

4.4 Tourism of Kaski under Human Rights Oriented Business

This study, rooted in the principles of human rights-oriented business, emerges from discussions with tourism professionals, workers, and trade union officials. It emphasizes the importance of ensuring the human rights of workers across tourism fields in Kaski, a prime hub of Nepal's tourism industry. The primary aim is to examine whether workers employed in Kaski's tourism sector are involved in involuntary activities and compelled to work for minimum wages.

After the end of the 104-year-long Rana rule in 1951, Nepal enacted major political change and opened to the outside world. Nepal also began investing in its external communication systems as well as developmental and transportation infrastructure. The successful ascent of Mt. Everest by Sir Edmund Hillary and Tenzing Norgay Sherpa in 1953 drew the attention of tourists towards Nepal, leading to the eventual expansion of the trekking and mountaineering industries, along with the tourism industry as a whole.

Nepal Tourism Board was established in 1998 to promote the private sector's marketing of Nepal's tourism destinations. Nepal's gradually expanding tourism industry could not flourish due to Maoist insurgency in initial phase. The 2015 earthquake also slowed down tourism, with the COVID-19 pandemic, further diminishing prospects. The tourism industry has gradually begun recovering from the global economic recession of the pandemic, long after the end of the pandemic-era travel restrictions.

Kaski District is one of Nepal's important tourist destinations. The district hosts many lakes and is situated close to the Annapurna range in the Himalayas. Pokhara's lakes and the mountains of the Annapurna range are the region's main tourist attractions. Kaski's rural areas are also broadening in tourism - as places like Ghandruk and Dhampus of Annapurna Rural Municipality, Sikles of Mardi Rural Municipality and Luang of Machhapuchchhre are becoming popular because of their tourist homestays, tea houses and local eateries along well-known trekking trails.

Cultural tourism has played a large role in the cultural transformation, development, and self-employment of rural areas in the District. Rural tourism brings together people from different cultures, religions, and languages together - aiding in social, cultural, and educational development of all communities.

In Nepal, tourism has contributed to the country's economic growth and social development. However, there is room for improvement in the tourism industry - including environmental conservation, fair employment practices, and upholding of human rights principles by tourism businesses. There also are allegations that workers in some tourism businesses work under conditions described as "modern slavery". The term modern slavery refers to the exploitation of a person by other for personal or financial gain. Its modern definition includes human trafficking, child labor, forced labor, forced marriage, sex trafficking and prostitution, bonded

labor, or debt bondage. There have been reports on the practice of employing child workers, sexual exploitation, and forced prostitution. These are activities, which if not addressed, can negatively affect the entire tourism industry. Children and women are especially prone to such exploitation as they migrate from rural areas to urban centers in search of work. Hotels and restaurant businesses catering to tourists have long working hours and low wages, while entertainment-oriented tourism businesses have also been accused of sexual harassment and violence against workers.

According to data from Shakti Samuha, 21 women and children from the District have been compelled for forced sexual activities between July 2022 to June 2023.

Modern Forms of Slavery in Tourism

Slavery has been generally understood as bondage for work and bonded labor in agriculture or domestic work. Labor exploitation is also a form of slavery. According to the International Labor Organization 1930 (No. 29), the definition of “modern slavery” is: “situations of exploitation in which a person cannot refuse or leave because of threats, violence, coercion, deception, or abuse of power.” (Office of the United Nations High Commissioner for Human Rights/ Factsheet No. 14, 1991; Plant, 2014).

According to Antislavery International, an organization committed to combating slavery worldwide, an estimated 50 million people are still enslaved today, making it a global issue affecting every country. The historical transatlantic slave trade, which saw 1-1.2 million Africans forcibly brought to the Americas between the 16th and 19th centuries, represents one aspect of this complex problem. Modern slavery, which encompasses various forms of exploitation including trafficking, involves elements of control,

coercion, and exploitation. Despite its differences from historical slavery, modern slavery remains a significant challenge that requires global action to address effectively.

Modern slavery typically encompasses all forms of forced labor, including labor exploitation. It is rife in most Nepali businesses, including the tourism sector. Due to high competition on prices, workers at hotels, restaurants, and various entertainment businesses are not given fair pay. The seasonality of the tourism business also means workers only have employment for six months when there are tourists, and their jobs are not reliable.

The insufficient monitoring of whether employers comply with state-mandated wage standards contributes to the modern slavery. Violations regarding the tourism entertainment sector are also rarely monitored or investigated. This sector includes businesses like dance bars, spas, and massage parlors where workers do not have proper labor contracts and are not paid minimum wage.

Pokhara is the main travel destination for both domestic and international tourists. It has a large collection of hotels, dance bars, and spas, catering to all types of travelers. Some of these businesses have also become hotspots for labor exploitation. The research shows that this problem could further exacerbate with the lack of oversight, and measures to correct malpractices.

