.

¹¹ Integrated National Social Security Framework, 2080.

An Analytical Briefing in the social security sector in Nepal, 2017. This expenditure covers pension allowance, social assistance allowance and scholarships, of which expenditure on scholarships was 0.1 per cent of GDP in all four FYs, expenditure on social assistance allowance was 0.6 per cent in FYs 2011-12 and 2013-14, and 0.7 per cent in FYs 2012-13 and 2014-15. The expenditure on pension allowance was 1.2 per cent in FY 2011-12, 1.3 per cent in FY 2012-13 and 2013-14, and 1.6 per cent in FY 2014-15.

¹³ Coverage of social security allowance in Nepal, 2023, UNICEF. A set of five social security allowances include the senior citizen's allowance, the single women allowance, the child grant, the disability allowance and endangered Indigenous group allowance.

¹⁴ Social Protection: Review of Public Expenditure and Assessment of Social Assistance Programs, 2021.

Care policies and services for older people with care needs

The government of Nepal does not promote elderly home and instead compel the family to take care of senior citizens, who have completed the age of sixty years. The act has a provision that the senior citizens who are not being taken care of can file a complaint. If the act of persuading family members or relatives fails, the locally elected representative at concerned municipality can even issue an order in writing to the family member, relative or heir to care the senior citizen. The Act does not specify the next appropriate step in case the order is not followed, but relieves the chairperson or mayor from further intervention. Yet the Senior Citizens Rules, 2065 (2008) has a provision for neglected or abandoned senior citizens to be kept in the government-run care centre if any, and if not so in a private or non-governmental care centre.

The Rule provisions Senior Citizens Club can be established under the prevailing law, ensuring minimum infrastructure and facilities as set in the Rule. For such clubs, the local government shall also offer certain budget annually. The Rule has a provision of establishing Senior Citizens Welfare Committee at district level to oversee care centre, club and other associations, and report to the Central Senior Citizens Welfare Committee. Neither Senior Citizens Fund has been established as per the Act nor such Senior Citizens Welfare Committee is functioning well.

Currently, the retirement age is 60 years in health, education and university services and 58 years for civil servants. The Senior Citizen Allowance to all citizens over the age of 75 was introduced in 1995. Currently, those who are 70 and over are eligible to receive NPR 4000 per month as Old Age Allowance. Senior citizens between the ages of 60 and 69 in the Karnali Districts and Dalits nationwide are entitled to NPR 2,660 per month. Those over 70 years also receive NPR 12,000 as medical treatment allowance. It is mandatory that public vehicles reserve at least two seats for senior citizens, and provide 50 per cent concession on the fare.

A 2013 study showed that the Old Age Allowance was too low and the senior citizens should also be provided other concessions.¹⁷ It was merely NPR 500 then. Given the increase in the amount of Senior Citizen Allowance and other concessions, it is expected that the Senior Citizens are quite satisfied with the allowance and benefits they are entitled to.

There are not any data available about the number of old-age care homes currently operating in Nepal. Yet a study claims that there were at least 70 old-age care homes in 2010, without specifying them as government-run or non-government-run. A government-run Elderly's Home in Pashupatinath, Kathmandu which has a capacity for 230 unattended older citizens, offered shelter and care to 81 older citizens of which 52 were women and 29 were men in FY 2023/24. The progress report highlights that many older people from the shelter do not possess citizenship cards, limiting their access to other facilities for senior citizens. ¹⁹

The national Human rights commission has revealed a striking finding in their observation of various types of old age home across the nation. It claims that the government's grants to such

¹⁵ Senior Citizens Act, 2063 (2006).

¹⁶ Social Protection Budget Brief Update: FY 2022/23.

¹⁷ Social and Economic Implications of Old Age Allowance in Nepal, 2020.

¹⁸ Dhital, S. & Chalise, H. N. 2015.

¹⁹ The Progress Report 2023/24, 2079-080-को-प्रगति-विवरण-1698728985.docx (live.com)

care homes is foremost distributed based on access, and without assessing the real needs. Secondly, the resources are not utilised properly.²⁰

Childcare policies and services

It is reported that there were 585 registered Child Care Homes (CCHs) in operation in 2015.²¹ The number reduced to 533 in 2019. Among 533 CCHs, there were eight child correction homes run by the government to provide protection and support to juvenile children in 2019. Similarly, over 15 child rehabilitation centres and transit homes were in operation that year. There were five Martyrs Academy in that year to provide residential and education services for children affected by armed conflicts.²² The 2015 report identified some problems in the CCHs that included but not limited to financial transparency, vulnerability to exploitation and/or abuse and substandard facilities.

In the past decade (2011/12 to 2020/21), the government invested 13.2 per cent on average, of the total national budget in education sector. The government's allocation of budget to the education sector in the past five years remained around 4.2 per cent of GDP.

