

International Conference on Protection of Rights of the Migrant Workers

12-14 November 2019
Kathmandu, Nepal

Conference Report



National Human Rights
Commission of Nepal (NHRCN)
Kathmandu, Nepal

2020

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Acronyms

BLA	Bilateral Labour Agreement
CAT	Committee against Torture
CoD	Country of Destination
CoO	Country of Origin
CoT	Country of Transit
CSO	Civil Society Organisation
ENNHRI	European Network of National Human Rights Institutions
GANHRI	Global Alliance of National Human Rights Institutions
GCM	Global Compact for Safe, Orderly and Regular Migration
GoN	Government of Nepal
Hon.	Honourable
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on the Economic Social and Cultural Rights
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ILO	International Labour Organization
IOM	International Organization for Migration
MoFA	Ministry of Foreign Affairs
MoLESS	Ministry of Labour, Employment and Social Security
MoU	Memorandum of Understanding
NGO	Non-Governmental Organisation
NHRC	National Human Rights Commission
NHRI	National Human Rights Institution
Rt Hon.	Right Honourable
SAARC	South Asian Association for Regional Cooperation
SDG	Sustainable Development Goals
UN	United Nations

International Conference Management and Coordination Committee Members

S. N	Name	Designation	Committee Designation
1	Sudip Pathak	Hon. Member, NHRC Nepal	Conference Convener
2	Murari Prasad Kharel	Director, NHRC Nepal	Member
3	Nava Raj Sapkota	Director, NHRC Nepal	Member
4	Lok Nath Bastola	Deputy Director, NHRC Nepal	Member
5	Maya Devi Sharma	Deputy Director, NHRC Nepal	Member
6	Swarnima Bhandari	Deputy Director, NHRC Nepal	Member
7	Ghanashyam Bhandari	Human Rights Officer, NHRC Nepal	Member
8	Jitendra Karki	Account Officer, NHRC Nepal	Member
9	Rajendra Prasad Neupane	Human Rights Officer, NHRC Nepal	Member
10	Durga Pokhrel	Communication Officer, NHRC Nepal	Member
11	Kiran Kumar Baram	Human Rights Officer, NHRC Nepal	Member
12	Anish Poudel	Human Rights Officer, NHRC Nepal	Member
13	Khimananda Bashyal	Human Rights Officer, NHRC Nepal	Member
14	Babu Kaji K.C.	Security Officer, NHRC Nepal	Member
15	Ravi Lal Nepali	Officer, NHRC Nepal	Member
16	Sagar Shrestha	Assistant First, NHRC Nepal	Member
17	Saman Manadhar	Assistant First, Information and Technology Section, NHRC Nepal	Member
18	Kamal Thapa Kshetri	Human Rights Officer, Migrant Focal Officer, NHRC Nepal	Member Secretary

Foreword



ANUP RAJ SHARMA

Chairperson

National Human Rights Commission of Nepal

With the beginning of the year 2019, the National Human Rights Commission of Nepal came up with the idea of hosting an international conference on the rights of the migrant workers. We participated in the Global Alliance of National Human Rights Institutions (GANHRI) annual conference of 2019 with the motivation to also organise a similar conference in Nepal. GANHRI had set migration as one of the key agendas of the annual conference which was entitled 'Ensuring Human Rights-Based and Gender-Responsive Implementation, Follow-Up and Review of the Global Compact for Migration: The Role of National Human Rights Institutions'. Though there were various national level discussions held thereafter, with the GANHRI annual conference, the National Human Rights Commission of Nepal initiated the preparation of the International Conference on Protection of Rights of the Migrant Workers.

National Human Rights Commission of Nepal (NHRCN) Nepal is an institution consistently accredited with 'A' status by GANHRI and its predecessor, International Coordinating Committee of National Human Rights Institutions. It was not the first time that the NHRC Nepal organised a conference of this kind. It has to its credit the experience of having organised 'International Conference between National Human Rights Institutions (NHRIs) for the Promotion and Protection of the Rights of the Migrant Workers' in November 2012 which resulted in the Kathmandu Resolution. In addition to this, rights of the migrant workers was also a focus area in the 'International Human Rights Conference on Impunity' organised by the NHRC Nepal in April 2018.

The NHRC Nepal organised the 'International Conference on Protection of Rights of the Migrant Workers' which took place on 12-14 November 2019 in Kathmandu with the aim of assessing the major challenges and opportunities to protect the rights of the migrant workers and strengthening the inter-NHRI cooperation as well as NHRIs-Civil Society Organisations-Government-Private sector cooperation.

The NHRIs play unique bridging roles across the international, regional and national spheres, different government institutions, government, civil society, and rights holders, around a range of human rights and the states' corresponding international obligations and commitments. Therefore, the conference also

aimed to bring together the NHRIs of the Asia Pacific region and their established networks, including civil society organisations (CSOs) and employers' and workers' organisations from countries of origin, transit and destination to discuss the issues of the rights of the migrant workers. It became a platform to share best practices of NHRIs cooperation. It was successful in engaging the government representatives from the Gulf Cooperation Council countries and other regional entities where the NHRIs do not exist.

There was national and international participation from the NHRIs, the CSOs, experts, the UN agencies, intelligentsia and academicians. The national participation included key human rights stakeholders working on the issues of migrant workers, including the representatives from concerned government authorities and the private sector recruitment intermediaries, among others.

It is gratifying that the number of papers presented and rigorous discussions on the topics: Migration Governance and the Rights of Migrant Workers, Promoting Practice of Fair and Responsible Recruitment, Issues on Irregular Migration, Ensuring Access to Justice for Migrant Workers, Inter-NHRIs Cooperation in Protection and Promotion of Rights of the Migrant Workers, supported exchange of ideas, and I believe this contributed to strengthening the cooperation on protection and promotion of human rights of the migrant workers and to spreading awareness about the importance of establishing mechanisms to protect migrants' rights. Extensive discussion was also held on various challenges and prospects for protecting rights of the migrant workers, particularly focused on the situation in South-East migration in the Asia Pacific Region during the conference.

We also brought out the Kathmandu Declaration with plan of action as an outcome of the conference. The declaration has decided to enhance institutionalised networking of human rights institutions at bilateral and regional levels for cooperation, collaboration and advocacy to respect and protect the rights of the migrant workers and their families. It is hoped that the conference was successful to enhance cooperation between the NHRIs and to establish bilateral, sub-regional and multilateral protection measures for securing the rights of the migrant workers. The declaration has also suggested a 10-point plan of action to achieve its goals. Some points in the plan of action include the continuation of signing of bilateral and regional agreements between the NHRIs for facilitating joint cross-border monitoring of human rights of migrant workers, and to identify and report gross violence, discrimination, exploitation and abuses committed against labour migrants.

The NHRC Nepal even initiated bilateral cooperation with the Human Rights Commission of Malaysia concluding in the signing of a Memorandum of Understanding intending to regulate and facilitate the mutual relation between two Asia Pacific Forum (APF) member NHRIs: NHRC Nepal and the Human Rights Commission of Malaysia (SUHAKAM), Malaysia, during the conference period. The MoU aims to foster close collaboration, exchange of information, and bilateral communication relating to the complaints, joint monitoring, research and other activities in order to protect the right of the migrant workers and people residing in both the countries.

Migration is a global phenomenon and the world is facing some problems in this area. The international conference was successful to call for global cooperation and solidarity to protect the rights of the migrant workers and draw attention to the socio-economic consequences of these issues in the countries. The

participants emphasised the importance of strengthening our preparedness and response capacities, of sharing information in a free, transparent and prompt manner, and of improving international response including through relevant international organisations. The stakeholders in the future will bolster their cooperation to reinforce international protection, strengthen preparedness and response for global problems, enhance global economic stability and inclusive growth, implement the Sustainable Development Goals, and protect the climate and the environment.