The Gandaki Province Policy and Plan 2020 states that the tourism sector contributes 10 percent to the total gross domestic product of the province, and that 15 percent of all jobs are created in the tourism sector. According to the statistics of Kaski Hotel Association (HAN), Kaski District has one five-star hotel, five four-star hotels, and four two-star hotels. There are 1200 non-categorized hotels. The hotels together employ about 25000 people.

Human Rights Based Concept

Every action done by businesses have both positive as well as negative impacts on society. Businesses are required to be socially accountable, which they do through corporate social responsibility (CSR). The fulfillment of social responsibility is not obligatory for businesses, with many trying to avoid making payouts for community level projects. The transgressions on human rights in business means the need to expand the state's traditional jurisdiction for preserving human rights. The state amends where businesses have violated human rights, making sure to ensure access to justice and compensation for the victims. Businesses are required to respect human rights, and to work towards preventing and minimizing violations that may occur during operations. Any violations done by businesses need to be held responsible and made accountable. This is the basic framework of business and human rights. However, businesses in Nepal are yet to accept the concept of human rights in businesses.

Working Conditions of Tourist Guides

The recent downturn in tourism sector caused a prolonged period of unemployment for tourist guides. The job market is no longer as promising as before, and small factors such as political unrest, outbreaks like the Covid-19 Pandemic, and global instability impact tourism significantly. Tourists often cancel their bookings due to sudden incidents, exacerbating the situation

Furthermore, prices in the tourism sector have increased over time, but workers have not seen a corresponding improvement in perks or wages. Trekking is one of the main tourist attractions of Nepal, but current trekking routes are being replaced by motorable roads and old trails have not been rebuilt. Therefore, the number of days tourists are supposed

to spend on trekking routes have shortened. Trekking around the Annapurna circuit used to take around a month, but can now be completed in 8-10 days. Such changes taking place in the industry have resulted in lower incomes for businesses and increased work uncertainty for workers. Even though tourism contributes to Nepal's economy massively, government agencies have not been able to better manage and support the industry. For example, although the government has recently mandated that tourists would require guides for trekking, providing stable employment to the guides - this supposedly mandatory provision remains yet to be enforced. The Trekking Agencies Association of Nepal (TAAN) organizes training for new trekking guides, which is a requirement for those wishing to work in the sector. Although the trainings cost NPR 7,000-10,000, there is no guarantee of employment once one is licensed.

Labor Standards

Article 34 of the Constitution of Nepal establishes the right to work as a fundamental right. Every laborer has the right to appropriate remuneration, facilities, and contributory social security, the right to form and join trade unions and to engage in collective bargaining, in accordance with law. The right to employment, right to labor, and right to social security provided by the Constitution are the primary rights related to business and human rights. Among the 11 International Labor Organization (ILO) Conventions signed by Nepal, seven are considered fundamental conventions.

The Labor Act 2018 is the instrument for enforcing rights provided in the Constitution and international conventions. The objectives of the Act are to regulate the rights, benefits, and facilities of workers, to develop good labor relations by clearly regulating the rights and duties of workers and employers, to increase pro-

ductivity by ending all conditions of labor exploitation, and to amend and unify labor laws.

Although the Tourism Board and TAAN have set a minimum wage of NPR 2,400 for porters and NPR 3,300 for guides, these wage requirements are not enforced.

Trade unions are worker led groups that advocate for the concerns and interest of the workers to ensure that their rights are upheld. In Nepal, there are separate trade unions affiliated to different political parties. These unions work to ensure that workers are paid above minimum wage, to resolve conflicts between employees and employers provide training and education to workers, assist in providing health and safety benefits etc. They also advocate for the rights of workers including proper appointment letters, facilities for medical treatment, and their overall welfare. They also support tourism development. However, in the tourism sector, only a minority of workers have formed unions, primarily those in five, four, and three-star hotels. Workers in general hotels, restaurants, and entertainment sectors often lack awareness of trade. A survey carried out by the trade union affiliated to Nepali Congress, 22.51 % of workers were members of trade unions, while the remaining 77.48 % of workers were not affiliated with any labor organization.

According to Rudra Prasad Timilsina, General Secretary of the Nepali Congress affiliated trade union in Gandaki province - there are more unskilled workers in tourism, forcing them to work for very low wages. Further, because workers are hired based on personal contacts and recommendations, they can also be fired at any time. The workers in restaurants are not even entitled to the 10 % service charge outlets charge customers. He added that workers in the entertainment sector were not affiliated with any

union and no petition has been received from them on their employment status. This trade union had 500 members from tourism businesses in 2022/23 and the union had so far received only four complaints from the tourism sector.

Rudra Bahadur Khatri, chairperson of the Nepal Trade Union Federation GEFONT Gandaki, however, said that there is higher labor exploitation of labor in small businesses compared to the larger ones. At large hotels, minimum wages and appointment letters are provided according to the rules, so the situation is satisfactory. He states that this is unsatisfactory in small hotels, restaurants, and the entertainment businesses. The trade unions do not have the right to monitor employment conditions directly, so there is no way they can investigate and recommend corrective actions. This union had 435 workers from the tourism sector as members, among which 284 were women.

