

MULTI-STAKEHOLDER INTERACTION ON PROTECTING LABOUR RIGHTS AND PROMOTING SAFER MIGRATION IN NEPAL



10TH APRIL 2024 | KATHMANDU, NEPAL

PROCEEDING REPORT

Organized by:
Democracy Media Network (DMN)



Knowledge Partner:
National Policy Forum (NPF)



PRESENT STAKEHOLDERS

S.N	Name	Organization
1.	Hon. DP Aryal	Minister for Labour, Employment and Social Security
2.	Dr. Samir Khatiwada	Keynote Speaker, Senior Public Management Economist at Asian Development Bank
3.	Saugat Gautam	Moderator, Founder, Nepal Center for Integrated Development (NCID)
4.	Siromani Dhungana	Chair, Chairperson, Democracy Media Network (DMN)
5.	Gopal Krishna Siwakoti	President, International Institute for Human Rights, Environment and Development (INHURED)
6.	Shreejana Pokhrel Siwakoti	Executive Director, INHURED
7.	Prahlad Kumar Dhakal	Country Director, ADARA Development
8.	Lekhnath Pokharel	Advisor at the National Association of Rural Municipalities in Nepal (NARMIN)
9.	Rameshwor Nepal	Global Head of Investigations at Equidem Research Nepal
10.	Abhiman Singh Lama	Qatar Returnee and Case Manager at PNCC
11.	Chiranjivi Baral	National Network for Safe Migration
12.	Bijaya Rai Shrestha	Executive Director at Aaprabasi Mahila Kamdar Samuha (AMKAS)
13.	Milan Jung Katuwal	Founder, National Policy Forum (NPF)
14.	Lal Bahadur Pakhrin	Vice President, CONEP
15.	Rajaram Gautam	President, FEONA
16.	Hem Kumar Adhikari	Section Officer at Foreign Employment Board Secretariat
17.	Manju Gurung	Strategic Advisor, Pourakhi Nepal

18.	Kalanidhi Devkota	Executive Director at Municipal Association of Nepal (MuAN)
19.	Hon. Suraj Chandra Lamichhane	Member, Bagmati Provincial Assembly
20.	Krishna Gautam	Officer at INSEC
21.	Kusum Bhatt	Program Coordinator at AWO International
22.	Kranti Shikha Dhital	Central Committee Member, Rastriya Swatantra Party (RSP)
23.	Prakriti Karki	Lawyer
24.	Janak Raj Bhatta	Executive Director, Digital Broadcast Initiative
25.	Tanka Aryal	Founder General Secretary, Digital Rights Nepal
26.	Shaksham Shahi	Research and Communications Associate, National Policy Forum (NPF)

SPECIAL ACKNOWLEDGEMENT FOR RECOMMENDATIONS





FOREWORD

It is a difficult reality that many Nepalis have to leave their homes and families to work abroad. While labor migration has provided immediate financial support to many households, it is crucial to recognize that migration is not a solution to underdevelopment, nor is it a bad thing. Unfortunately, many people face exploitation and abuse at all stages of the migration process, which is unacceptable.

At Democracy Media Network (DMN), we strongly believe that the media has an essential role to play in ensuring that both workers and policymakers make informed choices throughout the migration process. We understand the importance of protecting labor rights and promoting safer migration. We also have time and again realized that aspirant migrants and migrants need to be equipped with the right information and skills to safeguard their rights and combat common abuses and exploitation.

DMN has prioritized the migration issue as it affects Nepali households in millions, and we know that civil society organizations and media should play an equally important role in ensuring well-governed migration. We are aware of cross-sectoral collaboration that is crucial to ensuring that migrant workers have access to the right information, and the government takes the appropriate policy measures that are implemented fairly, enabling informed choices and decisions by the migrant workers.

That is why DMN organized a multistakeholder interaction on Protecting Labor Rights and Promoting Safer Migration in Nepal in Kathmandu. The occasion aimed to initiate a constructive discussion among policymakers, civil society representatives, private sector leaders, and academics to delve into issues such as safer migration and labor rights in Nepal.

We want to thank the Honorable Minister for Labor, Employment and Social Security, representatives from civil society organizations, and research institutions for their meaningful interaction. We also appreciate the National Policy Forum (NPF) for preparing the report as the knowledge partner of the event.

This is just the beginning, and we understand that there is much work to be done. We are committed to collaborating with meaningful and immediate initiatives aimed at ensuring a safe and prosperous journey for Nepalis seeking opportunities abroad. And we believe that, together, we can achieve this goal.

Thank you.

Siromani Dhungana
Chair
Democracy Media Network (DMN)

I.INTRODUCTION

Temporary labour migration of Nepali human resources to several labour destinations has become a common phenomenon resulting due to a mix of factors such as poor growth of industries and economy, slumped employment creation, and lack of good paying jobs in the country. At the household level, financial support from family members overseas has had a significant impact in advancing the family's educational, financial, entrepreneurial, and social life. Remittances are contributing to the social and economic development of hundreds of thousands of migrant households. In fact, millions of Nepalis are currently abroad for employment or education. Their remittances contribute to nearly a quarter of Nepal's GDP. But this does not come without a price.