So far, the investment on pre-primary education/early childhood education and development in FY 2019/20, 2020/21 and 2021/22 were 1.67 per cent, 1.71 per cent and 2.72 per cent of the total budget, respectively.²³ Similarly, the government has increased its investment in midday meals to NPR 8 billion in FY 2077/78.²⁴

Besides, the government runs national immunization programme for infants and scholarship schemes for girl children, street children, daughters of martyrs, freed Kamalari (former bonded girl labourer), children from endangered and marginalised communities and destitute family. Free education up to secondary level in community schools is offered to all children across the country.

Family-friendly workplace policies

Workers under formal employment contract are eligible for paid sick leave of 12 days a year, maternity leave of 14 weeks and mourning leave of 13 days as their right. Other leave facilities include paid public leave of 13 days and one more day for female workers on the occasion of International Women's Day, weekly leave and paid home leave at the rate of one day for twenty days of work period. Home leave is not applicable for those who get winter or summer leave.²⁵

Other than different provision regarding minimum wages and leave for domestic workers, all other provisions of the Labour Act 2017 are uniformly applied to all categories or nature of

²³ School Education Sector Plan, 2022/23-2031/32.

²⁰ Monitoring Synopsis of the Senior Citizens' Care Centres-2019

²¹ State of the Child Care Homes in Nepal, 2015.

²² State of Children in Nepal, 2019.

²⁴ Midday meal programme started in 1974 supported by World Food Programme. It continued in eight districts in Karnali and Far-Western provinces in 2020/21. The government plans to expand this programme for all basic level students, that is, up to grade 8.

²⁵ The Labour Act, 2017. In case summer/winter holidays are lesser than the period of home leave, the labourer shall get home leave for such number of days.

workers.²⁶ Yet this is a contested issue which largely depends on how the Act is interpreted. It is because the Act attempts to address domestic labours under a separate chapter, Provision Relating to Industry or Service of Special Nature, and most of other provisions are developed in a way that they fit best for formally employed labours.

There is also legal protection against any form of discrimination on the basis of religion, colour, sex, caste, tribe, origin, language or ideological convictions. However, such legal protection does not specify discrimination related to pregnancy and breastfeeding. There are also legal provisions about working hours and overtime. Workers are entitled to work eight hours a day that make up 48 hours a week. They are also entitled to half an hour rest after five hours of continuous work. In the cases of work to be carried out continuously, the rest time shall be provided turn by turn.

Support for caregivers

Nepali legal legislation does not recognise domestic caregivers. In 2022, the government introduced contribution-based social security scheme for informal workers and self-employed which is discussed under the heading 'access to social security, social insurance and social services'. Domestic workers are considered as informal workers, and thus entitled to available provisions. However, the right of caregivers, be they paid or unpaid, are not ensured by any legislation.

People in the Care Sector

Paid caregivers

The extant studies and available database do not reveal any precise information about caregivers employed in old-age care homes and child care homes. So far, there are 5 permanent staffs and 13 contractual staffs working at Elderly's Home in Pashupati FY 2023/24. Yet the progress report does not disclose other disaggregated information about the workers.

Since much data about care homes and caregivers are not publicly available, it is practically difficult to assess the real situation of care homes and caregivers. This also informs us the necessity of updating full information about the care homes, with disaggregated data on caregivers working there.

Unpaid family caregivers

Nepal Labour Force Survey 2017/18 states that 71.4 per cent of individuals aged 15 and above engage in at least one unpaid care work, with a higher percentage among women (90.7%), compared to men (47.2%).²⁷ The survey shows that 66.6 per cent involve in unpaid housework; 2.8 per cent in taking care of elderly, ill of disabled family members; and 21.6 per cent looking after children.

²⁶ Braving the Challenges: Nepali Trade Union Movement, 2024.

²⁷ The survey uses the term 'activity of providing service for final own use' to mean household chores, assistance to elderly, ill or disabled family members and looking after children, which is considered as care work in this report.

Given a considerable amount of time spent on unpaid family care work, there are growing concerns about the situation of unpaid care givers, such as

- Financial insecurity as they are deprived of the labour market due to lack of flexible working hours.
- Physical and psycho-social challenges due to lack or rest and anxiety.

The Situation of Domestic Workers

It is estimated that there are more than 200,000 domestic workers in Nepal²⁸ who are mostly women. Even if there lacks authentic data, feminisation of domestic workers is apparently observable predominantly in Nepali urban societies.