I am pleased to acknowledge the Government of Nepal for its official financial sponsorship of the conference. I also thank and acknowledge United Nations Development Programme (UNDP) for their support for the conference. We owe a great deal to GANHRI which provided us with the appropriate suggestions and support. Little would have been achieved without the support of International Labour Organization and International Organization for Migration, and I would like to express my gratitude to them for providing us with kind, interesting and insightful ideas.

Finally, I want to thank Right Honourable Vice-President of Nepal Nanda Bahadur Pun 'Pasang' for his precious presence in the inauguration of the conference. Similarly, I am thankful to Honourable Dr Carlos Alfonso Negret Mosquera, Chairperson, GANHRI, Ombudsman's Office of Colombia, who inspired us and also participated in the conference. I would like to express my thanks to my fellow members and all the staff of the NHRC Nepal for their tireless efforts. To all these and to many others who have helped as subject experts, technical experts, and secretarial assistance, grateful acknowledgement is made.

I would like to express my sincere gratitude towards Honourable Sudip Pathak, Convener of the conference for his rigorous and tireless efforts to successfully conclude the conference. Further, I would like to thank Mr Bed Bhattarai, Secretary of NHRC Nepal, Mr Murari Prasad Kharel, Director at the NHRC Nepal, Mr Nava Raj Sapkota, Director at the NHRC Nepal, and Mr Kamal Thapa Kshetri, Member Secretary of the Conference Convening Committee, for their hard work to make this event successful.

Preface



SUDIP PATHAK

Member/Conference Convener

National Human Rights Commission of Nepal

It is with deep satisfaction that I write this foreword for the report of the International Conference on Protection of Rights of the Migrant Workers. The National Human Rights Commission of Nepal (NHRCN) is proud to share the outcome of the International Conference on Protection of Rights of the Migrant Workers which was held on 12-14 November 2019 in Kathmandu, Nepal. NHRC Nepal continues a tradition of bringing together human rights activists, NHRI members and staff, researchers, academics and professionals, government representatives, and diverse experts in migrant workers' rights from different regions of the world.

The three-day conference hosted in Kathmandu by NHRC Nepal, brought together a broad range of expertise from across the country and globally, and particularly encouraged the interaction among human rights activists, NHRI members and staffs, researchers, academics and professionals, experts in human rights and humanitarian laws from all over the world in a formal setting to present papers and to discuss new and current trends on foreign labour migration. Their contributions helped to make the conference as outstanding as it had been. The conference covered the topics including Migration Governance and the Rights of Migrant Workers, Promoting Practice of Fair and Responsible Recruitment, Issues on Irregular Migration, Ensuring Access to Justice for Migrant Workers, and Inter-NHRIs Cooperation in Protection and Promotion of Rights of the Migrant Workers. It contributed the most recent scientific knowledge known in the field of migration governance, sustainable development, business and human rights.

Ms Aminath Eenas, Professor Bongani Christopher Majola, Dr Carlos Alfonso Negret Mosquera, Ms Kagwiria Mbogori, Dr Er Mohammed Saif A. A. Al-Kuwari, and Mr Tan Sri Othman Bin Hashim chaired the sessions during the conference. Ms Alcestis Abrera Mangahas, Ms Andrea Kämpf, Mr Deepak Dhital, Ms Maria Nnette A. Motus, M.D., and Mr William Gois presented their papers in an extensive manner that paved the way to the floor discussions. In addition to the contributed papers, 18 invited panelists gave their presentations about growth and convergence prospects for the rights of the migrant workers in the Country of Origin (CoO), Country of Transit (CoT) and Country of Destination (CoD).

The conference sought alternatives through discussion on a broad range of themes, each seeking to conclude with purposeful and actionable strategies and suggestions at the global, regional and national levels. The report includes the overview of these themes and the outcome of the conference is the unanimously endorsed declaration and the plan of action. A session-by-session recap of the conference including all the emerging ideas from the participants and their suggestions is available in the conference report. I hope this report shall be a significant reference for those persons who work on foreign labour migration in the world. I also trust that this will be an impetus to stimulate further study and research in all these areas. I thank all the paper presenters as experts and participants for their notable contributions.

There was national and international participation from National Human Rights Institutions, government institutions, civil society organisations and networks experts, the UN agencies, intelligentsia and academicians in the conference. The national participation included key human rights stakeholders working on the issues of migrant workers, including the representatives from concerned government authorities and the private sector recruitment intermediaries. I would like to acknowledge the role of the Government of Nepal in providing its official financial sponsorship for the conference. I am also thankful to the Global Alliance for National Human Rights Institutions (GANHRI) which provided us with the appropriate suggestions and support. My special thanks go to Mr Carlos Alfonso Negret Mosquera, Chairperson GANHRI C/O Defensor del Pueblo de Colombia, who inspired us and even enthusiastically participated the conference. I would also like to thank the NHRI chairs, members and staff for their enthusiastic participation from Africa, Europe, Latin America and the Asia-Pacific region for their valuable participation in the conference.

I would like to especially thank the session chairs, speakers, panellists who contributed their special expertise and would also like to acknowledge the role of all the diverse international participants who came to Nepal from more than 28 countries that comprise the 143 people, 60 international and 83 national who participated in the intensive three days of discussions. I would also like to acknowledge the role of the national participants from different organisations and individual participants in their personal capacity.

Little would have been achieved without the technical support of International Labour Organisation (ILO) and International Organisation for Migration (IOM), Nepal. I express my gratitude for providing us with kind, significant and insightful ideas. I am also thankful to the United Nations Development Programme (UNDP), Nepal for their support.

I would like to express my thanks to the Rt Hon. Vice-President Nanda Bahadur Pun 'Pasang' for his participation and inspirational remarks during the inaugural session. Similarly, I am also thankful to Hon. Minister Pradeep Gyawali, Minister of Foreign Affairs and Hon. Gokarna Bista, Minister of Labor, Employment and Social Security, for their realistic and insightful remarks. I am also indebted to Ms Valerie Julliard, Resident Coordinator of United Nations for her support. I heartily appreciate the role of Hon. Chairperson of the NHRC Nepal Anup Raj Sharma who is the source of inspiration to organise the international conference. I am also thankful to the fellow members of the Commission. I would like to express my sincere thanks to the diplomatic mission in Nepal from different countries, Office of the Prime Minister and Council of Ministers, Ministry of Home Affairs, Department of Immigration, Civil Aviation Office for their meaningful facilitation to the international delegates. Furthermore, special thanks go to

the Ministry of Foreign Affairs, Ministry of Labour, Employment and Social Security (MOLESS) for their support and facilitation by their dedicated staff members in associated matters. I also thank Mr Mahesh Dahal, the then Secretary of MoLESS, Mr Harischandra Ghimire, Joint Secretary of the Ministry of Foreign Affairs (MoFA), and Ms Sabita Nakarmi, Section Officer at MoFA and also the master of ceremonies at the conference, for their regular and effective facilitation and cooperation. Special thanks go to the Ministry of Finance for providing financial support for this significant event.