Safeguarding the well-being of migrant workers and protecting labour rights should not be a topic of formality, instead, it should be taken seriously by all concerned stakeholders in the country. In reality, migration and labour issues still have a lot of problems and challenges. The event "Protecting labour Rights & Promoting Safer Migration in Nepal" aims to ignite a constructive and forward-looking discussion on the issues related to labour rights and safe migration in the country. Needless to say, the engagement and participation of actors from different walks of life helps the federal government to identify the most pressing problems while becoming familiar with the most effective ways to combat common abuses of migrant workers.

Thus, the event is expected to bring together stakeholders from the government, private sector, civil society groups, and academics to conduct an outcome-oriented discussion to ensure that the pressing issues of contemporary Nepali society in regard to labour rights and migration are discussed. The event is expected to contribute to the government's stated goal of ensuring safer migration and labour rights through "a coordinated effort to strengthen labour migration governance and enhance effective service delivery in Nepal and beyond".

II.OBJECTIVES

The overall objective of the event is to initiate constructive and freewheeling sharing of stakeholders with regard to the protection of labour rights and the promotion of safer migration. Some of the specific objectives are:

- Provide details on the topic through a keynote speech.
- Provide an opportunity for stakeholders to share their insights, observations, and experiences with like-minded groups from various sectors (government, private sector, and civil society).
- Discuss the role of civil society, particularly the media, with regard to labour rights and safer migration.
- Aid the government in making evidence-based and informed policy choices through a multidimensional lens and administering good governance.

SPEAKERS



DR. SAMEER KHATIWADA, ECONOMIST, KEYNOTE SPEAKER

Why is our productivity weak? Despite being less than 5% of our GDP in 2022, compared to Bangladesh's 21.5% and India's 13.4%, these statistics underscore the importance of the manufacturing sector in a country's productivity. Nepal's export of goods and services is just 6.7%, while Bangladesh and India stand at 12.9% and 20%, respectively. Thus, Nepal should prioritize an export-oriented and industrialized economy for increased productivity and income. Economic incentives for leaving Nepal are abundant. Monthly average wages in USD: Nepal- \$170, Malaysia- \$1485, Qatar- \$3300 (for professionals), and USA- \$6200. Most Nepali migrants are young, with an average age of 27, and predominantly engaged in low-skilled or elementary work. Their vulnerability is evident during periods of low labour demand, such as the COVID era, where they faced repatriation due to the ease of replacing low-skilled and semi-skilled workers in Gulf countries and Malaysia during crises like wars.

To overcome the **unsafe migration** of workers, he highlighted several crucial points, such as:

- “**Introduce more and better opportunities at home**” for example: Bihar’s migrants had to return to Bihar from various other states due to COVID, but being mindful of their expertise in textile industries, Bihar’s government subsidized open parks and textile industries, due to which workers started working in Bihar, and many of them chose not to go to other states once the COVID restrictions were lifted.

Dr. Khatiwada also highlighted areas to work on when it comes to the **labour demand side**:

- The private sector in Nepal faces challenges in competing with foreign counterparts due to constraints on the free market imposed by unions in different sectors. These restrictions often hinder the entry of new players, leading to a lack of competition. This ultimately results in a lack of exports by domestic players. Therefore, industries should prioritize competing with international players rather than competing with domestic players.
- When it comes to the IT services export sector, Nepal has seen a lot of improvement, which should continue.
- Export-oriented industrial policy.
- Create a “youth entrepreneur-friendly environment”- regardless of available policies, he stressed that there’s “a lower take-up rate” in this area and needs crucial consideration to address it.

He then shifted the dialogue towards areas of improvement in the *supply side*:

- Highlighted the fact that in order to attract foreign investment, the country needs to have skilled manpower/ human resources at its disposal. For this, he stressed that the quality of primary and secondary education should be improved. Additionally, he also shed light on the decreasing quality of higher education and called for necessary action in this regard.
- Skills certification of returnees: Examples include the Philippines and Indonesia. He pointed out that for migrant workers returning to Nepal after employment abroad, the government should conduct a comprehensive skills certification program.



**HON. DOL PRASAD ARYAL, MINISTER FOR LABOR,
EMPLOYMENT AND SOCIAL SECURITY**

The ministry is all set to collaborate with stakeholders to protect labour rights and promote safer migration in the country. Focused solely on three areas—education policy, geography, and our evolving societal needs. These needs have completely neglected the imperative to address fundamental societal issues.

