

HOW THE UNIONS COPE WITH THE ALL ODDS IN NEPAL?

*Good morning Comrades;
Good morning every body!*

This morning some of the comrades asked me where exactly Nepal locates? Before answering you, let me begin with a question, **how do you recognise Nepal?** What will be your answer?

Perhaps some of you may say it is a country of Gurkhas; which often defamed as mercenary soldiers! Perhaps some argued- it is country of Buddha; and may be some of you counter-argued as saying No-No; it's a fertile land for Rebellion recalling decade long deadly Maoist insurgency!

I have a simple say- it's a **Shangri-La!** My country, my pride is diversity in nature-creature and our human life!

Politically, Nepal is at an eve of great transformation. We Nepalis are in a process of demystifying the fact why we have much inequality! Why Nepal is one of the most unequal societies in Asia?!

Further, we are in a process of deconstructing our old society. From the very first meeting of 601 member most inclusive Constituent Assembly declared an end of 240 year old ruling Shah dynasty, which ultimately abolished over 1200 years old tradition of Monarchy and established First Republic of 21st century in the world.

People, with high aspiration, are collectively in a process to set up a federal democratic republic replacing existing central-petal state structure. We are in due process to managing political transition that is lingering-on since 2006 April Uprising.

How is Nepali Society then? Many of us perhaps have quick answer that it is feudal or least developed economy! I would say it is a **post-peasant society**. No way is Nepal a FEUDAL society; the Capitalism has become here an organising principle of the political economy. However, it has not transformed into an industrial society. The evolutionary trajectory that had been postulated on the basis of change processes in Europe in the 19th and early 20th century has not materialised.

The huge mass, driven out from agriculture in Nepal, has not become an industrial workforce. Neither have they been able to qualify themselves for steady employment in one of the other sectors of the economy. The class structure is a

mixture of both old and new. Some of the features of the traditional classes are still in place but the visible opposite class is the Capitalist & the Working classes, which are also internally segmented.

Nepal is a small country; however, it has a total Population of 26.43 millions. As of 2007 projection Female number is 13.19 millions and the Male is 13.24 millions. Nepal's current GDP growth rate is 3.53%; Per capita income is US\$ 562. The Literacy rate above 5 years is 63%; where as literacy rate of persons above 15 years is 55.6%.

The diversity is the significant parts of our population. Nepal has 4 human races, with 101+ caste & ethnic groups; who speak 92+ languages & dialogues and they practice 7 religions, and enjoying innumerable cultures & tradition.

Some major Caste and Ethnic groups (above 1% of the population)			
Chhetri	15.80%	Bahun	12.74%
Magar	7.14%	Tharu	6.75%
Tamang	5.64%	Newar	5.48%
Muslim	4.28%	Kaami	3.94%
Yadav	3.94%	Rai	2.79%
Gurung	2.39%	Damai	1.72%
Limbu	1.58%	Thakuri	1.47%
Sarki	1.40%	Teli	1.43%
Chamar	1.19%	Koiri	1.11%

Nepali's life style has its own feature. Considering recent statistic of Nepal Labour force Survey; about 89.2 % households have their own house whereas 9.2 % live in rented room. Majority (68.%) of the households used firewood as fuel for cooking; whereas 12.3 % households used LP gas. Electricity is the main energy source for lighting only for half (56.1 %) of the households; around one-third households (33%) still use kerosene/oil/gas as the main fuel for lighting. About 45% of households used piped water whereas 39.10% of household use hand-pump/boring water. Only 25.40% of households have a modern flushing toilet where as 23.40% have relied on an ordinary toilet. 57.90% households has radio while 33.20% has a television set; around 28.30% has a mobile phone, 9.80% has a fixed line telephone and only 3.10% households has a computer. 78.4 % of all households in the country have agriculture land. Of the 43.8% households, at least one left home for job out of their native place, whereas 29.1% of all households, at least one left home to join labour market in abroad In an average a family earns remittance annually 80 thousands from aboard and 29 thousands from home.