I would also like to thank the NHRC Nepal Secretary Mr Bed Bhattarai for his administrative facilitation and deploying the staff members to the conference secretariat and other required support for the entire preparation of the conference. I would also like to thank Mr Murari Prasad Kharel, Director at the NHRC Nepal, for the entire management of the conference affairs and facilitation, and Mr Nava Raj Sapkota, Director at the NHRC Nepal, for coordination and communication with GANHRI, ENNHRI, ANNHRI, APF and international communities. I would like to express gratitude to Mrs Swarnima Bhandari, Deputy Director of the NHRC Nepal, for her support. Furthermore, I would also like to thank Mr Kamal Thapa Kshetri, Member Secretary of the Conference Management and Coordination Committee, for his secretarial support and coordination of the conference programme. Similarly, I would like to show gratitude to Mr Kiran Kumar Baram, Human Rights Officer, for his significant support, Mr Durga Pokharel, Communication Officer, for his cooperation, Mr Saman Manandhar, Information Technology Assistant of the NHRC Nepal, for his contributions to make the event successful, Mr Ravi Lal Nepali, Officer, for personally assisting and supporting me, and Mr Saroj Karki, Office Assistant, and Mr Yadav Poudel, driver, for their support. I would also like to thank the members of the Conference Management Committee and members of the Conference Management and Coordination committee for performing their responsibilities. I would also like to thank the Administrative and Financial Administrative Divisions for their support. Furthermore, I would like to thank the office helper, driver and other associated staff of the Commission.

I am thankful to Mr Deepak Dhital, Advisor of the Conference, Mr Rameshwor Nepal, Migration Consultant, Mr Ridip Khanal, Communication and Information Technology Consultant, and Ms Bijaya Dahal, Migration Consultant, for their support.

I also express my thanks to the Centre for the Study of Labour and Mobility (CESLAM) team, particularly Ms Rajita Dhungana, Ms Shalini Gupta and Mr Vibhav Pradhan for their voluntary support as rapporteurs and for writing this report. I would also like to thank Dr Jeevan Baniya, the Assistant Director of Social Science Baha, for his voluntary contributions in providing guidance during the preparation of this report. Last but not the least, I extend my heartfelt thanks to the national and international media for their support.

Last but not the least, I also take this opportunity to express a deep sense of gratitude to Mr. Bidur Joshi and Binit Shrestha including all the event management team for presenting us such an amazing experience. Mr. Saligram Adhikari photographer deserves our most special thanks for his willingness to give his time and sincere interest for taking wonderful pictures of the event which supported us for illustrated reporting. We are really lucky to be able to conduct the conference at the Soaltee Crown plaza and Hotel Crown Imperial, these are really the perfect hotels.

Acknowledgements



BED BHATTARAI

Secretary

National Human Rights Commission of Nepal

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Human beings move from one place to another leaving their habitual place of residence, temporarily or permanently, for sustaining their lives. This takes place when the interaction of voluntary and involuntary factors overcome the friction of moving. People often migrate for many different reasons. These reasons can be economic, social, political or environmental. Economic migration – moving to find work or follow a particular career path, social migration – moving somewhere for a better quality of life or to be closer to family or friends, political migration – moving to escape political persecution or war, or due to environmental causes or natural disasters such as tsunami, deforestation, earthquake, flooding. For some people migration is a choice, e.g., someone who moves to another country to enhance their career opportunities, but for some people, it is a compulsion, e.g., someone who moves due to war or famine.

Push factors often lead people to leave an area involuntarily. They include: lack of services, lack of safety, drought, flooding, poverty, and war. Pull factors include the reasons why people move to a particular area voluntarily. They include: higher employment, more wealth, better services, political stability, and lower risk from natural hazards. Migration usually happens as a result of a combination of the push and pull factors. When human beings become mobile, it creates multiple waves within the national and international level. No state can be reluctant for fulfilling the basic needs of its citizens. This in fact creates the situation in which the state should protect, respect and fulfil the human rights of the people of each nation from the perspectives of international commitments as well as human sensitivity.

With this context, the National Human Rights Commission of Nepal concluded an International Conference for the Protection of Rights of the Migrant Workers which was held on 12-14 November, 2019 in Kathmandu, Nepal. In the conference comprehensive discussion was held focusing on the common efforts for the protection of rights of the migrant workers in participation with the Chairperson of Global Alliance of National Human Rights Institutions (GANHRI) and representatives of 15 National Human Rights Institutions of the globe, including civil society organisations, experts, the UN agencies, intelligentsia and

academicians. The national participation included key human rights stakeholders working on the issues of migrant workers, including the representatives from concerned government authorities and the private sector recruitment intermediaries. From this, I believe, the role of the NHRIs, the governments and the civil society organisations has been enhanced, as well as the room for the multilateral relationship, coordination and cooperation has been opened. To make this conference successful, we received significant support and good wishes from our friends from GANHRI secretariat, the European Network of National Human Rights Institutions (ENNHRI) and the African Network of National Human Rights Institutions (ANNHRI). Due to unfavourable circumstances and their busy working schedule, members from the Asia Pacific Forum of National Human Rights Institutions (APF) were unable to participate the conference. There has been a huge contribution from the authorities of the Government of Nepal, the UNDP Nepal and the diplomatic agencies situated in Kathmandu for the success of the conference.

I would like to especially thank Rt Hon. Vice-President of Nepal Mr Nanda Bahadur Pun 'Pasang' for his inaugural speech as a Chief Guest considering the agony and essence of the Nepali migrants who contribute significantly in the economy of the country. My special thanks go to Hon. Mr Carlos Alfonso Negret Mosquera, Hon. Chairperson of GANHRI, who inspired us and enthusiastically participated the conference. I would also like to acknowledge the role of the Chairperson of the NHRC Nepal Hon. Justice Anup Raj Sharma for his passion for transmission the NHRC Nepal activities in the international arena and who always provided us encouragement for organising this conference in this issue, and I am also thankful to the Conference Convener Hon. Member Mr Sudip Pathak and entire Hon. Members of the Commission.

Through this conference, Nepal has unveiled the possibility of cooperation by the enhanced relationship with the African, the American, the Asia-Pacific and the European Networks of NHRIs. There is no dilemma for the occurrence of notable change in protection, promotion and fulfilment of the basic human rights of the migrants and Nepali migrant workers. I believe the various dimensions of human rights will be widened from the good relationship and cooperation among the NHRIs. I would also like to express my gratitude to all the invited honourable chairs, members, speakers, panellists and all the participants who came to Nepal from more than 28 countries and participated in the intensive three days of discussions. I would also like to acknowledge the role of the national participants from different organisations and individual participants in their personal capacity. Little would have been achieved without the tireless efforts of the staff and experts of the NHRC Nepal, so great acknowledgement is made.

Thanks

The NHRC Nepal requested the Centre for the Study of Labour and Mobility (CESLAM)¹, Social Science Baha (SSB), for support in documenting and reporting on the conference proceedings and for writing this conference report. Researchers from CESLAM/SSB, Ms Rajita Dhungana, Ms Shalini Gupta and Mr Vibhav Pradhan provided their support as rapporteurs in the three-day-long conference. CESLAM/SSB provided their technical support voluntarily. The NHRC Nepal would like to express its sincere gratitude to CESLAM/SSB for all their support.

Report Writing Team

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¹ CESLAM (<https://www.ceslam.org/>) is a Kathmandu-based research centre established in January 2011 under the aegis of Social Science Baha (SSB) (<https://soscbaha.org/>). It carries out interdisciplinary and policy research on empirical and critical issues of labour and mobility. It conducts policy-relevant research and informs the development of policy alternatives. Additionally, it also serves as a forum to foster academic, policy, and public debates about labour and mobility through an open interchange of ideas, and it disseminates knowledge to a broad range of audience using a variety of academic, policy, and media outlets. CESLAM/SSB has also collaborated and conducted research in partnership with other academic and policy institutions including University of Oxford, University of Pennsylvania, London School of Economics and Political Science, SOAS University of London, Columbia University, London School of Hygiene and Tropical Medicine, University of British Columbia, University of Edinburgh, University of North Carolina, University of New South Wales, Tufts University, Yale University, and Overseas Development Institute, to name a few. In addition to conducting research, CESLAM/SSB has also been involved in providing advisory and policy support to a host of government agencies, civil society organisations, and donor institutions, including the Ministry of Labour, Employment and Social Security, National Planning Commission, International Labour Organization (ILO), German Development Cooperation (GIZ), the European Union, International Organization for Migration (IOM), and South Asian Regional Trade Union Council (SARTUC), among others.