“Private sectors play a crucial role in creating employment opportunities throughout Nepal. Before I was appointed as a minister, the labour ministry initiated a dialogue on the “*internal employment decade*” and is now continuing it during my tenure. For this, the ministry and concerned stakeholders desperately require support from the private sector,” he said. He further assured that the ministry is open to adopting feedback from the concerned stakeholders to promote safer migration. He critically mentioned that the nation won’t achieve its greater economic objectives only through remittance. It also needs to foster its domestic sectors, including education policy, job opportunities, and enterprises.

He appeals to all national as well as international organizations to provide constructive and forward-looking feedback to address the problems and hurdles surrounding migration and labour issues. The ministry is committed to taking measures to ensure that aspirant migrant workers do not get exploited in the process of labour migration and that their fundamental rights are not compromised.

The government has realized that the skills and quality of aspirant migrant workers should be enhanced to make them competitive in the international market, he said. The ministry is preparing to provide quality training to aspirant labour migrants through the Vocational and Skill

Development Training Centre located at Bhaisepati alongside CTEVT. Emphasized the significance of implementing a policy stipulating minimum skill requirements for workers before they are employed overseas.

Finally, he mentioned,

For internal job creation: Foster private sectors, business enterprises

For self-employment: Increase the quality of training, and vocational skills and decentralize these facilities.

Regarding the rights of migrant workers, he emphasized the need to prevent manpower agencies from exploiting workers and to ensure comprehensive insurance schemes, adherence to contractual obligations by employers and employing agencies, and other related protections.



DR. GOPAL KRISHNA SIWAKOTI, INHURED INTERNATIONAL AND ASIA PACIFIC REFUGEE RIGHTS NETWORK (APRRN)

He introduced a different perspective to the discussion by critically highlighting that, as a labour-supplying nation, Nepal should primarily focus on ratifying the **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)** and **International Convention for the Protection of All Persons from Enforced Disappearance (2010)**.

Additionally, from a human rights approach, he also pointed out that regardless of him and the majority of the attendees at the discussion being part of the previous long-standing discussions and “organic process” on the global compact on migration (GCM) from 2016-2018, the governmental agencies nevertheless showed no interest in being part of it and implementing it. Moreover, the conclusions, decisions, and recommendations of the Global Forum on Migration Development (GFMD, 2007) should also be implemented while ensuring labour rights and formulating safer migration policies in Nepal.

Requested the minister to start implementing “out-of-country voting processes” and ensure the voting rights of overseas migrant workers immediately as per the decision of the Supreme Court in 2017.

He also emphasized the rights of Nepali migrant workers imprisoned in various nations. He discussed the importance of ratifying the European Convention on the Transfer of Sentenced Persons to enable the social rehabilitation of prisoners. This convention allows foreigners convicted of a criminal offense the option to serve their sentences in their home countries, facilitating their reintegration into society.

Requested the minister to ramp up foreign policy, diplomacy, and negotiation measures globally to ensure labour rights and prevent labour exploitation.



**SHREEJANA POKHREL SIWAKOTI, EXECUTIVE DIRECTOR,
INHURED INTERNATIONAL**

She highlighted that the Colombo Process (CP) commenced in 2006/2007, with Nepal assuming the chairmanship during the years 2017-2019 while also pointing out that Nepal has been a member of specialized organizations like the International Institute for Migration (IOM), for which the country pays an annual fee of approximately 10,000 USD. Despite this, she lamented the failure to capitalize on their technical assistance and expertise. Siwakoti emphasized the potential benefits of collaborating with organizations such as the ADB, World Bank, International Labour Organization (ILO), and United Nations Development Programme (UNDP) to aid in migration management. She stressed the interconnectedness of migration with development, underscoring the need for concerted efforts between civil society and the government to address underlying issues.



**PRALHAD KUMAR DHAKAL, COUNTRY DIRECTOR,
ADARA DEVELOPMENT**

In Nepal, many women and girls including teenage girls migrate or are trafficked to India and beyond in huge numbers, especially in the sex trade. It is extremely unsafe and challenging. Patterns of migration or trafficking have changed as with the changing technologies. The government and human rights organizations must play a proactive role in formulating appropriate policies to tackle the problem. It is a grave issue to be addressed and he hopes the government takes the matter seriously.



LEKHNATH POKHAREL, NATIONAL ASSOCIATION OF RURAL MUNICIPALITIES IN NEPAL (NARMIN), ADVISOR

From his experience of working at the local level, he feels that our fancy for statistical metrics and numbers has overpowered the ability of quality policy reforms. Our agreements and treaties have not been duly implemented, and existing laws and policies have not been timely rinsed and reformed. It has been unfortunate to witness the mass exodus of Nepali youths in various capacities and the simultaneous conversion of the land into a massive old-age home. Our agricultural potential has not been realized. Industries must be built. The deprivation of opportunities at home has forced our youths to leave the country, and the government must plan to adopt adequate policy measures to encourage youths to stay and work in the country. Nepal also needs to work on implementing its obligations pertaining to numerous ILO Conventions. Also touched upon the urgency of formulation of necessary policies to regulate illegal migration to European and Western countries.