A survey by WIEGO and GEFONT Nepal show that 12 per cent of the domestic workers surveyed were under the age of 16, 17 per cent were in their twenties, and 47 per cent were between the age of 30 and 60.²⁹ A separate GEFONT study shows that 55 per cent of the domestic workers surveyed belonged to ethnic and indigenous communities.³⁰ It is remarkable to note that Kamalari (girl bonded labourer) practice was still prevalent despite its abolition in 2013. According to Freed Kamalari Development Forum, there are at least 12,769 freed Kamalari in Western Nepal.³¹

Under the President Women Empowerment Programme, the Fifteenth Plan (FY 2019/20 – 2023/24) envisions to develop management information system with gender disaggregated data by conducting a survey of domestic and care work done by women and monetary pricing and survey of the situation of gender-based violence. The government has not yet revealed any progress on it.

The aforementioned activity clearly indicates that Nepal lacks official data on domestic and care workers. As a result, Nepal cardinally needs to establish disaggregated data management system about domestic and care workers.

A significant number of Nepali women are in foreign employment as domestic workers. In FY 2021/22, 56.9 per cent of new migrant workers obtained approval for elementary occupation.³² There are four sub-categories of elementary occupations, including cleaning and laundry. Women's engagement in cleaning and laundry alone remained 39.9 per cent while men's was 10.7 per cent. Similarly, 12.8 per cent of the migrants had gone for service and sales. Service and sales category consists of eleven sub-categories, including caregiver and house-keeping. Among them, 0.3 per cent was engaged in caregiver/nursing aide and 0.5 per cent in house-keeping. Among caregivers, 2.8 per cent were women and among house-keeping, 3 per cent were women while men were 0.1 and 0.3 per cent respectively.³³

On 11 December 2022, the government passed the procedure for the operation of the contribution-based social security scheme for the workers in foreign employment and self-employment. The scheme for workers in foreign employment include i) accidental and

²⁸ ILO 2021. See <u>Decent Work for Domestic Workers</u> | <u>International Labour Organization</u> (ilo.org)

²⁹ Domestic Workers, Risk and Social Protection in Nepal, 2020.

³⁰ Isolated Within the Walls, 2011.

³¹ A Study Report on the Situation of Freed Kamaiya, Kamlahari, Haliya and Harawacharawa, 2021.

³² Nepal Labour Migration Report 2022.

³³ Ibid.

disability protection scheme, ii) dependent family protection scheme, iii) old age protection scheme, and iv) retirement fund scheme.³⁴

Existing Legal Provisions regarding Domestic Workers within Nepal

The Labour Act, 2017 sets some provisions for domestic labours/workers but does not particularly define domestic labours or workers. Domestic workers are included in the broader definition of informal worker who work for oneself or for others without any temporary contractual and social security provisions, unorganised and out of the income tax periphery. An ILO report even highlights a problem in the definition of informal worker in recently introduced SSF scheme. It suggests to categorise informal worker and self-employed as "Independent Workers" or "workers in employment for profit" as per the ICSE-18-A³⁵ and ICSE-18-R. Thus the report argues that both informal workers and self-employed can be broadly considered as the workers not in salaried work who can benefit from the new provisions without necessarily any definitions of informality. However, legal ambiguity or loophole is a major hindrance in Nepali context which has excluded several groups of people from exercising their human rights. Therefore, clarity on definition or scope has to be ensured for effectiveness of any programmes.

Labour Protections

Currently, the minimum monthly wage of workers excluding tea state workers has been set at NPR 17,300.³⁷ However, there has not been any minimum wage determined for domestic workers as stipulated by the Labour Act 2017. The Procedure for the Operation of Contribution-based Social Security Scheme for Informal Workers and Self-employed defines minimum basic wage as 'minimum basic wage for labourers working in industries which the government of Nepal determines time and again'.³⁸ This limited notion of minimum basic wage poses a challenge in applying contribution-based social security scheme to the domestic workers and caregivers as the scheme is based on minimum basic salary.

Also, the Act provisions that the remuneration can be deducted in the case of live-in domestic worker. Due to absence of a separate procedure in regard to domestic workers as required by Article 88(2) of the Act, domestic workers are deprived of leave facilities and other related provisions. Other than formal employees bound by contract, domestic workers' job, including work hours, is based on informal agreement with the employer. Consequently, domestic workers' continuations in work and safety at workplace have always been fraught with peril.

Representation and collective bargaining rights of domestic workers

Nepal lacks any specific legislation that binds domestic workers legally, secure their rights to decent work and freedom of association, and the like. Yet there exist several

³⁵ For more details, see <u>International Classifications of Status at Work and Status in Employment (ICSE and ICSaW) - ILOSTAT</u>

³⁴ Earth in Yellow Flower (ssf.gov.np)

³⁶ ILO (2023) Extending contribution-based social security schemes for workers in the informal economy and self-employed in Nepal

³⁷ Section 73, No.24, Ministry of Labour, Employment and Social Security, Nepal, to be implemented from 17 July 2023

³⁸ See the Procedure for details. Available at <u>17169880149914 Informal and Self Employed Procedure with First Amendment.pdf (ssf.gov.np)</u>

non-governmental organisations and trade unions that actively advocate for domestic workers. The right to join trade unions is ensured by the Constitution and solidified by the Labour Act, 2917 and the Trade Union Act, 2049 (1992).