Executive Summary

The National Human Rights Commission of Nepal (NHRCN), organised the International Conference on Protection of Rights of the Migrant Workers from 12-14 November 2019 in Kathmandu. Delegates from numerous countries showed their participation in the conference, including from across South Asia, the Middle East, Europe, and Africa. The delegates represented a broad spectrum of scholars and practitioners, such as from the National Human Rights Institutions (NHRIs), civil society organisations (CSOs), United Nations (UN) agencies, intelligentsia, and academia. The international conference was organised with the key objective of enhancing inter-NHRI collaboration to address the issues of rights of the migrant workers. It was successful in bringing about a dialogue across multiple national and international stakeholders that contributed to a better assessment of challenges and opportunities to protect the rights of the migrant workers in south-south migration, especially in the Asia Pacific region. The conference culminated with a joint commitment of all the participants to the Kathmandu Declaration for the promotion and protection of the rights of the migrant workers.

The inaugural session of the conference was graced by the presence and keynote remarks of several high-level personalities from within the government of Nepal (GoN), the NHRC Nepal, and international organisations as well as diplomatic agencies. The chief guest for the session was Rt Hon. Vice President of Nepal, Nanda Bahadur Pun 'Pasang'. Other dignitaries speaking during the inaugural function include Ms Valerie Julliard, United Nations Resident Coordinator, Dr Carlos Alfonso Negret Mosquera, Chairperson, Global Alliance of National Human Rights Institutions (GANHRI), Ombudsman's Office of Colombia, Hon. Gokarna Bista, Minister of Labour, Employment and Social Security (MoLESS), and Hon. Pradeep Kumar Gyawali, Minister of Foreign Affairs (MoFA). Mr Prakash Osti, member, the NHRC Nepal, had delivered the welcome remarks, while Mr Anup Raj Sharma, Chairperson, the NHRC Nepal, delivered the concluding remarks and the vote of thanks in the inaugural session of the conference.

Spanned across three days, there were five thematic sessions in the conference. Each session had one expert paper presented by a speaker on the specific theme, followed by a topical presentation/comment/ views by up to four (expert) panellists in a plenary session. The conference themes included: migration governance and the rights of migrant workers; promoting the practice of fair and responsible recruitment; issues on irregular migration; ensuring access to justice for migrant workers; and inter-NHRIs cooperation in protection and promotion of rights of the migrant worker. After the introductory remarks by the Chair, and laying out of session objectives by the moderator, the key speaker was given 20 minutes to present his/her paper. This was followed by a 30-minute plenary discussion among the panellists, and then the floor was opened for discussion. The modality of the conference was supportive for a fruitful and healthy exchange of ideas among the international dignitaries leading to the strengthening of commitment for collaboration on issues concerning the protection of rights of the migrant workers.

The diversity of participants in the conference fostered a meaningful exchange from the perspectives and experiences of the countries of origin, destination as well as transit of the migrant workers. The role of businesses and intermediaries in promoting fair and ethical recruitment and that of the NHRIs and CSOs in bringing about awareness among aspiring migrants were also discussed. The issue of irregular migration and associated vulnerability, migration of women workers, and human trafficking were brought into the foreground of discussion in the conference. Intergovernmental and inter-NHRI collaboration from across the countries of origin, transit and destination were explored, and the efficiency of the existing international frameworks – global and regional – for the protection of the rights of the migrant workers and supporting them in accessing the justice mechanisms was also deliberated upon.

On the final day of the conference, delegates from fifteen participating countries presented their country statements wherein they shared about their country contexts, challenges, achievements and action plan to address the concerns of the human rights of migrant workers. The conference closed with the adoption of the Kathmandu Declaration and Action Plan where the participants expressed their commitments to continued collaboration for protection and promotion of the rights of the migrant workers. Representatives from 45 institutions from 28 countries, three regional alliances of human rights institutions and four UN bodies participated in the consultation process for adopting the Kathmandu Declaration.

1. Introduction

The stock of international migrants was estimated to be 272 million people of which 47.9 per cent were women, and about 59 per cent of the total migrant stock, i.e., 164 million people, were labour migrants.¹ Migration can be driven by several factors: environmental, political, economic, social, or demographic.² The number of migrant workers from Nepal and the Asia-Pacific region, in general, is significant, and most of these workers fall under low- or semi-skilled categories.³ This segment of workers, including women workers in the domestic and caregiving jobs, in particular, are most susceptible to rights violations at various phases of the migration process. Migrant workers constitute a vulnerable segment of the population that is exposed to serious human rights abuses, including exploitation, forced labour, and human trafficking.

Many factors influence or determine the course and experience of labour migrants in the countries of origin, transit, and destination. For one, recruitment intermediaries play an important role to shape the decisions of aspiring migrant workers' labour mobility. Internationally, ways are being sought to make these intermediaries more responsible and ethical in their practices as the first step in the protection of the rights of the migrant workers. There are also questions on the effectiveness of complaint mechanisms existing in the origin, transit, and destination countries to better facilitate the migrant workers' access to justice and remedy in cases of violations of their rights. Both the state governments and the businesses, including recruitment intermediaries, need to be accountable towards protecting the rights of the migrant workers.

Labour migration can contribute to mutual benefits to the countries of origin (CoO) and destination (CoD). A cohesive, holistic, and human-centred approach to migration, and deeper understanding and cooperation at the multi-stakeholder level in the CoO and CoD is necessary for overcoming the problems of rights violations of migrant workers.⁴ The human rights landscape in respect to the migrant workers has changed significantly due to developments in international legal and policy frameworks. The specific mention of safe, orderly, and regular migration by 2030 Agenda for Sustainable Development, the norms and standards set by the International Labour Organization (ILO) conventions, the implementation of International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW),⁵ wherever applicable, as well as the revelations made in the reports of the Special Procedure Mandate Holders, particularly the Special Rapporteur on Human Rights of Migrants, are

1 International Organization for Migration, *Key Global Migration Figures, 2017-2019* (Berlin: International Organization for Migration, 2019). Available at <https://migrationdataportal.org/sites/default/files/2019-10/key-global-migration-figures.pdf>

2 International Organization for Migration, *Migration in Nepal: A Country Profile 2019* (Kathmandu: International Organization for Migration, 2019).

3 Nepal has a significant rate of migration for foreign employment: the number of labour permits issued in Fiscal Year 2018/19 was 236,211. For Nepali migrant workers, the top destination countries after India are Qatar, Malaysia, United Arab Emirates, Saudi Arabia, and Kuwait. See International Organization for Migration, *Migration in Nepal: A Country Profile 2019* (Kathmandu: International Organization for Migration, 2019).

4 United Nations, *Global Compact for Safe, Orderly and Regular Migration* (Geneva: United Nations, 2018).

5 United Nations, *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (Geneva: United Nations, 1990). Available at <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx>

important in this direction. More conducive environment for international cooperation and collaboration has been created following the adoption of the Global Compact on Migration for Safe, Orderly and Regular Migration (GCM) by the United Nations in December 2018. The level of international understanding in the protection of the rights of the migrant workers has risen due to deeper and wider deliberations that have taken place within the UN system and through the activities of Global Forum on Migration and Development and many other organisations of repute.