RAMESHWOR NEPAL, GLOBAL HEAD OF INVESTIGATIONS AT EQUIDEM RESEARCH NEPAL (GHIERN)

He directed that everyone should examine the current discussion from a micro-analytical perspective rather than taking a broad-based approach. He suggested several steps for safer migration in Nepal and from Nepal:

- **Policy reform:** Policy formulation needs to be done from a rights-based approach with a “human rights element”. Stipulated that the present Foreign Employment Act has no mention of the word ‘right’.
- **Stability in the government:** The nation witnessed 13 labour ministers in a total time span of 10 years where 2/3rd of whom didn’t even serve for a full month. Thus, this demands for stable political leadership.
- Change the dimension of trafficking and include male victims as well.
- **Accountability of businesses** which has been addressed in the present National Action Plan but needs more efforts in terms of contract substitution, deceptive practices, and eradicating illegal use of sub-agents to send workers abroad.
- **Gender and Migration:** Gender discrimination in terms of age, countries, and sector especially in terms of female migrant workers.
- Undocumented India going migrants, irregular migrants should also be protected under safe migration policies including illegal migration to Russia and other regions.

- Stressed on **the localization** of the services under the domain of local level or district agencies.
- Allocation of budgets in the labour sector is less than 0.4%, which needs to increase.
- Focus on labour diplomacy through embassies in terms of repatriation of dead bodies of foreign migrant workers, finding out the genuine cause of death, and dissemination of benefits to worker's families.



ABHIMAN SINGH LAMA, QATAR RETURNEE AND CASE MANAGER AT PRAVASI NEPALI COORDINATION COMMITTEE (PNCC)

He stated that his organization receives 8-10 cases on a daily basis concerning the repatriation of dead bodies and the rescue of workers from abroad. The majority of the requests are for issues arising out of employment contract scams. Strongly highlighted the lack of bilateral labour migration agreements with many destination countries as per ILO standards.

"Prioritizing awareness about the benefits provided by the mandatory Social Security Fund for foreign migrant workers is essential. This ensures that workers are informed about the renewal process, promoting a hassle-free experience.'- he added.

Ethical recruitment: As per the records of PNCC, in a total of 41000 cases, 2-3% of workers stated that they did not pay anything as recruitment costs and were employed free of costs. This needs to increase. Also highlighted the importance of the migration of workers to foreign countries for "self-employment" purposes.



CHIRANJIVI BARAL, NATIONAL NETWORK FOR SAFE MIGRATION (NNSM)

He emphasized 'How' can we generate employment opportunities in Nepal. He also highlighted self-employment and ways to foster self-employment include policy formulation at the federal level and the eradication of business-related legal barriers at the individual level for a hassle-free experience. According to him, local levels need to be encouraged and empowered to efficiently deliver services at convenience and the nearest to homes of people. In addition, he stressed that our education system is deeply flawed in preparing skilled and trained manpower. Awareness level at the grassroots can be broadened via the use of technology and other resources and partnerships, he added.



**BIJAYA RAI SHRESTHA, EXECUTIVE DIRECTOR AT
AAPRABASI MAHILA KAMDAR SAMUHA (AMKAS)**

While emphasizing domestic workers being the most vulnerable, she stressed that the government is forcing women to choose illegal pathways, and agents to go for foreign work. Self-employment and economic empowerment are the only way we can promote safer migration and give them a choice to stay in their home country. She noted that women migrant workers, if given a choice, would choose to stay in their home country with family for less pay. The government must prioritize industrial growth, market, and job creation to stop them from trafficking. In the age of globalization, people have the right to mobility.

She suggested the ministry end the "gendered" approach while deciding on labour permission. She pointed out the barring of women based on age or child as an example of such discriminatory practices. "The consecutive governments have failed to recognize women's right to decide freely when it comes to the issue of deciding labour destinations," she said, adding that the government should focus on empowering women to compete in the labour market instead of blocking opportunities.



MILAN JUNG KATUWAL, FOUNDER, NATIONAL POLICY FORUM (NPF)

"Migration should be a matter of choice rather than a matter of necessity. Migration is not a problem to be solved rather, it is a reality to be managed."

According to him, the Department of Immigration reported that 804,415 individuals have left Nepal for foreign employment. Despite having access to 111 global working destinations, Nepal has official bilateral agreements with only 12 countries, suggesting that more agreements could strengthen negotiation power for Nepali workers. He noted that the "Free Visa Free Ticket" policy has not been practically implemented due to enforcement responsibility lying with destination countries. Katuwal highlighted the opportunity presented by the planned revision of the Foreign Employment Act and Policy to define recruitment fees and ensure fair practices, including the 'employer pays' principle.