Access to social security, social insurance, and social services

Since August 2023, the government of Nepal has extended the SSF to informal workers and self-employed.³⁹ The scheme includes domestic workers under informal worker category, but does not define domestic worker in particular.⁴⁰

Domestic workers under the category of informal worker are entitled to i) medical care, health, and maternity protection scheme, ii) accidental and disability protection scheme, iii) dependent family protection scheme, and iv) old age protection scheme if they join the contribution-based social security.⁴¹

The health facilities should be sought from designated hospitals, however, the scheme has a wide range of health and maternity protection offers. To name a few, pregnancy and delivery related costs including for up to six weeks after delivery and for up to three months for infant is offered to both informal worker herself and wife of a man working in an informal sector. For infant's care, amount equal to the minimum basic salary is offered to the new mom or the male contributor whose wife has delivered a baby. This applies even if a dead child is born or abortion of 24 weeks of pregnancy. The contributor, contributor's spouse and below-18-year-old children are also eligible to receive maximum NPR 100 thousand in a year for medical treatment.

Accidental and disability protection scheme covers maximum NPR 700 thousand for accident-caused treatment. If the contributor is completely temporarily unable to return to work due to accident, the contributor shall be paid 60 per cent of the basic salary till they return to work. There is also a life-long provision of 60 per cent disability pension.

Dependent family protection scheme is applied when the contributor dies. The dependent (spouse or parents) receive pension equivalent to 40 per cent of their basic salary every month. Offsprings below the age of 21 are eligible to scholarship, amounting in total 40 per cent of the basic salary. There is a provision of NPR twenty five thousand for death rites.

Old age protection scheme is an extended scheme in which workers from informal sector can join by additionally contributing 31 per cent of three times the basic salary. Upon completion of 60 years of age, the contributor is eligible to receive the amount saved in old age protection scheme as well as the interest deposited by the Fund. The monthly pension is calculated by dividing the total sum (contribution plus interest) by 160. In case the contributor dies before maturity of the scheme, their family or heir will receive the total sum (contribution plus interest).

As per the scheme, 20.37 per cent of the basic monthly salary of workers in the informal sector has to be contributed to the Social Security Fund, out of which workers share 11 per cent and the government contributes 9.37 per cent.

³⁹ Coverage extended to informal workers and self-employed (kathmandupost.com)

⁴¹ See the Procedure for details. Available at सामाजिक सरक्षा कोष (ssf.gov.np)

The scheme rules that the workers can join the scheme by contributing entire 20.37 per cent on their own in case the government cannot contribute its share.⁴² This means that the workers cannot join the scheme by contributing only their share of 11 per cent when the government fails to contribute its share. This is a burden on the part of the low-wage workers, domestic workers in particular, and it is likely to discourage them in joining the scheme.

Additionally, for a live-in domestic worker⁴³, the calculation of 11 per cent of the basic wage becomes complicated and burdensome. This is also likely to deprive the domestic workers from available benefits of the scheme.

Emerging Features and causes that demand domestic Workers

The key-informant interview (KII) showed that the demand of domestic workers is scaling up particularly in urban areas mainly due to increasing number of nuclear family and emigration A representative from Home Workers' Trade Union on Nepal (HUN) shared that there are cases of informalisation of formal sector. The HUN has been informed that even formal sectors try to employ workers informally. There are incidents of caregivers being supplied by agencies. At the same time, a growing number of hostels are employing domestic workers for tasks such as cooking, cleaning and laundry. He pointed that small cottage industry such as garment has employed persons on informal basis who produce and supply them fine product from their own residence. Even informally-contracted person is seen employing other workers informally.

The other informant shares that it is trending to hire caregivers in urban areas for taking care of old age people twice or thrice a week. Whereas, particularly for old age people having chronic disease, care workers who are trained or certified in basic nursing/caring are hired on live-in basis. The informant claims that caregivers looking after old age people with chronic diseases are provided a good amount of salary that ranges from 24 thousand to 45 thousand per month. The demand of care worker for the care of postpartum mother is expanding. Those care workers are mostly assigned for three to six months. Yet such employment is based on informal agreement.

⁴² See the Procedure for details. Available at सामाजिक सरक्षा कोष (ssf.gov.np)

⁴³ Section 88 (3) of the Labour Act, 2017 states, Where the employer has arranged for food and shelter of a domestic labour in his or her house or assisted in his or her study, the employer may deduct the amount for such purpose from the remuneration of the labour. This condition confuses the basic salary.

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