



राष्ट्रिय मानव अधिकार आयोग

National Human Rights Commission, Nepal

केन्द्रीय कार्यालय Central Office

हरिहर भवन, पुल्चोक, ललितपुर, Harihar Bhawan, Pulchowk, Lalitpur, Nepal



Press Note

13 August 2020

Rights of Migrant Workers in the Clutches of COVID – 19 Pandemic Study Report, 2020 is made Public

The Commission recommends ensuring the rights of the Nepali Migrant Workers

The NHRC Chairperson Anup Raj Sharma made public a study report on the Rights of Migrant Workers in the Clutches of COVID – 19 Pandemic, 2020 by the National Human Rights Commission.

On this occasion, the Chairperson informed that the Commission is monitoring the pandemic situation on thematic basis and in general. He also stated that the Commission initiated its effort to rescue the Nepalese students, studying in Wuhan from the very beginning of COVID – 19 pandemics. He also opined that during lockdown, the suicide cases have been increased and it has to be studied and analysed. Similarly, he also necessitated the study of the situation of the Nepalese migrant workers in Lebanon and showed dedication of the Commission to study it by the NHRCN. The report has been prepared in the leadership of Hon. Member of the Commission Mr. Sudip Pathak including other experts and the staff members of the Commission.

The Hon. Member of the Commission Mr. Sudip Pathak, Joint Secretary of the Ministry of Foreign Affairs Mr. Harischandra Ghimire, the representatives of the national networks and organizations for labour migration also shared their views. The followings are the recommendations on the basis of the facts received from the study made to the Government of Nepal, Office of the Prime Minister and the Council of Ministers.

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Bed Bhattarai

Secretary/Spokesperson

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The Followings:

Recommendations to the Government of Nepal with regard to migrant workers

Based on the conclusions of the study carried out on the impact of the COVID-19 on Nepali migrant workers and their families, the following recommendations have been made to the government, private sector and stakeholders' policy, programme and their implementation in relation to the human rights and labour rights of the migrant workers including right to health and right to life, access to justice and compensation, repatriation, rehabilitation and (re) integration.

1. Protection of right to life and right to health

(a) In the Countries of Destination (CoDs):

- Government of Nepal to immediately collect details of the documented/undocumented migrant Nepali workers who have tested positive to COVID-19, who have not been able to test for COVID-19 and who have not received treatment and arrange free and as required high standard health and medical services without any discrimination;
- Take effective diplomatic measures to make the governments and employers of CoDs responsible in protecting Nepali migrant workers who are currently in various CoDs from COVID-19 infection;
- Take diplomatic measures as required to ensure that the Nepali workers returning home do so only after a PCR test;
- Take effective measures to ensure the right to health of the migrant workers with underlying health conditions other than COVID-19, including for their proper care, check-up and treatment.

(b) In Nepal

- Ensure that physical distance as per the prescribed protocol is maintained in the airport following arrival (of the migrant workers) in the country and in the vehicles during their transfer to holding centers and from there to the local quarantine centers;
- Establish a provision whereby the returnees follow a mandatory 14-day quarantine and are sent home only after they test negative (to Corona Virus) through a PCR test;
- Ensure that the quarantine and isolation centers are according to the standards prescribed by the Government and provide special treatment to women, pregnant and lactating women and those with underlying health conditions;

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- Provide necessary mental health service and psychosocial counseling to the returnee migrant workers.

2. Protection of Labour rights and welfare:

- Take immediate necessary measures to protect the migrant workers against the violation of labour rights including unilateral cancellation of contract, forced unpaid leave, forceful termination from job, under-payment or non-payment of salary and benefits, forced labour, forcing to work for excessive hours than the standard and in hazardous condition in the COD;
- Support Nepali migrant workers who have lost their job due to Corona Virus infection or any other reason in the Countries of Destination and are willing to continue working without inviting any risk to their health and labour rights;

3. Rescue and Repatriation

- Determine the prioritization of migrant workers who have to/who wish to return based on their special condition and vulnerabilities. Make arrangements to repatriate them immediately to Nepal and implement the orders of the Supreme Court on this matter;
- Make arrangements to provide air travel, transportation and food cost for the Nepali migrant workers who have been left with no savings, who have not been provided return ticket by their employer and who are undocumented, along with essential drinking water, food and accommodation (in case of two or more than two days required) during the travel home;
- Protect the rights of the migrant workers whose contract period has not expired but wish to return by annulling the contract due to the perceived/actual risk of infection or any other excesses;
- Formulate required policies and plans to facilitate the immediate return of the Nepali workers stranded in India, and implement the order of the Supreme Court and directives from various Parliamentary Committees in this regard;
- Respect, protect and fulfill the right of the family members of the migrant workers, who have died in the Countries of Destination, to cremate their loved ones and perform death rituals as per their tradition by ensuring dignified return of the dead body and not cremating them in the CoDs against their wish. Also, implement the previous orders of the Supreme Court in this regard.