He emphasized the need to broaden negotiations beyond accidents and deaths to ensure economic security for Nepali workers. Federalization has provided a pathway to decentralize foreign employment services, but most services are still centralized in Kathmandu. He raised the question of localizing services like pre-departure training. Katuwal expressed concerns about the

challenges faced by returning migrant workers in reintegrating socially, culturally, and financially, urging the government to implement savings and investment schemes for them.

Regarding labour issues at home, Katuwal underscored the importance of strict enforcement of minimum wage laws and advocated that the law regarding trainees, apprentices, and internships needs more definition. He further reiterated that the law should mandate a minimum number of internships in specific sectors to foster an internship culture. He pointed out the need to revisit the definition of "internship" while drawing clear distinctions between "internship", apprenticeship, and traineeship. He stressed that the present law fails to address the status of trainees who join enterprises without being associated with an educational institute. He addressed the discrimination faced by returning Singapore police personnel and their families, highlighting the importance of reintegration support. Katuwal urged Nepal to prioritize a zero-cost recruitment policy with popular working destinations and focus on exporting skilled manpower with guaranteed social security benefits. He stressed the importance of training and awareness programs for potential migrant workers.



**LAL BAHADUR PAKHRIN, VICE PRESIDENT,
CONFEDERATION OF NEPALESE PROFESSIONALS (CONEP)**

He emphasized that most of those who opt for foreign employment are the sons and daughters belonging to the poor and marginalized class and he criticized the societal preference for supporting those who leave the country over those who stay and work domestically.

He stated that less pay for workers has induced and elevated frustration among the youths. From non-skilled daily wage workers, and semi-skilled construction workers to skilled and educated nurses and doctors, Lal Bahadur Pakhrin mentioned that nobody is getting adequately paid to make a respectful life. He finally pointed out that our government has not been able to make enough capital expenditures and stimulate growth thus finally urging that we must invest in human capacity-building plans, programs, and policies to achieve our developmental milestones.



**RAJARAM GAUTAM, PRESIDENT AT FEDERATION OF
NEPAL FOREIGN EMPLOYMENT ORIENTATION AGENCY (FEONA)**

Focused on localization of PDTs and highlighted the importance of foreign employment workers, remittances, and their contribution to the national GDP. "Our orientation system before sending workers abroad is still the same as it was 20 years ago, and this therefore calls for an immediate change. The quality, and methodology of teaching, should be improved and should be budget-friendly for the workers" he said.

In regard to zero-cost recruitment policies and employer-pay policies, particularly during Pre-Departure Orientation Trainings (PDOTs), only females are prioritized and fully reimbursed for PDOTs. This practice needs to be revised to ensure equal benefits for all individuals.

He stressed that the state should not exploit workers' lack of awareness regarding the mandatory renewal of Social Security benefits. The government should take proactive measures to educate migrant workers about the importance of the Social Security Fund (SSF).



**HEM KUMAR ADHIKARI, SECTION OFFICER,
FOREIGN EMPLOYMENT BOARD SECRETARIAT (FEBS)**

He added that, in addition to the issue of migrant workers lacking quality skills, particularly in domestic work, language barriers pose a significant problem. He further clarified that insufficient proficiency in the local language contributes to the exploitation and harassment of workers abroad. Moreover, he mentioned that the workers should also be knowledgeable about the basic laws and cultural norms of the destination country where they intend to work.



MANJU GURUNG, STRATEGIC ADVISOR, POURAKHI NEPAL

Manju Gurung stated that "with the modernization in technology in the 21st century, problems have arisen in multiple layers and levels and to tackle these barriers, we must be well-equipped across all areas of the labour and employment sector." She added that discrimination against women has emerged in various forms. "Women in our societies, even today, are viewed as weak and vulnerable, and thus, the issues related to women are mostly seen from the welfare-based approach and rights-based approaches." - she said. She demanded that this mindset must change and that women must be treated as equals who can make decisions and stand for themselves. Moreover, she said that prohibitions for women do not solve the problems at hand. Gurung emphasized that the duty of the state is to manage, regulate and monitor the problems in labour and migration. She further delineated that the government was playing a dual role by arranging G2G agreements for foreign employment on the one hand, while at the same time also allowing private companies or firms as manpower to send workers abroad. It was crucial to note that she criticized the role of the state by stating that "the state cannot portray double standards".

Furthermore, she mentioned that the tools for measurement and calculation of minimum wage is outdated, while suggesting that we must work towards ensuring a "decent wage". She further urged that we must revisit the standards of minimum wage. When it comes to the reintegration of

migrant workers, she suggested that there was a need for conceptual clarity on reintegration and must be made inclusive of gender. She stated that most of the female workers who opt for foreign employment come from socially, economically, and historically marginalized communities and they find the gravest of obstacles in reintegrating back into their families and societies upon return. Finally, she shed light on the fact that due to the lack of digital literacy and digital protection, the risks of their misuse, theft or underutilization of their savings have proliferated.