With such social reality, I will try to relate our efforts to address today's issues- the **Social Dumping!** This morning we learn by opening remarks by *Steen* and *Bjarne* that the social dumping is a term with a negative connotation that is used to describe a temporary or transitory movement of workers; whereby employers use workers from one country or area in another country or area where the cost of

labour is usually more expensive, in order to saving money and potentially increasing profit.

We saw how Danish company is exploiting Polish workers at a picket line of **Bronderscev**; the pay Danish workers usually are getting per hour not less than Danish Kr 160- the striking Polish workers are just getting Kr 50 only! As such, the precarious jobs and under pay workers of every country against decent employment and huge profit engulfed by employers created from the labour of 'poor' workers are the living example.

I will not go in detail "what is and what is not" the social dumping. We all know that-

- All precarious jobs are base for social dumping,
- Poverty wage leads to the destiny of social dumping;
- Labour migration to low pay (in relative term), and company dislocation is cause of social dumping;
- Unfair labour practice can be a push-factor for social dumping.

Let us peep inside Nepal again, how is her labour force!

Total Labour force in Nepal is 11779 thousands (women 53%) with an employment to population ratio of 81.7%. People engage in Agriculture 73.9%; where as in non-agriculture 26.1%. In the light of production process, the labour sector is divided in terms of 'organised and unorganised', 'formal and informal' and 'intra-state and inter-state". In terms of nature, labour is basically divided as 'regular' such as employment in long-term contract and 'irregular ' such as casual, outsourced, home based, time-rated & piece-rated. A sizeable numbers of self-employed are in world of work in Nepal. There is dangerous mismatch between supply-side & demand-side of labour, which is creating a situation of "Scarcity amidst plenty" of working people.

Employers are capturing this "scenario" in this favour cleverly. Take an example- the paid-employees, as a percentage of total employed is only 16.9 percent. Of those in employment, only 46% receive regular/monthly payment. The rest are piece-rated, weekly and daily waged workers. Still every 24 in 100 workers are paid in kind instead of cash. Except permanent workers, others do not get paid leave, provident fund, gratuity and other fringe benefits including education, health and housing. Leaving Nepali labour market largely **informal**; NO Formal Employment Contract of any type between bosses & the workers are exercised. Most of the issues of labour contention in my country are, thus juggling around whether or not issuing appointment letter, whether to hire on a permanent or temporary basis, no work, no pay, hire and fire.

The average monthly income of workers is NPR 5117(Female 3402 only), however, majority of workers are still deprived of the minimum wage-rate (NPR 190 daily) fixed by the government.

The average hours per week in main job 38.7%; Labour underutilisation rate in Nepal is 30.0%. It is in real sense the unemployment rate. Labour underutilisation is a combination of complete Unemployment (2.1%); Time-related underemployment (6.7%), inadequate earnings (8.1%) and Skill mismatch (13.2%). Recent projection of new job seekers in Nepali world of work is 400 thousands (Economic survey of Ministry of Finance) and in this period 172,000 have lost their previous employment further adding numbers in the hordes of unemployed.

It pushed to join a high number of Nepali unemployed in global labour market (the number is around 700 each day). Sadly to say on an average 1% among them are died in foreign workplace due to unfavourable working condition (horrific number- the family member receives each day 7 dead bodies!). Pity to note that children of 5-14 age group still labours in an employment rate of 0.7%.

Nepalis @ Aboard (other than India)			
Malaysia	569,667	Qatar	481,748
Saudi Arabia	341,325	UAE	124,515
Bahrain	22,564	Kuwait	20,170
Oman	11,478	South Korea	6,352
Hong Kong	4,379	Others	54,120
		Total	17,26,318

To Change this feature of Nepali world of work, unions are active and making policy intervention. It is in two forms, in **processes** as well as in **content**:

Let me brief you what are the process? We have created FOUR different platforms to cope with the challenges.