There are several international human rights treaties and treaties of public law that are integral for safeguarding the rights of the migrant workers. Some of these provisions are the International Labour Organization (ILO) Convention no. 97 concerning Migration for Employment (1949), ILO Convention no. 143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (1975), Convention on the Elimination of All Forms of Discrimination against Women (1979), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), and most recently, Convention concerning Decent Work for Domestic Workers (2011).⁶ However, in the case of Nepal, it has not ratified most of these conventions, and that is where the role of the national human rights institutions (NHRIs) is seen to be of utmost importance in this context.⁷

The UN recognised the role of the NHRIs in the protection and promotion of human rights at the international level in 1946 when it established the United Nations Commission on Human Rights, two years before the adoption of the Universal Declaration of Human Rights. However, it was only in 1993, that the UN General Assembly adopted the Paris Principles setting standards for the NHRI structure and function. Their international network in its present form, the Global Alliance of National Human Rights Institutions (GANHRI), has completed over 25 years of existence since then. The Paris Principles have set six main criteria that the NHRIs are required to meet. These include mandate and competence, autonomy from government, independence, pluralism, adequate resources, and adequate power for investigation. So far, 124 NHRIs have been accredited by GANHRI. In accordance with the Paris Principles and the GANHRI Statute, the following classifications for accreditation are used by GANHRI: 'A' status, fully compliant with the Paris Principles; and 'B' status, partially compliant with the Paris Principles. The National Human Rights Commission of Nepal (NHRCN) retains 'A' status since its establishment in 2000. 'A' status institution can participate fully in the international and regional work and meetings of NHRIs as voting members, and they can hold office in the GANHRI Bureau or any sub-committee the Bureau establishes. They are also able to participate in the sessions of the United Nations Human Rights Council and take the floor under any agenda item, submit documentation, and take up separate seating.

The NHRIs play an important role in supporting the implementation of all international human rights obligations and commitments, including treaties and relevant objectives of the GCM. The GCM promotes broad multi-stakeholder partnership including with the NHRIs based on the guiding principles of whole-of-society approach.⁸

6 'Migrant Rights', Migration Data Portal, Accessed 9 June 2020, Available at <https://migrationdataportal.org/themes/migrant-rights>

7 International Organization for Migration, *Migration Governance Snapshot: Federal Democratic Republic of Nepal* (Berlin: International Organization for Migration, 2018). Available at <https://migrationdataportal.org/sites/default/files/2018-11/MGI%20Nepal%20final.pdf>

8 United Nations, *Global Compact for Safe, Orderly and Regular Migration* (Geneva: United Nations, 2018), 5.

The NHRIs are extending hands of cooperation at the bilateral and regional levels with partners that include governments, the civil society organisations (CSOs) and business organisations to ensure that universal human rights and fundamental freedoms are respected and the dignity and worth of human lives are protected in all situations. Several conferences have been held across the Asia-Pacific region which are aimed at the protection of the rights of migrant workers. One such significant conference was held in 2008 in Seoul.⁹ The conference adopted guidelines for the NHRIs by identifying working structures and principle areas of cooperation. Cross-country cooperation between the NHRIs is emerging to enhance the protection of migrant workers' rights. The NHRC Nepal commenced the signing of Memorandum of Understanding (MoU) since 2010 by signing a MoU with the National Human Rights Commission of Korea.¹⁰ Such MoUs have also been replicated with other NHRIs of CoDs like Qatar.¹¹

The NHRC Nepal, since 2010, has been playing an active role to protect and promote the realisation of the rights of the migrant workers. These efforts were further mainstreamed after a separate unit was established and a dedicated commissioner and focal person was assigned at the headquarters and the provincial branch offices respectively to specifically respond to the issues of the rights of the migrant workers in late 2015.¹² The commission held various interaction programmes, consultations with experts, government agencies, development partners, and provincial and national consultation meetings in 2017 and 2018 to address the concerns of the migrant workers. The NHRC Nepal has realised that inter-NHRI cooperation is important to protect the rights of migrant workers.

The NHRC Nepal has been working in collaboration with the Ministry of Foreign Affairs (MoFA) and Nepal's diplomatic missions/embassies and counsellors in the migrant-receiving countries, as well as other government ministries/departments, the international/non-government organisations (I/NGOs), and even the recruitment companies that play a major role in shaping the migration pathways of Nepali labour migrants abroad. As a monitoring and complaint-handling body and a policy-recommendation body, the NHRC Nepal recommends and holds the government accountable the Government of Nepal (GoN) on necessary actions for the protection of the rights of the migrant workers. One of the most important roles played by the NHRC Nepal is its engagement in inter-NHRI cooperation to enhance the rights of Nepali migrant workers.

1.1 Approach and process of organising the conference

In the spirit of bringing about inter-NHRI collaboration, as well as providing a platform for dialogue and engagement of stakeholders from the government and non-government institutions, diplomatic missions, businesses/trade unions, and academia, among others, the NHRC Nepal organised the International Conference on Protection of Rights of the Migrant Workers, 12-14 November 2019. This conference provided continuity to the NHRC Nepal's efforts of protecting the rights of migrants, which had started in

9 International Conference on Human Rights of Migrants and Multicultural Society-Dignity and Justice for All Migrants, 10-12 November 2008, Seoul, Korea.

10 The NHRC Nepal signed a MoU with National Human Rights Commission of Korea in 2010. See http://www.nhrcnepal.org/nhrc_new/doc/newsletter/PR-Delegates%20of%20NHRC%20Koria%20visit%20NHRC-Nepal-28Nov2012.pdf

11 The NHRC Nepal signed a MoU with the National Human Rights Committee of Qatar in 2015. See https://www.nhrcnepal.org/nhrc_new/doc/newsletter/MoU_NepalNHRC-QatarNHRC.pdf

12 National Human Rights Commission Nepal, *Aaprawasi Kamdarharuko Manav Adhikar Samrakshanma Aayogko Prayas* (Kathmandu: National Human Rights Commission Nepal, 2018); National Human Rights Commission Nepal, *Annual Report Synopsis 2018/2019* (Kathmandu: National Human Rights Commission Nepal, 2019).

2012 in Kathmandu, with the International Conference between the National Human Rights Institutions (NHRIs) for the Promotion and Protection of the Rights of the Migrant Workers. The conference in 2012 had led to the adoption of the Kathmandu Resolution.¹³ Further, rights of the migrant workers remained one of the major issues discussed in the International Human Rights Conference on Impunity organised by the NHRC Nepal in April 2018.¹⁴

The preparatory efforts in bringing together this conference go back to April 2019. The Conference Convener from the NHRC Nepal held dialogues with the officials in the Ministry of Labour, Employment and Social Security (MoLESS), MoFA, Ministry of Law, Justice and Parliamentary Affairs, Ministry of Home Affairs, and the Office of the Prime Minister and the Council of Ministers, and they were requested to depute a focal official to liaise and coordinate with the NHRC Nepal for necessary support to organise the conference. Further, the Chief District Officers and security chiefs of the districts in the Kathmandu Valley were also consulted for guidance on security concerns for the conference. The Commissioners also met with the representatives of the ILO and the International Organization for Migration (IOM) to collaborate for the international conference. Meetings were also held with the diplomatic agencies in Nepal, representatives from civil society and non-governmental organisation (NGO) sectors, as well as the representatives from the Nepal Association of Foreign Employment Agencies.

