

## WORKERS' RIGHTS SHOULD BE INCORPORATED IN THE CONSTITUTION ITSELF

*- Bishnu Rimal*

Comparatively, Nepali labour movement has been moving within the constitutional framework better than in the past. The labour movements before 1990 are semi-legal as during that period the State was forced to accept the existence of the workers' union even without recognizing the trade union. The movements were steered up in an underground or semi-underground way. After the successful movement of 1990, we led the movement purely within the framework of trade unionism. However, there were some problems for a few years after the success of the people's movement of 2006. After the departure of the then CPN (Maoist) into the peace process, All Nepal Federation of Trade Union (ANTUF), a sisterly wing of the Maoist Party, emerged negating the existing labour legislations. Since there was on one hand void of new legislations, and on the other hand, the ANTUF was unwilling to abide by the existing rule, there was a kind of anarchy from 2006 to 2009 as the ANTUF began to 'run by self-style' rules arbitrarily.

Nonetheless the trade union movement of Nepal has come into a track after 2009. The latest record of last one year shows that there are quite a handful of the companies that were closed due to the workers' action. However, some companies including Surya Nepal have accused the workers of their closure. In my personal view, the trade unions in most of the industries being run in the private sector are moving under the legal parameter.

Through the Marxist point of view, we are in the phase of 'Bourgeoisie Democratic Revolution'. While examining in the reference of 'The People's Multiparty Democracy' of UML or the '21st Century's Democracy' as claimed by the Maoist or alike 'New Democratic Bourgeoisie Revolution', there has not yet been formulated a situation to ensure "To each according his/ her work"; nor the benefits are achieved in that way.

The character of the present State can be termed as Transitional. From economic point of view, the State has been following the liberal economic policy; where 'market forces' and the private sectors are influential in determining labour-relation.

I would like to present an example. The minimum wage rate has been revised for two times from 2006 to till date but if one examines the trend of increment of the wage since 1997, we must evaluate some indicators on wage to conclude whether it was right or wrong. Regarding the wage, three indicators namely; consumer price index, money-wage index and real wage index are applied. We know that consumer price index determines the rate of price hike whereas the money wage index shows the exact cash-in-hand; the real wage is the surplus after spending the money in workers' necessities. In this way, a worker prepares his/her budget. On the basis of these indicators, however, the money-wage in Nepal is less than the consumer price index. It is a fact that we have not been able to save much earning due to frequent price hike in Nepal. But since the real wage is above the base-line, there is a situation that a worker still can save a little money even after spending in the monthly necessities.

Through the political perspective, workers had no access in state power in the past. At present, they have access from Constituent Assembly (CA) to various political institutions. We have raised a voice to have 10% representation of the workers in each and every field (where bosses are represented). Trade Union has its access at the topmost level of the state, even to Prime Minister or the President of State. The role of the trade union has become intrusive even in the level to form the policies which can be taken as an achievement. Politically and psychologically the role of the trade union is above but economically it is general. Unfortunately, we are weak in terms of employment. About 400thousands new job-seekers enter in the labour market annually, out of which about 350thousands are forced to go abroad for jobs. Hardly 50 thousand people have been getting employment in the country annually whereas 81 thousand completely unemployed new faces appear in the market.

Recently, the facilitative works like rescuing the workers who have legally been to foreign countries for works, assisting to bring the dead bodies to homeland, providing compensation up to 500 thousands, ensuring compensations in case of injuries to the workers have also been commenced. Fund of billions has also been created for the same purpose. Trade union is the watchdog of the fund so that the entrepreneurs and the government could not misuse it.

We have been supporting the Nepali workers, who have been to the foreign countries, as members of our national centre. To that end, we have formed a mechanism known as GEFONT Support Group in the country where Nepalis are working. The Support Group facilitates the Nepali workers to make a formal link with the trade union of that country. But we do not intend to run any trade union organization ourselves in the foreign countries. In this way we have been actively working in the countries like Malaysia, Korea, Hong Kong, Qatar, Bahrain, Kuwait among others.

We have also informed the leaders of the political parties about the problems of workers. We have been reiterating that the rights ensured as the fundamental rights of the workers in the CA's Thematic committee- The Committee for Fundamental Rights and Directive Principles of the State should be included in the Constitution as it is. The right to form the union in the work place, the right of individual's freedom of expression and the right of strike as the ultimate means to fulfil the demands should be clearly mentioned in the Constitution itself. There also should be the right of employment and social security in the Constitution. We have more focused over the issue of education and health along with food, shelter and clothing.

For representation, we have single voice to have inclusive representation in terms of Caste/Ethnicities and geographical regions. While doing so, the concept of economic inclusiveness should not be forgotten. Whatever the region, the gender, race/ethnicity, caste, or geography from where we are represented; there is the presence of employers and the workers. Therefore, wherever the employers get represented, the workers should not be ignored. We demand to represent

10% workers in central parliament, provincial assembly and even in local government. All major political parties, Maoist, NC, UML and Madhesi Front, have agreed and expressed solidarity to our demand. Hopefully, the workers may get 10% representation in the new constitution. However, the representation of the workers should not be taken as the representation of the union leaders like us.

Similarly, we have also proposed to formulate a Labour Commission. The Labour Commission is not like Women Commission or Dalit Commission; rather it is like industrial commission. In the USA, there is Industrial Relation Board. In Australia, the Industrial Relation Commission is in practice. National Labour Commission has been established in South Korea and the Philippines. We wish the Labour Commission in Nepal would be formed as a quasi judicial body where the appointments (of commissioners) would be fixed through tripartite agreement. Let the experts and indifferent people represent the Commission in the tripartite agreement of the government, trade union and the employers' organisation. Let the verdict of the Commission be taken as the final decision and the qualification for being the Justice of the Supreme Court should be the minimum qualification of the person who leads it.

We have also been raising the issue of social security system. In practice at present, single woman and female above 70 and male above 75 have been getting Nrs. 500 as social protection. We are also ready to contribute the certain amount of our salary for the social security. The contribution of the employers and the financial involvement of the government will be useful tool to establish the Social Security Fund. Initially, we begin the schemes from unemployment benefit, treatment after accidents, health care, maternity protection etc. Finally, after a certain stage, let ensure the provision of getting pension as well. If the Fund is established, the state should not spend even a single penny like it spends NRs. 500 per senior citizen at present. About 8-10 billion rupees is being spent against the allowance for the senior citizens annually at present. About 45% of our present generation is youth. All of them will become old at a same time. Then, the state will certainly be unable to pay

such allowances to all of them. The present system, which is less than enough, is sure to collapse in the long run. If the initiations are taken to establish the Contributory Social Security Fund right from today, the pension for us will be generated out of a certain amount of our salary itself. Then, the state also should not take unnecessary burden of its citizen and the citizens will also not have to depend on their son/daughter in their old age. We have a strong belief that the system being practiced at present in Europe, America and Japan will also be implemented in Nepal within 20 years.

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