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4. Access to Justice and Compensation:

- Collect and document the details and evidence to facilitate access to justice of the Nepali migrant worker whose human rights and labour rights have been violated, and make the authorities and employers in the countries of destination responsible in this regard as required;
- Hold to account the governments and employers in the CoDs and recruiting agencies in Nepal to ensure access to justice and compensation to the Nepali workers whose human rights and labour rights have been violated including by denying them their wage and payments, removing from job, forcing them to go in unpaid leave and not providing a return ticket. Adopt high-level political and diplomatic measures as required in this regard;
- Determine specific standards to provide compensation to the Nepali migrant workers who have had to return after losing their job and income but were not compensated by the employer or government in the CoDs;
- Make arrangement to compensate the Nepali migrant workers who suffered human rights and labour rights violation but paid for their own expenses to return.

5. Protection of women migrant workers and those at particular risk:

- Ensure special protection to the women workers in special condition including those who had gone/were taken through informal channel, the pregnant and lactating women and domestic workers based on their vulnerability;
- Identify the Nepali migrant workers and their families who are undocumented, with disabilities, senior citizens and with underlying health conditions and provided them special protection based on their vulnerability and needs;
- Analyze and address the problems and needs of the migrant workers, especially women who are facing/could face problems in reintegration into their family and community following their return to Nepal.

6. Collection, management and use of information and data

- Maintain integrated and disaggregated database of Nepali migrant workers who have left for and returned from foreign employment to be used in preparedness and formulation of policy and programmes for essential response, protection, rescue, rehabilitation and reintegrated based on a factual analysis during times of a crisis like the present one;

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- Collect the detailed information of the migrant workers who have been infected and who have died of Corona Virus, who have lost their employment and income due to impact of COVID-19, and those are facing other economic, psychosocial and social problems in the CoDs;
- Carry out regular study of the impact and changes in the labour market of the CoDs due to COVID-19 to reflect it in the related government's policy and programmes accordingly. Also formulate and implement practical policy and programmes following a study of socio-economic impact including on the employment, livelihood and skills, and (psycho) social capital of the affected Nepali workers.

7. Right to information

- Ensure dissemination of adequate and timely information related to the matters of concern and needs of the Nepali migrant workers and their families during times of a crisis like the present or in another situation;
- Immediately inform the families of the migrant workers who have been infected with Corona Virus and regularly update them about their health condition;
- Inform the families of the migrant workers immediately if any migrant worker has died in the CoD and has to be cremated there itself if it is not possible to bring the body to Nepal;
- Ensure the right of the migrant workers and their families to timely and accessible information and notice related to the policies and programmes on health, employment, income, amnesty, repatriation and quarantine adopted by the CoDs and Government of Nepal in the context of COVID-19 pandemic.

8. Rehabilitation and reintegration

- Make the agencies up to the community level responsible in protecting the returnee migrant workers from possible hate, stigmatization, exclusion, harassment, discrimination and abuse, and ensure the legal rights of those who fall victims to such excesses. Conduct widespread awareness raising campaigns to that end;
- Make necessary arrangement as per the wish of the returnee migrant workers who face challenges in family reunification, and facilitate accordingly;
- Make arrangements to provide necessary psychosocial counseling to migrant workers who face psychosocial problems during foreign employment in the CoDs and (upon return) in Nepal;

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- Identify the migrant workers and their families who have lost their employment and income due to the impact of COVID-19 and have fallen into a debt bondage, and introduce special economic relief and rehabilitation program while ensuring their easy access to it;
- Formulate and implement effective policies and programs for immediate reintegration of the returnee migrant workers based on their skills and capacity. Ensure effective coordination between the local, provincial and federal government and concerned ministries for it.

9. Mechanism, Coordination and Collaboration

- Make inter-ministerial cooperation for protection of human rights and labour rights, rehabilitation and reintegration of migrant workers affected by COVID-19 effective and implementation-oriented. For this, ensure participation of the stakeholders including migrant workers and their families in the formulation and implementation, and monitoring of the policy and programmes based on the whole-of- government and whole-of-society approach;
- Ensure adequate resources (technical, financial and human resources) for effective functioning of the Nepali diplomatic missions in countries of destination;
- Ensure effective communication and coordination among Nepali diplomatic missions in CoDs, Ministry of Foreign Affairs, Ministry of Labor, Employment and Social Security, COVID-19 Crisis Management Committee (CCMC) and other stakeholders in the COVID-19 crisis response;
- Set up a multi-stakeholder mechanism with required authority to formulate and effectively implement short-term, medium-term and long-term policies and programs based on evidence-based study on protection of human rights and labour rights, access to justice, rehabilitation and reintegration.

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