

# YEARLY PROGRESS REPORT

(July, 2018 to July, 2019)



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**People Forum for Human Right**

(People Forum)

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#### d. Advocacy for Policy Implementation:

People Forum has continuously been organizing advocacy workshops in contemporary issues of labour migration with line agencies. As a result of such advocacy programs People Forum became able to contribute for amendment of Foreign Employment Regulation, 2007. With this, Foreign Employment Board (FEB) has formulated policy to provide financial support for legal assistance in destination country to support the cases of distress and destitute migrant workers where People Forum has made contribution while drafting Guideline for providing legal assistance for jailed cases in destination and scholarship for migrant workers children.

#### e. Advocacy for Rights Based Amendment on Foreign Employment Act, 2064:

People Forum has been working for the right based reformation of Foreign Employment Act, 2007. From the beginning of such advocacy People Forum has created Civil Society Alliance (working for some cause)<sup>6</sup> and prepared amendment proposal incorporating best practices of laws of other countries and International standards. After finalization of the proposal, it has been submitted to Ministry of Labour and Employment on 1st June, 2017. Most of the reformation agendas proposed by People Forum has been incorporated in the Government's recent amendment.

#### f. Awareness rising programs on access to justice on Migrant's rights and legal proceeding:

This year People Forum has organized VDC level awareness programs in its five project implementing districts (Banke, Kaski, Morang, Chitwan and Jhapa)<sup>7</sup> in coordination with Local authorities. For organizing such awareness programs, People Forum has organized ToT program in each of the districts. People Forum has utilized the human resource of the trainee from ToT program. After these awareness rising activities, migrant communities from ground level are aware about migration process and their rights, procedure relating to filing complaint, information about using regular channels etc. Adding more, after those awareness programs, many of the hidden cases from ground level were referred to People Forum Legal Aid Service Centers.

#### g. Media Mobilization

People Forum has also been continuously organizing training to media group who are working in labour migration issues. For effective advocacy People Forum has been publishing several media articles in context of labor migration through national and local newspaper which directly contributed in generating awareness among migrant community as well to stakeholders and also to the extend to reform certain policies. In addition People Forum has also been running PAS programs at national level for larger impact in the migrant community. Beside this, People Forum has also been continuously organizing workshops and training with media personnel which has contributed in enhancement their knowledge in the legal aspects of labour migration.

#### h. Public Interest Litigation in Supreme Court:

Since the establishment of People Forum, it has filed various writ petition in Supreme Court on issues in labour migration. The First PIL filed by People Forum was relating to the issue of the appointment of Labour Attaches, as a result of case filed, Labour Attaches have been appointed in 8 destination countries<sup>8</sup>. Another PIL was filed on Establishment of Safe homes at destination countries which results in the establishment of safe homes<sup>9</sup> in 4 destination countries i.e Saudi Arabia, Qatar, UAE, and Kuwait.

The another two different PIL was filed on Bilateral Agreement<sup>10</sup> prior to sending workers and Decentralization of Foreign

Employment related service in local level. In this PIL, Supreme Court of Nepal issued a directive order to initiate additional bilateral labour agreements and decentralization of service related with foreign employment in local level. Similarly, People Forum has also filed a PIL case regarding Judicial authority<sup>11</sup> given to Department was inconsistent with the constitutional provisions. In this PIL Supreme Court of Nepal has issued a directive order to the Government of Nepal. Currently, the PIL relating to the age ban of women migrant domestic workers<sup>12</sup> is pending in Supreme Court and People Forum has been continuously doing follow up of the case.

#### i. Research on Legal Aspect of Labour Migration:

One of the working strategy of People Forum is to research on legal aspect of labour migration. This year, People Forum has done research on following issues;

- Study on the status of migrant workers access to Justice in destination countries
- Conduct study on judgement execution on foreign employment cases

#### j. Policy Advocacy on Localization of Foreign Employment Management

People Forum has prepared a policy paper which clearly states about which mandate and mechanism needs to be decentralize in province and local level government, how and in which mechanism and service can be decentralized. The policy paper also build strategy for doing advocacy on localization of foreign employment management. In the paper, People Forum has compiled the emerging practices of five other countries of origin with their mandate mechanism and services. The policy paper has already been published and distributed to concerned stakeholders.

Based on the prepared policy paper People Forum has been organizing two of the advocacy workshop for localization of foreign employment mandate in local level.

#### k. Capacity Development

With the objective of enhancing the capacity of duty bearer on legal aspect of foreign employment, this year People Forum has organized Legal Training to the Judicial Committee at Sarlahi, Rupendehi, Kaski, Kavre and Bardiya<sup>13</sup>. After the training participants were aware about the laws related to foreign employment and trafficking and also enhanced with the knowledge of their mandate provided by Local Governance and Operation Act, 2017.