**JANAK RAJ BHATTA, EXECUTIVE DIRECTOR,
DIGITAL BROADCAST INITIATIVE (DBI)**

Labor migration in Nepal is a complex issue that requires a comprehensive approach. Despite the fact that many Nepalis migrate abroad for work opportunities, a significant number of them lack basic knowledge about the process of labor migration and rely solely on information provided by manpower agents or company representatives. This ignorance often leads to various problems, accidents, and hazards, which can be prevented through authentic and updated public awareness campaigns. To address this issue, the government, civil society organizations, and other stakeholders must design and implement massive social behavior change communication campaigns that are diverse and locally adaptable. These campaigns should include simplified messages about things to do and not to do abroad and provide important public messages such as how to get help or where to contact in dire situations. The campaigns should also spread awareness about digital and financial literacy, misinformation, the importance of learning skills, the benefits of knowing the language and culture of the destination country, and other relevant topics.

One more issue being faced by the migrant labor community is the use of public messaging with flawed assumptions and fallacies of generalization. There are no public awareness campaigns that are specifically targeted to a large number of Nepali migrant laborers in India and many countries that are banned for labor migrations. Such campaigns should be designed specifically for different groups of people for better and stronger impact. By utilizing strategic media campaigns, many of the preventable issues faced by migrant laborers can be reduced or facilitated. Ultimately, providing authentic and necessary information is as important as support, rescue, and reparation mechanisms. Therefore, it is crucial to prioritize preventive measures to ensure the safety and well-being of Nepali migrant laborers.



**KALANIDHI DEVKOTA, EXECUTIVE DIRECTOR AT
MUNICIPAL ASSOCIATION OF NEPAL (MUAN)**

It is suggested that the entire discourse would have been different if focused on the ‘federal’ aspect of the topic and its surrounding subject matter. While ensuring the implementation of the conclusions and recommendations derived from this discussion, he underscored the importance of reshaping the discourse paradigm to distinctly address the roles of the federal, state, and local levels under the Constitution and relevant laws. This approach would foster a more

comprehensive and coherent debate. Amidst discourse frequently focusing on the responsibility and negligence of the state machinery across various domains, Mr. Devkota stressed the importance of stakeholders specifying the level of government they are referencing. This approach ensures accountability at the appropriate governmental level and fosters a clearer understanding of each agency's responsibilities regarding the enhancement of labour rights.

He also disclosed that among the numerous decisions reached during the National Coordination Council meeting concerning the unbundling process of the Constitution, significant deliberation is underway regarding the origin of investment to support domestic industries, foster employment opportunities, and promote self-employment. He requested appropriate suggestions and recommendations under this matter and informed that it is currently under consideration by the Office of the Prime Minister.



**HON. SURAJ CHANDRA LAMICHHANE, MEMBER,
BAGMATI PROVINCIAL ASSEMBLY**

Towards the end of the discussion, to wrap up the event, he pointed out how most of the participants highlighted the need to support self-employment but so less has been achieved and all stakeholders must work on the “**how**”. He opined that the government should play its role to make migration safer, manage and ultimately decrease it by creating more jobs at home.

The Bagmati province has implemented a labour policy 2080, highlighting the need for local levels to develop similar policies. This underscores the decentralization of all labour-related governmental procedures for the safe-migration of migrant workers. Additionally, the instability of the government and its repercussions in labour-related matters were discussed, shedding light on the consequences of an unstable government in addressing labour issues.

He argued that our biggest problem in the state is political instability and the induced policy inconsistency, and that has been the greatest factor in derailing our potential growth.

The provincial government also has a role to safeguard labour rights and ensure safer migration. He also invited stakeholders concerned to provide feedback on how the provincial parliament and the government play their role for the benefit of aspirant migrant workers.

CLOSING REMARKS FROM DR. SAMEER KHATIWADA

He critically emphasized the significance of relying on facts and statistics. Regarding self-employment, he stated that individuals, given the choice, would opt for wage employment over self-employment, as the latter is not considered decent employment. Moreover, he highlighted that focusing excessively on self-employment allows the state to avoid its responsibility of providing citizens with wage employment. In conclusion, he pointed out the disparity between stakeholders' advocacy for migrant workers' rights and their lack of concrete action, stating, "Everybody knows what needs to be done, but no one knows it should be done." This underscores the gap between rhetoric and action in addressing migrant workers' right.

