

**Introduction**

National Human Rights Commission, Nepal has envisioned the society where all human rights are practiced with equal respect, dignity and social justice for all. Protecting rights of the migrant workers, together with working on several other human rights issues, remained one of the key priorities for National Human Rights Commission (NHRC), Nepal. NHRC Nepal has been undertaking varieties of activities and interventions provided by the Constitution and act to protect the rights of the migrant workers.

The NHRC Nepal was created in response to 1991 UN-sponsored meeting of the representatives of national institutions held in Paris. The meeting laid down Paris Principles, a detailed set of principles on the status of national institutions and has become the foundation and reference point for the establishment and operation of the National Human Rights Commission of Nepal as well. The Commission is fully compliant with the principles relating to the status of national institutions (Paris Principles) and has been accredited with “A” status by the Global Alliance of National Human Rights Institutions.

Article 249 (1) of the Constitution of Nepal (2015) provides the respect, protect and fulfill the human rights and ensuring its effective implementation. In addition, National Human Rights Act 2012 also further elaborates the mandate. The Commission is competent to launch inquiries and investigations into alleged human rights violations, and can recommend legal or departmental action against human rights violators. The establishment of the Commission complies with the standards set out in the 'Paris Principles'. To name a few, independence is guaranteed by the Constitution and an act; a broad mandate based on universal human rights standards. Apart from these powers, the Constitution has also envisaged that the Commission may review the provisions on safeguards provided by the Constitution and other prevailing law for the enforcement of human rights and submit necessary recommendations for the effective implementation of such provisions.

**Initiatives on Rights of the Migrant Workers**

The Commission has been active towards monitoring the situation of rights of the migrant workers as well as policy recommendations to the Nepal Government. This is done on the basis of the facts and suggestions received from the Commission’s monitoring, interaction with the stakeholders, consultation with the experts, regional conferences, and national consultations. In addition, it considers the information gathered through monitoring of the border posts at the Nepal India and Nepal China, as well as information from the Immigration Department, Department of Foreign Employment, Labour Desk at the Tribhuvan International Airport and other sources.

**Consultative Discussions**



NHRC, Nepal's Consultation with diplomatic community in Kathmandu. October 2019

NHRC, Nepal conducted a number of consultative discussions with the representatives of the Non-governmental Organizations, Trade Unions, Government of Nepal and Foreign Employment Entrepreneur before finalizing its working strategies on rights of the migrant workers.

**Conferences**

NHRC Nepal carried out both national and international conferences on rights of the migrant workers. The two major national conferences at the provincial level held were in province 1, Biratnagar and province 2, Janakpur. Both conferences identified key problems being faced by migrant workers.

The year 2012 was a landmark year for NHRC, Nepal as it organized an International Conference on the Rights of

the Migrant Workers. In addition, Rights of the Migrant Workers remained one of the major issues discussed in International Human Rights Conference on Impunity organized by NHRC, Nepal in April 2018. The then Chairperson of NHRC on his visit to Republic of Korea



International Conference on Rights of the Migrant Workers, Kathmandu, Nepal, November 2012.

and Malaysia had monitored the situation of the Migrant Workers. Based on his monitoring, NHRC Nepal made a number of recommendations to the Government of Nepal.

**Interaction Programs**



Consultative discussion on Policy reform on safe foreign labor migration in Nepal, December 2018.

A number of interaction programs were carried out in both central and provincial level to identify the key issues on migrants' rights and the role of stakeholders. Stakeholders including migrant workers and their family provided a number of suggestions to NHRC, Nepal in those interactions.

**Monitoring and Discussions**

The monitoring is another major area of work through which the NHRC, Nepal figures out the loop holes and come up with recommendations to the concerned agencies. It has been conducting monitoring at Tribhuvan International Airport, Department of Foreign Employment, Foreign Employment Board, Immigration Office, and Recruitment Agencies.

**Institutional Capacity**



Training workshop for migrants' rights focal officers of NHRC, Nepal. July 2017.

Since NHRC, Nepal has considered protection of rights of the migrant workers as one of its priority issues since 2015, it has been investing its efforts to build institutional capacity. There are focal officials with the basic training related to rights of the migrant workers in both Central and Provincial Offices looking at the issues.

**Addressing Complaints**



NHRC, Nepal's Monitoring at Trivubhan International Airport. December 2017

The Commission has been addressing complaints received on abuses against Migrant workers coordinating with

governmental bodies including Office of Prime Minister and the Council of Ministers, Ministry of Labor, Employment and Social Security, Ministry of Foreign Affairs, Department of Counselor Service, Department of Foreign Employment, Foreign Employment Board. The Commission coordinates with the National Human Rights Institutions in the transit and destination countries.