Similarly, People Forum with the objective of enhancing the knowledge on legal process of foreign employment has organized 2 paralegal trainings to returnee women migrant workers and social mobilizers. All together 43 participants from 11 districts were engaged in the training. The training became instrumental for enhancement of knowledge and capacity of the participants for their empowerment in the legal proceeding. More importantly, the participants are capacitated as a human resources in local level as well as serve as a social mobilizers for referral of cases.

<sup>6</sup> CSOs, Development Partners, Trade Unions, Lawyers, Bar Associations, Networks, Journalists and Media Advocacy Groups in which all together 20 organizations have contributed.

<sup>7</sup> SaMI' project districts namely- Khotang, Sarlahi, Dhading, Dhanusha, Saptari, Sunsari, Nawalparasi, Kailali, Ramechhap, Jhapa, Dang, Nuwakot, Siraha, Mahotari, Sindhuli, Udayapur, kaski, Sindhupalchok. Some SaMI districts are overlap with Uropean Union project 15 district thus total district are 22

<sup>8</sup> South Korea, Malaysia, UAE, Bahrain, Qatar, Saudi Arabia, Oman, and Kuwait.

<sup>9</sup> Advocate ShomLuitel on behalf of People Forum v. Government of Nepal, Prime Minister and Council of Ministers 065-WO-0082

<sup>10</sup> Advocate ShomLuitel on behalf of People Forum v. Government of Nepal, Prime Minister and Council of Ministers 072-WO-0163

<sup>11</sup> Advocate ShomLuitel on behalf of People Forum v. Government of Nepal, Prime Minister and Council of Ministers 072-WO-0162

<sup>12</sup> A writ petition has been filed at the Supreme Court on 6 June 2018, demanding ultra vires order for the dismissal of a Directive by the Government of Nepal to limit the age of women domestic workers to 24 years. Similarly, the writ petition also demands the dismissal of provisions limiting age of women in two bilateral agreements between Nepal and two destination countries (Israel and Jordan) limiting the age of women for 25 and 24 years respectively. It is argued in the writ that this provision of limiting the age of women migrant workers violates the right to equality laid out in Article 18 of the Constitution of Nepal. Similarly, the writ petition also demands a mandamus order to the Government of Nepal to ratify the Domestic Worker Convention 2011. To file this writ petition, People Forum for Human Rights (People Forum) coordinated and supported PNCC and AMKAS Nepal.

<sup>13</sup> People Forum has planning to organizing remaining trainings at Kathmandu, Chitwan, Nawalpur and Jhapa

## Free Legal Aid Service to Migrant Workers

### People Forum for Human Right

(People Forum)

#### Introduction:

People Forum for Human Right (People Forum) is a Non-Governmental Organization (NGO) established for the protection of human rights and promotion of rule of law in Nepal. Since its establishment in 2003, it has been working to provide free legal aid service, advocacy and lobbying for policy reformation and generating awareness at the community level through training, workshops and interaction programs. It has been conducting several types of research and programs in the field of migration.

People Forum has unique experience in the field of legal aid, legal empowerment, legal research and policy advocacy, particularly in the issue of labour migration. Since 2005, People Forum has built strategy to focus its intervention on labour migration and has been providing free legal aid services to migrant workers. People Forum has been providing free legal aid service to the migrant worker with the close coordination and support by the Government of Nepal Ministry of Labor, Employment and Social Security (MoLESS) and Safer Migration Project (SaMi) HELVETAS, Swiss Inter cooperation Nepal.<sup>1</sup>

Free Legal Aid Service includes; Pleading at Supreme Court, Foreign Employment Tribunal and other courts on behalf of victims, Witness testimony service, Providing drafting service of First Information Report (FIR)/Application on behalf of victims, Case follow up in Supreme Court, Foreign Employment Tribunal, Department of Foreign Employment (DoFE), Foreign Employment Board (FEB), Insurance Company. Furthermore, it has been providing regular Legal aid service through help desk in Foreign Employment Tribunal (FET), DoFE, and FEB. Beside Foreign Employment cases People Forum has also been providing free legal aid service to migration related trafficking cases. People Forum has been supporting victim to collect<sup>2</sup> evidence and for rescue Victims from destination with collaboration of Consular Department and Nepalese Embassy of destination country.