KEY TAKEAWAYS

The intensive discussion, comprising 35 distinguished guests representing various domains in relation to labour and migration in Nepal, produced high-value reflections and knowledge capital for the government, media, civil society, private sector, and all other concerned stakeholders. Lack of adequate, decent job opportunities is a critical “push factor” for outmigration. Foreign employment is an attractive alternative for many men and women struggling to find jobs in Nepal. The interaction uncovered several issues and facts pertaining to labour and migration demanding attention and action of the concerned stakeholders as outlined in the section below:

1. The key reasons, as identified by the forum, behind mass exodus of Nepali youths for foreign employment are unstable governments, lack of adequate employment opportunities and investment friendly environment at home among others.
2. It was revealed that the majority of youths who leave Nepal for employment related purposes end up in low-skilled and semi-skilled jobs at their destination countries. It is noteworthy that the average age of youth migrating for this purpose is just 27.
3. Inaptitude in timely ratification of incidental conventions like the **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)**, the **International Convention for the Protection of All Persons from Enforced Disappearance (2010)**, and the **European Convention on the Transfer of Sentenced Persons**, has blocked our youths serving jail time in foreign countries from the possibility of serving their sentences in Nepal itself thereby facilitating social reintegration.
4. The inability to expand the number of bilateral labour agreements has significantly restricted our bargaining power in negotiations concerning the rights of Nepali migrant workers in the destination countries with high demand for labour.
5. The resources and expertise of pivotal organizations such as the International Organization for Migration and International Labour Organization working on labour and Migration issues are being underutilized to address the persisting challenges despite being a member state.
6. The out-of-country voting process has not been implemented yet thereby critically curtailing the fundamental rights of thousands of migrant workers.

7. There is a significant lack of awareness among migrant workers regarding the social security fund, its potential use, and its benefits. The migrating workers also lack basic language skills, exposure, orientation, and knowledge of the culture in the destination countries, leading to misunderstandings, legal violations, and exploitations.
8. Failure in effective implementation of zero-cost recruitment policies has resulted in many employers still requiring migrant workers to pay substantial fees to recruitment agents, perpetuating an undue financial burden on workers.
9. It was noted that the contexts and patterns of sex trade have changed in recent years and updated rules, regulations, and plans are needed to rightly address the underlying issues.
10. There is unreasonable gender discrimination with regards to the prohibition on sending women to specific countries, and restrictions based on types of employment, citing threats to life or safety.
11. The curriculum and courses of pre-departure orientation training programs (PDOTs) are not subjected to timely updates. The trainers are also devoid of proper refreshment training.
12. Proper enforcement of the minimum wage standards across all sectors of internal employment within Nepal is lacking, thereby leading to decreased interest in working domestically.
13. Under the current national circumstances and societal contexts, a profound pessimistic outlook can be sensed among businesses and individuals working in Nepal. While loans are readily available for youth seeking foreign employment, the same support is not extended to those wishing to start businesses or work domestically.
14. In the absence of skill certification tests and inadequate reintegration plans, Nepali migrant workers often struggle to effectively utilize their earnings and end up diluting their savings with no viable investment options leading to unemployment for returning migrant workers.
15. Insufficient monitoring of manpower agencies has facilitated employment contract scams, continued illegal use of sub-agents and exploitation of workers abroad.
16. The labour sector accounts for less than 0.4% of the total annual budget.

17. The lack of effective policies to incentivize private sector investment and job creation within Nepal has resulted in numerous barriers to starting businesses, and individuals losing interest in investing and creating opportunities in the country.
18. The legal system's oversight of "internships" has led to the exploitation of students across different fields. Although the current Labour Act explicitly excludes internships from its scope, many interns are subjected to overtime work without any incentives.
19. Nepali youths serving in the Singapore Police Force often encounter discrimination, as their spouses and children are prohibited from working. After serving for over 25 years, when they return to Nepal, there is a lack of reintegration plans. Consequently, many children of former Singapore Gurkhas are compelled to move abroad and settle in other countries.

RECOMMENDATIONS

The participating organizations and stakeholders make the following recommendations to the concerned parties in order to protect labour rights and promote safer migration in Nepal.

A. Recommendations on policy enactments, revisions, and amendments

1. Legal reform in terms of ratification of crucial conventions such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), the International Convention for the Protection of All Persons from Enforced Disappearance (2010), and the European Convention on the Transfer of Sentenced Persons.
2. Implement and introduce of bilateral labour agreements with several other destination countries while being mindful of guaranteeing the fundamental rights of workers as per international standards.
3. The Foreign Employment Act, 2064 and related policies need to undergo necessary revisions to set fair recruitment standards.
4. Bring concrete implementation strategies of National Action Plan on Business and Human Rights.
5. Support National Associations of Foreign Employment Agencies (NAFEA) in updating its code of conduct. Moreover, the governmental stakeholders should promptly work with NAFEA regarding stringent monitoring mechanisms to collaborate with NAFEA to establish robust monitoring mechanisms aimed at enforcing a zero-tolerance policy against employment contract fraud and exploitation. This proactive approach is essential to safeguarding the rights and well-being of migrant workers and ensuring fair and ethical recruitment practices in the foreign employment sector.
6. Gender discrimination with regards to the prohibition on sending women to specific countries, and restrictions based on types of employment citing threats to life or safety shall be compensated by providing women with adequate opportunities in less risky areas. Thus, the governmental stakeholders should focus on bringing more policies to address the special needs of women migrant workers.