The Conference Convener, the Conference Management and Coordination Team, and the Conference Secretariat at the NHRC Nepal played a significant managerial role while organising the international conference. Consultations were also held with the former chairpersons and members, as well as senior staff of the NHRC Nepal. Further, financial support from GoN and technical support from development partners such as the ILO, the IOM and United Nations Development Programme were very significant and is gratefully acknowledged here.

1.2 Objectives of the conference

The international conference was organised with an aim of enhancing inter-NHRI collaboration to address the issues faced by the migrant workers. The objectives of the conference were:

- Assessing the major challenges and opportunities to protect the rights of the migrant workers in south-south migration, especially in the Asia-Pacific region,
- Suggesting measures to implement the broader objectives of the GCM through a cooperative framework,
- Strengthening the inter-NHRI cooperation with a multi-stakeholder approach with respect to rights protection, and
- Enhancing partnership and cooperation for more effective policy measures on fair and responsible recruitment, access to justice, and effective complaint procedures.

13 National Human Rights Commission Nepal, 'Kathmandu Resolution 2012: Outcome Document of the International Conference on Cooperation between National Human Rights Institutions (NHRIs) for the Promotion and Protection of the Rights of the Migrant Workers' (Kathmandu: National Human Rights Commission Nepal, 2012), Available at http://www.nhrcnepal.org/nhrc_new/doc/newsletter/1309479207Migrant%20Workers%20Kathmandu%20Resolution%202012.pdf

14 To learn more about the conference, see <http://www.humanrightconference.nhrcnepal.org/>

1.3 Rationale of the conference

The conference aimed to bring about collaboration among the NHRISs and different stakeholders in the government, civil society and private sector, including employers' and workers' organisations, as well as recruitment agencies, to explore potential pathways for a multi-stakeholder approach to assessing and solving the challenges in ensuring rights of migrant workers in south-south migration in the Asia-Pacific region. It also hoped to achieve strengthened institutional networks among the bilateral, sub-regional, and multilateral bodies for the protection of the rights of migrant workers and their families in the countries of origin, destination, and transit. The conference was envisioned as a platform to further the dialogue and cooperation for increasing the efficiency in implementation of existing global and regional frameworks including the GCM and justice mechanisms as provided by international human rights instruments for protecting the rights of the migrant workers.

1.4 Participation

The conference saw the participation of national and international delegates from NHRIs, civil society organisations, government bodies, the UN agencies, intelligentsia, and academia. The national participation included key human rights stakeholders working on the issues of migrant workers, including the representatives from concerned government authorities and the private sector recruitment intermediaries, among others. The number of participants was 143, of which 60 were international delegates and 83 were national.¹⁵ The international participation was from countries in South East Asia, Asia-Pacific, South Asian Association for Regional Cooperation (SAARC) region, the Middle East, Africa, and Europe. The presenters, panellists, and moderators made valuable contributions with their participation by demonstrating their expertise on different dimensions of migration.

1.5 Outcomes and results

A. Outcomes

- Cooperation between the NHRIs strengthened to establish bilateral, sub-regional, regional, and international measures for the protection of the rights of the migrant workers
- Measures identified for constructive engagement of governments, civil society organisations, and social partners with the NHRIs

B. Results

- A Kathmandu Declaration to further enhance national, regional, and international cooperation for the protection of the rights of the migrant workers was adopted at the end of the conference. Possible action lines and follow-up measures were also identified and agreed upon among the participating institutions (see Annex 15 for the full document of the Kathmandu Declaration and Action Plan).
- Signing of the MoU between two Asia Pacific Forum (APF) member NHRIs: the NHRC Nepal and the Human Rights Commission of Malaysia (SUHAKAM), Malaysia (see Annex 14 for the full document of the MoU).

¹⁵ See Annex 19 and 20 for the list of participants.

2. Conference Sessions

Inaugural session

The inauguration ceremony of the International Conference on Protection of Rights of the Migrant Workers, organised under the auspices of the NHRC Nepal, took place in Kathmandu on 12 November 2019.¹⁶ The Rt Hon. Vice-President of Nepal, Nanda Bahadur Pun 'Pasang', inaugurated the conference. Dignitaries representing various government ministries and international organisations addressed the inaugural session.



Hon. Prakash Osti, Member of NHRC Nepal, delivers the welcome remarks at the inaugural session

Speaking at the inaugural session of the conference, Mr Prakash Osti, Member of the NHRC Nepal, said that a large number of people all over the world are migrating with a desire to strengthen their financial status, living standard, or personal skills. He highlighted that while some have benefited from the opportunity, many others, particularly women migrants, have faced violations of human rights resulting from unfair recruitment practices, lack of effective laws and policies, or poor implementation of

existing policies, inadequate mechanism in protection and remedy, and lack of information and access to justice. Mr Osti stated that there have been numerous efforts globally for the protection of rights of the migrant workers. He said that the GCM, adopted on 10 December 2018 in Marrakesh, Morocco, is an important instrument for strengthening the protection of the rights of the migrant workers and highlighted that the role of the NHRIs in the implementation, follow-up, and review of the GCM objectives.¹⁷ Similarly, sharing about the work of the NHRC Nepal, he said that with over four million Nepalis having migrated for employment over the last two decades, rights of the migrant workers is one of the major priorities of the NHRC Nepal. He also informed that the NHRC Nepal has been working in collaboration with the GoN, business sector, trade unions, civil society as well as the NHRIs from outside the country for better protection of the Nepali migrant workers and members of their families.

¹⁶ For more details, see the conference website: <https://www.intlconferencermw.nhrcnepal.org/>

¹⁷ United Nations, *Global Compact for Safe, Orderly and Regular Migration* (Geneva: United Nations, 2018).

Ms Valerie Julliand, United Nations Resident Coordinator, highlighted the crucial importance of the GCM for sustainable development and noted that it is a good complement to the Sustainable Development Goals (SDGs) in protecting migrant workers in a vulnerable situation. She urged all the countries that have not ratified the ICRMW to do so. Ms Julliand also emphasised the importance of making recruitment agencies and employers accountable to protection of rights of the migrant workers, as well as ensuring adherence to the UN Guiding Principles on Business and Human Rights.¹⁸ The NHRIs play an important role in monitoring and advocating for the human rights of the migrant workers, and strengthened collaboration among the NHRIs in different countries can make migration governance more effective. Ms Julliand appreciated the NHRC Nepal's efforts for organising the international conference and stressed that the CoOs are especially well placed to inform the aspiring migrant workers about their rights and the ways that they can access justice.

Dr Carlos Alfonso Negret Mosquera, Chairperson, GANHRI, Ombudsman's Office of Colombia, highlighted that state sovereignty remains important, but at the same time, transnational solidarity has to be respected with the rise of international migration. He stated that the goal of organisations like GANHRI is to highlight the multi-dimensional aspects of international migration. Challenges in the labour issue and the humanitarian crisis in terms of forced migration need collaborative and critical solutions. Dr Mosquera highlighted the function of NHRIs across the world to act as bridges that lessen the gap between the states and their handling of the migration problems. He informed that the taskforce of GANHRI has been discussing the implementation of the GCM and its 23 objectives. He noted that the biggest challenge for GANHRI, therefore, is to safeguard migrant workers and their human rights and bring about the implementation of labour standards on a transnational stage.