First, we debate in union forum. The union Platform are in various levels. ITUC affiliates have created their own- the ITUC-NAC, whereas all existing unions are accommodated in another BIGGER platform known as JTUCC (Joint Trade Union Coordination Centre).

The unions entertained all issues in the platform. Generally all of the common issues are discussed at JTUCC Board; some of the issues more close with ITUC politics are decided at ITUC-NAC secretariat as well.

After debating on issues, the decision is made on consensus basis. In the issues where we fail to reach in consensus, that is dropped for the time being. Such issue remains as an issue of union concerned which put forth the proposal in the platform.

Second, Unions present decided issues in "bilateral forum". The bilateral forum is an informal forum composed with Employers organisations and the trade unions. In such forums both parties interact and put forward their own position collectively. Unions stick upon "common" stand; they don't exhibit any difference

there. The deferral view if any arises during the course, the unions bring it back to union forum (JTUCCC or what so ever) for further discussion.

The agreed points to be presented for formalisation in tripartite forum; and disagreed issues- left for further debate & discussion.

Third, issues dealing at Tripartite Forum. According to Labour Law **Central Labour Advisory Committee** (CLAC) is the only tripartite forum. It is composed with Government representatives, union representatives, representatives from employer's organisations and the labour experts as per 2:1:1 ratio.

The Minister for Labour & transport management chairs this forum. In order to formalise agreed points, the two parties (Unions + Employers organisations) generally table in the meeting. Once it is signed- it is considered as a 'Law'.

The disagreed points further need debate and interaction. Generally three steps such as letting the issues for further debate, letting union to go for Labour Action as per law and Government intervention if necessary are taken in this regard.

Fourth, it is a very sensitive platform, which has complete political dimension. The unions make lobby with the Political parties and the Constituent Assembly (CA) to get through their issues. For example, now Nepal is debating to drafting up of new statute- thus, all political efforts are more or less concentrated towards this direction. The unions debate on what should or should not incorporate at new constitution.

For example, the JTUCC has prepared common position of unions in this regard, which is submitted to CA. The way to intervention is- first lobby at CA thematic committees (there are 11 thematic committees, which has prepared draft report with concept notes), through CA members from Trade Union background. Other trade union friendly CA members from like-minded political parties lend their solidarity and support in request. From the "field" during CA member- general public interaction periods as well, the unions recommend their members to raise voice on union agendas.

Further, lobby with political parties is the continuous job. Such lobby is not only limited to union agendas for Constitution, further we raised issues such as ratification of ILO Core Conventions, introduction of new laws & schemes etc.

Unions are using mass communication as well for the purpose. Since September 2005, GEFONT is running weekly Radio programme that covers 2/3rd Nepal through 16 FM stations. Since October 2007, it is running weekly TV programme which covers entire Nepal through State- owned TV station. Since September of this year, GEFONT sponsored labour news is broadcasting from a Private TV news channel, twice every day. The JTUCC has also initiated similar weekly Radio and TV programme from this September.

An occasional interaction with media persons is regular in order to make them aware on labour issues.

There are multi-fold Contents as well. As mentioned earlier, the trade union forum entertains all issues such as Political, Issues of union-to-union competition-debate-rivalry- and even violent act against the members.

All issue related to world of work are the major areas of discussion such as -wage and work place democracy, labour & industrial policy including labour law reform. In this regard 4 sets of work is continued such as- amendment of existing Labour Law for **labour market flexibility**; introduction of Social Security Act **to guarantee the social protection** to the working people including establishment of much talked Social Security Fund; amendment in Trade Union Act to match unionism in changed context and to **make reliable mechanism for social dialogue**; and establishment of National Labour Commission for fair & quick delivery of justice.

Any emerging issues such as foreign employment, HIV Aids, OSH etc will be considered as the peripheral & issues of importance for the time being.

In **Political level-** the Trade Union has proposed workers issues related to **Right-Protection-Representation** and constitutional **Commission** in forthcoming new constitution. Having limited time, I will not able to explain you these issues now. Let me conclude quickly projecting list of these issues, which I have enclosed in my narrative presentation.