Suresh Dhakal, Senior Labor Officer in Kaski, said the condition of workers working in all sectors was unsatisfactory, which was even worse in the tourism sector. He said his office has received complaints related to delayed wages and payment below minimum wage. The labor office resolves complaints in consultation with the employer, and issues that cannot be resolved are referred to the judicial process. The labor office conducts regular monitoring of businesses, but workers do not openly discuss their concerns in front of their employers for fear of losing their jobs. Small restaurants also employ child laborers. The use of child workers is monitored by the labor office in coordination with the police and other organizations working for the welfare of children.

The employers also had their complaints. They said it had become very difficult to retain workers, because most trained workers head abroad for employment once they have been in the business for a few years. There were five new

complaints from workers in tourism businesses at the labor office in 2023/24; two were from hotels, two from dance bars and one from a restaurant. All petitions were about not receiving salary on time. Jagan Bishwakarma, the founder of Nepal Mountain Bike Adventure, noted the addition of new dimensions to tourism, such as hotels, restaurants, *Dohori Sanjh* (a type of bar with live music), dance bars, and massage centers aimed at entertaining tourists. While these sectors have attracted tourists, Bishwakarma highlighted challenges faced by workers, including inadequate training, limited job opportunities elsewhere, and lax inspection by regulatory agencies, and difficulties in ensuring standard wages. Consequently, the working conditions for workers in these sectors are poor.

According to Dharmaraj Panthi, the Chairman of TAN, Gandaki Province, the Ministry of Tourism of the Nepal Government has mandated obtaining a permit through the Trekker Information System (TIMS) for trekking since April 1, 2023 but this is inefficiently enforced. There are no checkpoints for trekking teams at many locations along the trekking routes. There are notices saying tourists without permits would be required to pay a fine of NPR 12,000 but there are no check posts to monitor these permits. Furthermore, even though a guide is said to be mandatory, trekking permits are also issued to tourists that do not have guides. Chairman Dharmaraj Panthi emphasizes that implementing the TIMS system for guides and helpers will ensure safer treks, create more job opportunities, and positively impact the country's economy.

Concept and Challenges of Human Rights in Entertainment Sector

There have been proposals to keep the Pokhara Lakeside area open round the clock for supporting tourism businesses. However, this has not been followed up

with discussions on mandating a framework to ensure a safe working environment. It is imperative to closely consider how a safe environment can be created for people if they work at entertainment businesses throughout the night. There have been awareness programs conducted from time to time on ways to make businesses safer at night, particularly in the entertainment sector.

Female workers working in entertainment sector have complained about delayed payment. Moreover, they have had to deal with several unsafe workplace practices due to inappropriate customer behavior.

Minimum Wage

Female workers who work as servers or at dance bars and spas have had to deal with several unsafe workplace practices. Female workers have been reported to be obligated towards extraneous chores, including, having to entertain customers during their meals. This sector has a large number of women with low education qualifications, as these are the easiest jobs to find. There is also exploitation of workers with low wages in the entertainment businesses. Since most of the workers come from low-income families, they can easily fall to exploitation by both customers and employers. Additionally, female workers report pressures to please customers in order to satisfy their employers and attract more business. This further exacerbates their vulnerability to exploitation and mistreatment in the workplace.

Section 11 of Nepal's Labor Act 2074 (2017) states, an employee shall not be employed without a contract. Subsection (3) of the same section requires clarity on remuneration, benefits to be received by the worker, conditions of employment and other matters set out in a contract. Employers have been found to make contracts to suit their convenience, par-

ticularly when employing workers with low or no education. During discussions with women who work in “*Dohori Sajh*” in Pokhara, it was found that the workers who work at such outlets and massage parlors do not have formal appointments or contracts. It has been found that the women who work in the abovementioned places did not know about the minimum wage fixed by the government even if they had appointment letters. The employers were found to be paying servers NPR 5,000 to NPR 7,000 per month and made them work for five to eight hours a day. Similarly, singers and dancers were paid NPR 7,000 to NPR 14,000 depending on their skills. Furthermore, many workers said they do not receive regular salaries and sometimes must work without pay for many months.

Female workers who cannot consider other professions for various reasons are not only subjected to labor exploitation, but also have to face further

harms such as sexual exploitation and mental torture. There is also no provision for day-offs in the standard workweek for many workers in such businesses and could face wage-cuts for days they are absent in the work. Finally, since women in the tourism businesses have to work late, they also face personal safety issues when going home, as apart from few, most businesses do not have arrangements to drop and pick up workers.

Conclusion

The operation of the Lakeside area for 24 hours is occasionally debated. Kaski’s tourism not only benefits the national economy but also generates employment and economic income. However, concerns about the human rights of workers in the tourism sector are recurrent. To address this issue, it is imperative to engage entrepreneurs, trade unions, and other stakeholders.

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