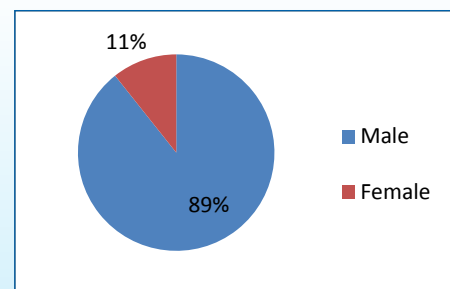
In addition, People Forum has also been providing legal counseling service through its legal aid clinic and web based legal advice.<sup>3</sup> People Forum has provided free legal aid service to 21,920 distress and destitute migrant workers and their families in their complaints and cases since September, 2011 till July, 2019. During this period People Forum became able to provide compensation of NRs 650,216,685 /- to victims through free legal aid service. While delivering service People from 77 districts came in contact for getting Service.<sup>4</sup>

#### 1. Major Achievements of Free Legal Aid Service by People Forum:

The data presented here is based on victim's intake form of 2115 victims of foreign employment who are provided with Free Legal Aid Service from 16<sup>th</sup> July 2018 to 15<sup>th</sup> July, 2019 by People Forum.

##### a. Gender of Victims:

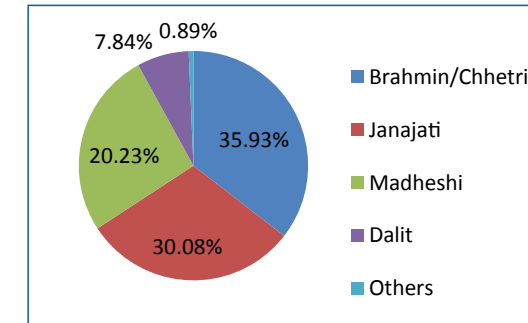
In one year, People Forum has provided service to 2115 distress and destitute Migrant Workers. Among them 89% service recipient are Male and remaining 11% are Female. This detail shows that Male ratio is greater than Female ratio who go abroad for foreign employment. The ratio of female victims is comparatively low and one of the reason may be the restriction of government



for Female in certain gulf countries. But if compared with the official data published by Government of Nepal, only 5 % female migrant workers went to foreign employment.

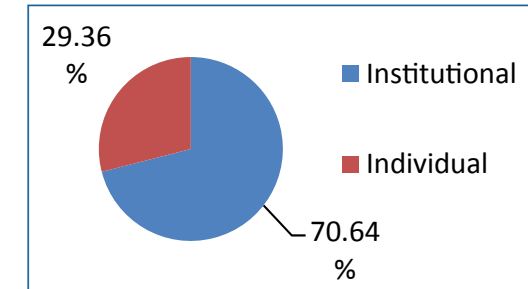
##### b. Ethnicity of the Victims:

Among the 2115 distress and destitute service recipient 35.93% were Brahmin, 35.08% were Indigenous, 20.23% were Madhesi, 7.84% were Dalit and 0.89% were from other ethnicity. From above figure it can be said that the number of Brahmin/Chhetri are in first rank, Indigenous in second rank, Madhesi in third rank and Dalit in fourth rank who were gone for Foreign employment and victimized.



##### c. Channels of Exploitation:

Among the 2115 service recipient, 70.64% of Migrant Workers are being victimized by recruiting agencies and 29.36% People are being cheated by individuals agents who have no legal authority to send people for Foreign Employment. From above details it can be assumed that maximum number of people used to contact recruiting agency (manpower) to go abroad for foreign employment.

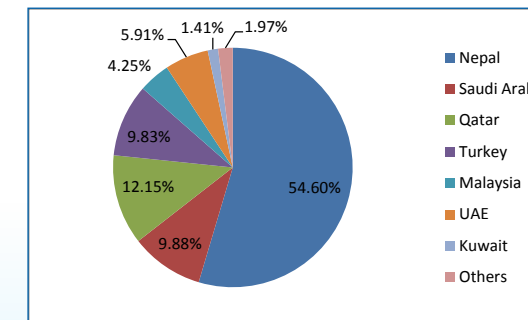


##### d. Origin of Victims:

In the period from 16<sup>th</sup> July, 2018 to 15<sup>th</sup> July, 2019 People Forum provided Free Legal Aid Service to the victims from 77 districts of Nepal which includes all the provinces. However, some People who came to People Forum have not provided the name of their districts because of their confidentiality. From the analysis of service recipient, the top ten highest number were from Tarai region which are Sarlahi, Nawalparasi, Jhapa, Sunsari, Dhanusha, Saptari, Morang, Mahothari and Siraha including Kathmandu.