Thank you!

Trade union Issues proposed to Constituent Assembly

- **On Rights against exploitation**
 1. Both domestic and foreign employees shall have rights of fair labour practice.
 2. Every individual shall have rights against exploitation. In the name of customs, traditions and practice, no worker will be exploited.
 3. No worker can be employed or no labour contract can be signed on condition of under-payment against labour laws provision.
 4. Every worker shall have legal rights to exercise the provisions of labour laws and achievements of CBA.

- **On Rights to Trade Union and Collective Bargaining**
 1. Every worker shall have rights to freedom of association to protect individual rights and interests.
 2. Every Trade Union shall have rights to run their own activities, rights to be affiliated to federations or confederations without the interference of the employers.
 3. Every Trade Union and/or worker shall have rights to take part in the collective bargaining.
 4. Every worker and/or trade union shall have rights to go on strike for the resolution of labour dispute if there is not any other alternative way out.

- **On Rights against Forced Labour**
 1. No one can be sold and made slave and bonded labourer.
 2. No one can be forced to work against his/her will.
 3. Above-mentioned actions will be punishable by laws.

- **On Rights against Child Labour**
 1. No child under the age of 15 can be used in wage-labour.
 2. Children cannot be hired at factories, mines, and at any risky work.
 3. Children under the age of 18 cannot be recruited in police and armed-forces and used in conflict or spying.
 4. The practice of using children in risky work should be ended, and every child should have rights to education, health, and nutrient foods.

- **On Rights to Equality**
 1. There will not be discrimination in wages between men and women for the equal value of work.
 2. Equal protection of social security and wages will be ensured for contract, piece-rate, and wageworkers.
 3. The state will not take any action that brings about any discrimination between employers and trade unions.

- **On Rights to Social Security and Justice**
 1. Every citizen will have rights to social security in case of old age, maternity, disability, and death of breadwinner.
 2. The workers who have lost employment will have rights to be protected by the unemployment insurance system.
 3. Every citizen will have rights to food, shelter, clothing, education, health, and work.
 4. Every citizen will have rights to facilities like gratuity, medicine, life insurance, and health insurance.

- **On Rights to Employment**
 1. Every citizen will have rights to employment. No worker will be terminated from the employment except pursuant to laws.
 2. The employer, either government or public, cannot discriminate between Nepali workers.

- **On Workers' Representation**
 1. As acknowledged by the state to the gender-ethnicity-and geographical regional identity, 10 percent seats should be secured to maintain the fair representation of workers in central and provincial parliament to be established by the new constitution so as to ensure the class-based inclusiveness.
 2. Equal representation of workers should be guaranteed in various Commissions, which have direct concern with workers' interests, like national planning commission, human rights commission, women commission, dalit commission, and
 3. In the state mechanisms where there is the representation of employers.

- **On Joint Trade Unionism**
 1. The new constitution should have the provision of worker's unified representative body in order to develop workers' joint mechanism.

- **On National Labour Commission**
 1. A National Labour Commission should be formed as a constitutional body to resolve immediately labour disputes of any form such as strike, lockout etc.
 2. The Commission should be provided with the authority of reconciliation and mediating between the workers and employers in case of strikes and lockouts.
 3. The Commission should have the rights to explain the contract and collective bargaining agreement between the worker and the employer; and the decision made by the mediator as per the labour laws, and the authority to give directions to take action against the illegal work if any made by a government employee, the employer, or by a trade unionist.
 4. The Commission should have the rights to give training to the concerned party to immediately resolve labour disputes peacefully.
 5. The provision of recommending the commissioner by tripartite consensus of workers, employers and government and appointment by the President should be ensured in the constitution.
 6. There should be the provision of ad-hoc appointment of the additional commissioner to resolve the labour dispute for a certain period, so as to end the practice of travelling to the capital for all kinds of disputes.