Hon. Gokarna Bista, Minister of Labour, Employment and Social Security, noted that with increasing number of people migrating for work across the globe, rights and security of the workers is getting global recognition and significance. Inclusion of the decent work agenda in the SDGs¹⁹ and adoption of the GCM by 152 countries are some examples which show that the rights of workers have been prioritised globally. Minister Bista shared that the GoN has also



Participants at the inaugural session of the conference

adopted various policies and legal and institutional measures to make foreign employment safe, dignified, organised, and transparent. He highlighted some of the recent initiatives of the government, including

¹⁸ United Nations, *UN Guiding Principles on Business and Human Rights* (Geneva: United Nations, 2011). Available at https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

¹⁹ Goal 8 of the SDGs, Decent Work and Economic Growth, aims to promote inclusive and sustainable economic growth, employment, and decent work for all. The Target 8.7 is especially relevant here: 'Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.'

bilateral labour agreements (BLAs) and MoUs with various destination countries, laying emphasis on zero cost for migration, equal pay for equal work, equal treatment of workers, and contribution-based social security plan, among others, to protect the rights of the workers within and outside the country. Minister Bista underscored that even though remittances are a direct and immediate outcome of labour migration, it is equally important to look into the social cost of labour migration and make reforms accordingly. He further stated that the GoN is continuously striving to ensure that Nepali migrant workers in various destinations are able to attain the human rights and social security at par with the citizens of the respective countries.



The inaugural session of the International Conference on Protection of Rights of the Migrant Workers 2019

Hon. Pradeep Kumar Gyawali, Minister of Foreign Affairs, highlighted that migrant workers play an important role for high economic growth and infrastructure development and are a critical source to replenish the shortfall in working population in many countries. He said that migrant workers have also been the carriers of the message of goodwill, co-existence, and respect for diversity in many countries. Minister Gyawali viewed well-managed migration as a means of creating a potential win-win situation to all

three parties in the process—the countries of origin, countries of destination and the migrant workers themselves. He also expressed concern regarding the status of low and discriminatory wages, unhygienic working conditions, violence, and sexual harassments that have been reported as being experienced by Nepalis and other nationals in various countries in foreign labour migration. Minister Gyawali stated that as a signatory to 24 human rights-related international instruments, including the International Covenant on Civil and Political Rights (ICCPR) and different ILO Conventions, Nepal attaches high importance to issues of human rights of all people.²⁰ He expressed the critical importance of the implementation of the agreed commitments contained in the GCM and the need for engagement in constructive dialogues and cooperation in addressing migrant workers' issues and enhancing their welfare and protection. The Foreign Employment Act (2007) and the Foreign Employment Rules (2008) govern outward migration for foreign employment, rights and welfare of the migrant workers.²¹ Similarly, the Foreign Employment Policy (2012) aims to reduce the risks and vulnerabilities of migrant workers and create a safe, dignified and managed working environment.²² Minister Gyawali recognised that the NHRC Nepal, an autonomous national human rights institution, functions as an oversight agency in the areas of promotion and protection of human rights. He also mentioned that as a member of the UN Human Rights Council, Nepal has played constructive, objective, and impartial role for the promotion and protection of human rights all around the

20 United Nations, *International Covenant on Civil and Political Rights* (Geneva: United Nations, 1966). Available at <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

21 Government of Nepal, *The Foreign Employment Act (2007)* (Kathmandu: Government of Nepal, 2007); Government of Nepal, *The Foreign Employment Rules (2008)* (Kathmandu: Government of Nepal, 2008).

22 Government of Nepal, *Foreign Employment Policy (2012)* (Kathmandu: Government of Nepal, 2012).

world. Similarly, MoFA, Department of Consular Services, and Nepali diplomatic missions abroad provide necessary services to protect the interests and welfare of the migrant workers, including through rescue and repatriation services in times of difficulties, explained Minister Gyawali.

The Chief Guest of the conference, the Rt Hon. Vice-President of Nepal Nanda Bahadur Pun 'Pasang' highlighted the importance of foreign employment in Nepal's context and the positive role it has been playing in the economic wellbeing of hundreds of thousands of people. He highlighted that around six million Nepalis are working in foreign destinations, and their contribution in terms of remittances is equivalent to 25 per cent of the gross domestic product of Nepal. Vice-President Pun stressed that based on studies it was



The Rt Hon. Vice-President Nanda Bahadur Pun 'Pasang' addresses the crowd on the inaugural day

found that migrant workers were not getting the pre-determined salary or the salary disbursement was delayed in some cases; some workers had also fallen victims to labour exploitation, sexual exploitation, domestic violence, and sometimes expulsion from work without any reason. Vice-President Pun called for worker-friendly policies in the CoDs and emphasised that the CoDs should give services and facilities to migrant workers at par with their own citizens based on their skills and abilities. Highlighting the internal efforts of the GoN, Vice-President Pun explained that a separate department has been established along with offices in all the seven provinces for the management of the foreign employment sector. The Foreign Employment Tribunal has been set up as a separate judicial body for better access to justice of the migrant workers.²³ Likewise, mandatory insurance, welfare fund, pre-departure trainings are other achievements in this regard. Vice-President Pun further informed that at the international level, Nepal has been signing labour agreements with the destination countries, and taking part in the Colombo Process,²⁴ the Abu Dhabi Dialogue,²⁵ and various international and regional processes. In conclusion, he expressed his commitment to the effective implementation of the GCM for the protection of the rights of the migrant workers.

Concluding the inaugural session, Mr Anup Raj Sharma, Chairperson of the NHRC Nepal, said that labour migration has benefited both the CoOs and the CoDs by balancing the supply and demand of labour force. The increasing movement of people, however, has created a situation where the human rights of the migrants are violated in the country of origin, at the transit, and in the destination. He pointed out that in many circumstances, migrant workers ended up in a vicious cycle of human rights abuses, including exploitation, forced labour, and human trafficking, with women migrants being more vulnerable to such

²³ For more information about the Foreign Employment Tribunal, see <http://fet.gov.np/>

²⁴ The Colombo Process is a regional consultative process established in 2003 with 12 member states and eight observer countries currently. It works on the management of overseas employment and contractual labour for CoOs in Asia. For details, see <https://www.colomboprocess.org/>

²⁵ The Abu Dhabi Dialogue was established in 2008. It is a forum of Asian CoOs and CoDs (who are all members of the Colombo Process) and six gulf countries that are labour destinations. Its permanent secretariat is in the United Arab Emirates. For details, see <http://abudhabidialogue.org.ae/>



Hon. Anup Raj Sharma, Chairperson of NHRC Nepal, delivers his remarks at the inaugural session

abuses. Mr Sharma anticipated that the conference organised by the NHRC Nepal would be productive in assessing the major challenges and opportunities to protect the rights of the migrant workers through the collaboration of multiple stakeholders, including the NHRIs. He also recalled the outcome statement adopted by GANHRI in its annual conference in March 2019, which had asserted the roles of the NHRIs to ensure human rights-based and gender-responsive implementation, follow-up and review

of the GCM objectives. Additionally, Mr Sharma emphasised the need to comply with the internationally recognised standards, including the UN Guidelines on Business and Human Rights, ILO’s Fair Recruitment Initiatives, and IOM’s International Recruitment Integrity System,²⁶ among others, to ensure protection of the rights of the migrant workers.

Thematic sessions

Five panel discussions on the following themes were organised during the conference:²⁷

1. Migration governance and the rights of migrant workers
2. Promoting practice of fair and responsible recruitment
3. Issues of irregular (labour) migration
4. Ensuring access to justice for migrant workers
5. Inter-NHRI cooperation in the protection and promotion of the rights of the migrant workers

Each panel discussion session was allotted a slot of two hours with the following breakdown of time:

- | | |
|--|------------------------------|
| 1. Introductory remarks by chair | 10 minutes |
| 2. Session objectives by moderator | 10 minutes |
| 3. Paper presentation by paper writer | 20 minutes |
| 4. Topical views/opinions/comments by panellists | 30 minutes (10 minutes each) |
| 5. Open-floor discussion | 30 minutes |
| 6. Sum up by moderator | 10 minutes |
| 7. Concluding remarks by the Chair | 10 minutes |

²⁶ For details, see <https://iris.iom.int/>

²⁷ See Annex 18 for the conference schedule.

