

Delegation from Nepal

Position Paper for the Commission on the Status of Women

The topics before the Commission on the Status of Women are: Tackling Global Human Trafficking of Women: Addressing Exploitation and Forced Labor and Strengthening Economic Empowerment for Women. Nepal understands the dire need to tackle these challenges through rights-based, and sustainable intervention through policies. As a country grappling with both issues directly, Nepal puts lived experiences, regional insights, and a political motive, fostering innovative solutions at the global scale. The Government of Nepal aims to align with the UNs core objectives, like the Palermo Protocol and Sustainable Development Goal 5, to end gender-based violence and promote women in the countries' workforce and economic development.

1. Eliminating Human Trafficking of Women and Girls

Background of the issue

- Domestic and foreign victims are targeted by human traffickers in Nepal, and Nepali victims are targeted by traffickers outside Nepal, as per reports in the past half-decade.
- In 2019, 1.5 million Nepalis were estimated to be at risk of being trafficked by the National Human Rights Commission.
- Traffickers recruit illiterate young women of traditionally oppressed castes and ethnic minority groups with limited economic opportunities.
- Nepali girls and women of 11 to 25 years old were listed as the most vulnerable to trafficking by law enforcement data.
- Traffickers are said to take advantage of weaker pre-departure screening at Kolkata and Chennai airports, or bribe officials in New Delhi and Mumbai, to smuggle Nepali migrant workers to third world countries undocumented, leaving the workers more prone to trafficking.
- Nepalis are exposed to abusive working practices, such as forced labour, and reports routinely cover employers holding workers' passports and occasionally delaying pay for multiple consecutive months.
- Based on research conducted in the Kathmandu Valley, nearly 17 percent of employees in the AES are children and 62 percent of women that are 18 or more in age, in the AES were child labourers in the beginning.

Nepal recommends five immediate interventions:

1. Amending the HTTCA to completely criminalize all forms of trafficking, including forced labour, in line with the UN Palermo Protocol.
2. Strengthening law enforcement and judicial mechanisms to investigate and pursue traffickers with adequate punishment, including complicit officials.
3. Energizing Local Coordination Committees on Human Trafficking (LCCHTs) in all municipalities to decentralize prevention and support for victims.
4. Expanding the Department of Foreign Employment (DoFE) with more staff, and training.
5. Utilizing oversight mechanisms, and monitor capability to end unethical recruitment practices.

6. Negotiating multiple bilateral labour agreements with key countries to establish legally protected, migration channels based on legal rights.

Actions taken by the UN

- Nepal's Anti-Human Trafficking Bureau (AHTB) developed a training manual on investigating trafficking crimes.
- The HTTCA of 2007 criminalized specific forms of sex trafficking and labour trafficking. The definition of trafficking under the HTTCA did not abide to the international definition of trafficking. It restricted the definition of human trafficking to selling or purchasing a person and to manipulating another to practice prostitution; did not include a demonstration of force, fraud, or coercion as an essential element of the underlying offense; and did not include express mention of forced labour.
- The HTTCA imposed penalties of five to 20 years' imprisonment and a fine, which were sufficient and, in the case of sex trafficking, equal to those imposed for other serious crimes, such as rape.
- The 2017 Labor Act, enforced through specialized labour courts, criminalized the offense of forced labour and imposed penalties of up to two years' imprisonment, a fine up to 500,000 Nepali rupees (NPR) (\$3,780), or both.
- In addition, the 2002 Bonded Labor (Prohibition) Act abolished labour and included civil sanctions of a fine between 15,000 NPR and 25,000 NPR (\$113-\$189).

The 2000 Child Labor Act criminalized forced child labour and called for penalties of prison time for up to one year, a fine of 50,000 NPR (\$378), or both.

- The Foreign Employment Act of 2007 (FEA) did make the practice of false and fraudulent recruitment of Nepali workers for foreign employment criminal and was used repeatedly in cases of labour trafficking in lieu of the HTTCA.
- In August 2022, a federal parliamentary committee directed the government to revise 12 current legislations to bring legislation in line with the Palermo Protocol, and the National Human Rights Commission proceeded to undertake advocacy initiatives to align the country's legislation with the UN TIP Protocol.
- The Foreign Employment Board (FEB) was tasked with reporting and monitoring labour exploitation, but the agency could not undertake enforcement operations and referred cases to DoFE and the Foreign Employment Tribunal, which often resulted in adjudication of migrant labour complaints.

Countries' Official Stand

The Government of Nepal is not yet entirely meeting the minimum requirements for eliminating trafficking but is making positive efforts towards that objective. Nepal condemned in strongest terms all human trafficking, especially women trafficking. Being a part of an active international community, Nepal encourages collective regional schemes and international collaboration to combat the root causes of trafficking. Nepal's Government is dedicated to aligning with UN initiatives and fulfilling its obligations under the Palermo Protocol and SDG targets.