**Visit by United Nations Special Rapporteur**



Meeting with NHRC Nepal and FELIPE GONZÁLEZ MORALES United Nations Special Rapporteur on the human rights of migrants

United Nations Special Rapporteur on the Human Rights of Migrants Felipe González Morales visited NHRC, Nepal in February 2018. A constructive discussion was taken place on the occasion with regard to the role of the Special Rapporteur and NHRC, Nepal for the effective protection of rights of the migrant workers.

**Research : The Situation of Rights of Migrant Workers**



Interview of migrant workers in Sindhupalchowk district to document primary information as part of NHRC, Nepal's research. April 2019

NHRC, Nepal completed research on the situation of rights of migrant workers in 2019. The research report, focuses on the recruitment practices and the access to justice, launched in July 2019 has documented how migrant workers are deceived in recruitment process

which pushes them at the risk of abuses including forced labour and human trafficking. The report also highlights challenges being faced by migrant workers and their family in accessing justice. The report is based on NHRC, Nepal's interview with 524 migrant workers or their family and over 160 key informants in all provinces of Nepal.

**Cooperation and Collaboration with NHRIs**



Signing Ceremony of the Activation Plan for the Signed MoU between NHRIs Nepal and Qatar

The signing of Memorandum of Understanding (MoU) between National Human Rights Commission of the Republic of Korea and the NHRC, Nepal was a major step of inter NHRIs cooperation. Then the NHRC, Nepal initiated process of the cooperation amongst NHRIs in its priority. The Memorandum of Understanding (MoU) was signed between NHRI Nepal and Qatar in November 2015.



Signing of Memorandum of Understanding between NHRI Nepal and Qatar. November 2015.

The both Commissions further signed an activation plan for the implementation of MoU in December 2016.

The protection of the rights of the migrant workers is being done by exchanging the information with the National Human Rights Commission of Malaysia in relation to some of the complaints.

**The Recommendations to the Government of Nepal**

NHRC Nepal has been making recommendations to the Nepal government. Some of the issues recommended include:

1. Actual data/statistics on the number of person in specific country and actual number of person proceeded for foreign employment or which sector they went for has to be collected. This task could be started from the recently formed local level on the piloting basis at some places. Similarly, it is very much necessary to collect the data/statistics of the returnees.
2. To ensure the provision of the adequate protection of the workers going to the relevant countries; Bilateral Labor Agreement has to be made between the workers receiving country. In addition, Government of Nepal should make effective provisions to support the workers if they face any problems at the destination country by making the strong labor diplomacy.
3. Adopt zero tolerance policy on the Exploitation, forced labour, human trafficking and human smuggling in the process of foreign employment and ensure the provision of punishment to those involved in such acts.
4. Special programs have to be implemented to ensure every right of migrant workers and their families.
5. Ensure the women desiring to go for foreign employment do not face the discriminatory restriction and make special provision to protect them from the vulnerability of insecurity.
6. Implementation of the provisions like “Free Visa

Free Ticket” and the rule that prohibit taking more charge than specified by the law strictly, ensure that the receipt with the itemized description of the charges paid by the workers is provided, and those who infringe this rule should be brought into the range of action/punishment compulsorily.

7. End the giving of multiple or falsified contract and it should be ensured that the workers receive the contract paper and other documents related to the foreign employment seven days before their flights.
8. Facilitate the migrant workers on the process of departure to foreign employment and provision of providing training to the officials working in the agencies executing justice on labor rights, human rights and worker friendly behavior and the effective measures to guarantee good governance from those officials should be followed.
9. Make the access of the workers to the services, information and justice easily by decentralizing the agencies related to the foreign employment which are centralized in Kathmandu. For the immediate action the services can be rendered through the District Administration Office or the province office.
10. Make the pre-departure orientation more practical/pragmatic and the topic on worker rights and getting the treatment if faced problem should also be included in the training.
11. Convention on the rights of the migrant workers and United Nations protocol on the human trafficking should be ratified and the issues of the human trafficking and transportation for the labor exploitation should be included in the Human Trafficking Act of Nepal.

**Other Considerations**

- In relation to the rescue and repatriation of the Nepalese migrant workers who are stranded and undergoing treatment;

- In relation of amendment of the law;
- Monitor and regulate the activities of recruitment agencies and the sub-agents;
- End of discrimination to the women migrants and provision of the special protection;
- End the dual contract and make arrangements to retain passport and other important documents with self;
- Stop charging of fees more than prescribed and make them provide the receipt of the payment compulsorily;
- Making easy access to the state services and easy access to justice;
- Effective information providing on safe migration;
- Making effective pre-departure orientation training;
- Make the national institutions active for the skill based trainings;
- Build the capacity of the offices responsible for the management and regulations;
- Ensure participation of the workers in the decision making level;
- To make provision for the workers proceeding to India under the foreign employment act;
- Perform the bilateral labor agreement with the destination countries and make the role of the Nepalese Missions Abroad. The effectiveness is required;
- Implement the recommendations and decisions;
- Ratify the International Treaties and Conventions.

**National Human Rights Commission, Nepal on Protection of Rights of the Migrant Workers**



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