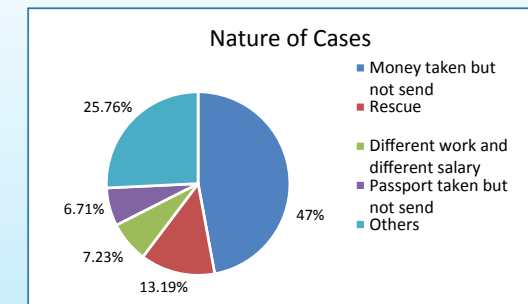
##### e. Country wise Problem:

Among the 2115 service recipient 54.60% victims were cheated<sup>5</sup> in Nepal i.e. prior going to foreign employment, 12.15% have complained in relation to Qatar, 9.88% Victims have complained in relation to Saudi Arabia, 9.83% Victims have complained in relation to Turkey, 5.91% Victim have complained in relation to UAE, 4.25% Victim have complained in relation to Malaysia, 1.41% Victims in relation to Kuwait and 1.97% Victims in relation to other countries.



##### f. Nature of Cases:

From analysis of the 2115 Migrant Workers' cases registered in People Forum's Free Legal Aid Clinic, the maximum number of complained that were registered was money taken but not send (fraud by local broker, recruitment agencies/agents) comprises of 47%. Similarly, 13.19% of people who have come to clinic of People Forum have filed a case to rescue their relatives from abroad. Moreover, 7.23% of the people who had gone abroad had also returned back to Nepal as a result of different



work and salary. 6.71% of people have filed a complaint at DoFE through People Forum Free Legal Aid Clinic whose passport have been withheld by recruitment agencies and/or agents promising to send them abroad. 25.76% cases registered in clinic are of other nature of cases like medically unfit in destination, violence, death, work place accident etc.

##### g. Case Referral :

From the analysis of the record maintained in the People Forum's Free Legal Aid Clinic, Cases being referred and recommended from following agencies. i.e. Department of Foreign Employment, Foreign Employment Tribunal, Foreign Employment Board, Migrants Information Center, Nepal Police (Crime Investigation Department and Central Investigation Bureau), The Anti- Human Trafficking Investigation Bureau Nepal, Media, Relatives and Friends, Other victims, Non-governmental organizations, International non-governmental organization, Development Partners and Victim themselves.

#### 2. Programs of Fiscal year related to Access to Justice of Migrant Workers:

##### a. Coordination Meetings:

With the objective of enhancing better coordination among the justice agencies related to foreign employment, People Forum is regularly organizing Coordination meetings with judicial stakeholders of Foreign Employment in Central Level. It has been playing advisory role for better coordination among the agencies of foreign employment justice sector. Till date it has organized 26 coordination meetings in the representation of Chairperson and Members of Foreign Employment Tribunal, Representatives from Ministry, Investigation Officers of DoFE, Head of Special Government Attorney office, Department of Immigration, Nepal Police, Foreign Employment Board and legal aid lawyers.

##### b. Victims Hearing Program :

Victims hearing program is another important activity of free legal aid and paralegal service project. People Forum has been organizing this program regularly in the occasion of International Migrant's Day to hear the voice of victim. This is the innovative initiation in the area of justice system in Nepal. With the objective of conveying the live voice of the victims to the high level policy maker so that it will help them to change in policy in future.

Victims put their problems to the concern judicial officials and Policy maker directly. In addition, civil society organizations working in similar field also gained experience to know about the real problem and situation faced by migrant worker within the country of origin and destination. Civil society's members raise their voice for victims justice. Commitment from Government officers to solve the victim's problem in time is taken as an achievement of the program.

##### c. Legal Training for Officials of Foreign Employment Justice Agencies and Lawyers:

Legal Training for Investigation Officers, Government Attorneys, Police, Officers of FET and Legal Aid Lawyers is another important activity of legal aid and paralegal service Program. People Forum has been organizing the training regularly in annual basis. The main objective of the Legal Training is to enhance knowledge of the law enforcement officials regarding Foreign Employment and Trafficking Laws.

As a result of the training Participants able to get some knowledge about the migration and trafficking issues, international instruments, the skill of investigation and prosecution. Most of the participants and resource person requests People Forum to organize such type of training by inviting facilitator from diverse field of Foreign Employment with additional subject matter with additional days.

<sup>1</sup> People Forum has also implemented Project with small component of legal aid in support of Governance Facility, Nepal and KIOS Foundation.

<sup>2</sup> People Forum since 2017 has started Web base legal advice for the victims in abroad, for reference please visit [www.peopleforum.org.np](http://www.peopleforum.org.np)

<sup>3</sup> [www.peopleforum.org.np](http://www.peopleforum.org.np)

<sup>4</sup> Beside Free Legal Aid Service People Forum has been initiating following interventions on Labour Migration field i.e. Advocacy for Law Reformation and Policy Implementation, Public Interest Litigation, Coordination and Networking among the Actors, Capacity Development of Migrant Workers, Government and Non-Government Service Providers, Research on Legal Issues of Labour Migration and Media Mobilization.

<sup>5</sup> i.e. fraud by local brokers, recruitment agencies and agents as well as who had gone abroad return back to Nepal as a result of different work and salary than.