7. Cross-border arrangements and relevant policies must be introduced to track India-going migrants, ensure their safety, and assure their fundamental rights including those who go for informal and undocumented work.
8. Localization of services and institutions that work in foreign employment-related sectors.
9. Reliable investigation and swift responses on foreign employment grievances or cases.

B. Recommendations on implementation of existing laws, policies and practices

1. Fair recruitment standards, including no burden of recruitment cost to workers, (Free visa, free ticket (FVFT) or 'Employers pays' principle.
2. The recruitment process must be made fully transparent and free from deceptive practices. Violators must face serious consequences and prohibitory actions.
3. Despite the prohibition on employing sub-agents, numerous manpower agencies continue to utilize them, necessitating strict monitoring and enforcement measures to prevent such practices.
4. Local governments must be authorized to lodge complaints regarding foreign employment scams, and violations of rights of migrant workers.
5. Guarantee fair investigation of cases being registered at the Department of Foreign Employment (DoFE) with a focus on providing victims with swift redressal mechanisms. Implement measures to streamline the adjudication process, reducing the time-span for case resolution and facilitating timely justice for affected individuals.
6. Ensure effective implementation of the provisions to support the legal defense of workers who face criminal charges in destination countries.
7. Pre-Departure Orientation Training (PDOT) must be improved through regular and relevant updates in curriculum and courses and refreshment training for the trainers to align with current job requirements.
8. Strengthen skills of migrant workers for higher paying jobs and quality of life.
9. Investment in capacity building of institutions and building labour-friendly support systems.

10. Allocate more human and financial resources for labour and migration sectors especially in terms of annual budget which stands at just 0.4%.
11. Design and implement a nationwide strategic media campaign that covers community media tools such as radio and local television along with social media platforms.
12. Make the manpower agents and companies responsible for a week-long orientation to make each and every migrant laborer aware of their rights, duties, opportunities, and limitations.
13. Strategically designed influencer messaging to spread mass messaging about the importance of skill development, preparedness, and what's next for those who are returning from abroad.
14. Use of local government and community CSOs such as mothers' groups, youth clubs, cooperatives, farmers' groups, and more for multiplier effects of public messaging.
15. Develop a central portal where the migrant laborers can find all required information regarding process, rescue, facilitation, help, and other important information with their contact details in case of emergencies or necessities.

C. Recommendations on Labour diplomacy

1. Negotiate new labour agreements and updating existing ones to address labour and human rights concerns.
2. Establish a joint monitoring mechanism to ensure compliance with labour standards.
3. Implement a process for diplomatic protection of Nepalese workers in countries of destination (CoDs), including addressing issues such as the cause of death and compensation coverage.
4. Domesticate international labour standards to strengthen protections for Nepali workers.
5. Despite our inclination towards factual debates, we must acknowledge that some of our "facts" are skewed. The significant outflow of human resources to India through the open border, particularly from Karnali and Sudur Paschim Province, across both formal and informal sectors, is inadequately reflected in our data due to lax collection methods. Addressing this issue through rigorous data collection can offer a new perspective into the challenges we are currently facing.

D. Recommendations on creating opportunities at home

1. Critically focus on reviving Nepal's manufacturing sector.
2. Invest in promoting high-value services such as IT and tourism.
3. Invest in primary and secondary education to build a strong foundation of human capital.
4. Improve linkages between skills development (TVET/higher education) and labour demand.

E. Recommendations on operations

1. Rights-holder Engagement in Design and Governance: Promote active engagement of rights-holders in the design and governance of policies and programs to ensure their needs and perspectives are adequately represented and addressed.
2. Effective Monitoring, Inspection, and Investigation Mechanisms: Strengthen monitoring, inspection, and investigation mechanisms to ensure the enforcement of labour standards and regulations, thereby safeguarding the rights and well-being of workers.
3. Data Management and Disaggregation: Enhance data management systems to facilitate the collection, analysis, and disaggregation of labour-related data, enabling informed decision-making and targeted interventions.
4. Ratification of United Nations (UN) and International Labour Organization (ILO) Conventions: Prioritize the ratification of relevant UN and ILO conventions to align with international standards and commitments, thereby enhancing the protection of labour rights and promoting decent work practices.
5. Better Coordination Amongst Governmental Bodies at All Levels: Promote enhanced coordination and collaboration among governmental bodies at all levels to ensure cohesive and comprehensive implementation of labour-related policies and initiatives.
6. Constructive Dialogue with Private Businesses and Effective Regulation: Facilitate constructive dialogue with private businesses to foster a conducive environment for responsible business practices and effective regulation, thereby promoting fair labour practices and sustainable economic growth.

F. Recommendations on long-term goals

1. Project reverse engineering to end the compulsion of Nepalese to go into foreign employment.
2. Set a goal to reduce the issuance of annual labour permits by 10% each year, prioritizing domestic employment with fair wages for Nepali workers.

Prepared for:
Democracy Media Network (DMN)



Prepared by:
National Policy Forum (NPF)