2.1.1 Session 1: Migration governance and rights of the migrant workers

This session was chaired by Mr Tan Sri Othman bin Hashim, Chairperson, Human Rights Commission of Malaysia, and moderated by Ms Sharu Joshi Shrestha, Gender and Development expert from Nepal. The speaker of this session was Dr Maria Nnette A. Motus, Regional Director for Asia and Pacific, IOM. The panellists included: Dr Pia Oberoi, Senior Advisor on Migration and Human Rights, Office of the High Commissioner for Human Rights, Asia Pacific; Ms Rekha Sharma, Chairperson, National Women Commission of India; Mr Shabarinath Nair, Labour Migration Specialist for South Asia, Decent Work Team for South Asia, ILO; and Mr Umesh Dhungana, Joint Secretary, Employment Management Division, MoLESS.

The speaker of the session, Dr Maria Nnette A. Motus, provided a detailed overview of the international standards governing labour migration and the rights of the migrant workers. She outlined the existing well-developed international normative frameworks and migration standards that came from many areas of international law and the gaps in principle and practice related to the rights of the migrant workers that contributed to the continuation of their abuse and exploitation. She concluded by explaining how recent soft law instruments and the GCM, in particular, have the potential to help close this gap.

Dr Motus explained that in the human rights context, although there is just one UN convention that is specific to the migrant workers, the ICRMW (1990), a vast array of protection instruments on migrant workers are derived from a universe of global human rights treaties, including the core UN human rights conventions. While the specific human rights obligations differ, most of the core human rights are universal and widely accepted.

Dr Motus discussed the role of the ICCPR to prohibit slavery and servitude, forced labour and the role of the Committee against Torture (CAT)²⁸ to prohibit cruel treatment to migrant workers. Under ICCPR and CAT, the states have an obligation to refrain from conducting such abusive activities and also take measures to prevent such acts from occurring, ensuring that these acts are investigated and prosecuted when they occur, and guaranteeing that victims have access to redress and compensation. Further, she said that the International Covenant on Economic, Social and Cultural Rights (ICESCR) includes rights relating to shelter, food, and housing that can ensure a safety net for most of the migrant workers.²⁹ This also ensures access to water, shelter, essential drugs, healthcare, and a minimum level of housing



Dr Maria Nnette A. Motus, Regional Director for Asia and Pacific, International Organization for Migration, speaks about migration governance and rights of the migrant workers

²⁸ The Committee Against Torture (CAT) is a body of 10 independent experts that monitors the implementation of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by its State parties. For details, see <https://www.ohchr.org/EN/HRBodies/CAT/Pages/CATIntro.aspx>

²⁹ United Nations, *International Covenant on Economic, Social and Cultural Rights* (Geneva: United Nations, 1966). Available at <https://www.ohchr.org/EN/professionalinterest/pages/cescr.aspx>

assistance. Dr Motus also listed other ILO conventions that address concerns related to recruitment processes, including the Private Employment Agencies Convention (1997,) that seek to charge the employers fees for recruitment and also include provisions relating to equal access to courts and remedies for migrant workers.³⁰ In addition to human rights and labour law, she also discussed the transnational criminal law that deals with criminal conduct related to migration. She noted that this area is particularly pertinent in the serious cases of migrant workers' human rights violations like rape, slavery, and sexual abuse.

Dr Motus identified the ratification gap as a key challenge, as not all of the existing instruments are ratified by the relevant states. She argued that although the UN ICRMW has been ratified by 51 countries, domestic implementation of the standards may be lacking, including with respect to the principles of non-discrimination. At the same time, she pointed out that national labour laws often overlook gaps in the protection and sufficient coverage in certain categories of migrant workers like domestic workers or irregular workers, or there remain significant legal loopholes. She stated that migrants are inherently subject to abuses due to lack of access to redress, lack of linguistic skills, and financial barriers to hiring lawyers. Fear of deportation or loss of job also prevents migrant workers from lodging complaints. She highlighted that these problems are to be especially considered in national laws wherein firewalls³¹ could be used to protect the migrant workers and enhance their access to justice mechanisms.

Dr Motus then explained that the potency of these frameworks ultimately depended on their implementation. She noted that the GCM was adopted by 152 member states, and it substantially built on the ICRMW. She highlighted that although the GCM lacked in terms of a legally binding status, it had drawn state-specific commitments that went beyond the human rights treaties and was holistic in the thoroughness of the issues pertaining to migrant workers. She further noted that the GCM uses a 'whole-of-society' approach as well as a 'whole-of-government' approach and paves a convergent pathway for all the stakeholders involved.

Panel discussion

The panel discussion following Dr Motus' presentation elaborated on the theme of migration governance framework, focusing on the global and regional trends of migration, and how the CoOs and CoDs could collaborate to provide oversight into recruitment practices. It highlighted the particular conditions of women migrant workers and measures to ensure their safety and security. Extensive experiences from the working experience of the GoN to make migration safe, dignified, and rewarding were shared.

Panellists in this session stated that migration for economic aspirations could either be voluntary or forced. Further, migrants in irregular situations are vulnerable and stigmatised and suffer from discriminatory practices even while accessing basic necessities like food, shelter, and healthcare. Hence, they noted that the human rights institutions faced a challenge to identify the areas where human rights laws can provide protection to these different categories of migrants. In this regard, Dr Pia Oberoi explained that people

30 International Labour Organization, *Private Employment Agencies Convention, 1997 (No. 181)*, (International Labour Organization, 1997). Available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO:P12100_INSTRUMENT_ID:312326

31 Firewalls in international migration is a principle of clear separation between immigration enforcement activities and public service provisions to ensure the rights of, especially, irregular migrants. For details, see: <https://www.ohchr.org/Documents/Issues/Migration/PrinciplesAndGuidelines.pdf>

of lower socio-economic status often got stranded in precarious situations in countries of transit (CoT). Increasing physical barriers to movement lead to human rights violation, detention or criminalisation of migrant workers. Under such circumstances, migrants often have no alternative to taking risky paths of return to the origin countries.

Ms Rekha Sharma explained that the increasing trend of women participating in labour migration has introduced a shift in the narrative of the protection of labour migrants, especially in India, one of the largest source countries for migrant workers. She focused on women migrant workers' rights, safety, and security in her remarks. When it came to migration, women faced social and structural barriers such as a lack of agency, lack of access to technology, and gender-centric challenges like lower pay and sexual abuse. She shared that a recent report from the UN Secretary General (2017) highlighted particular risks faced by female migrant workers owing to discriminatory migration laws and policies, their vulnerability to sexual violation and smuggling into prostitution, and other forms of trafficking.³² Ms Sharma further elaborated that aspiring female migrant workers are most vulnerable to trafficking and, therefore, must receive information on safety measures during the process of migration. She noted some of the issues and challenges in this regard such as lack of adequate legal frameworks concerning migration, lack of implementation of existing frameworks, and a centralised operational agenda. She suggested that relevant guiding principles need to be adopted to safeguard female migration without curtailing their right to movement.

Mr Shabarinath Nair presented his views on the ways for strengthening inter-state monitoring of recruitment processes. He noted that in 2016, governments came together in agreement on the General Principles and Operational Guidelines for Fair Recruitment under the initiative of the ILO.³³ With the acceptance of this fair recruitment initiative, he said that three sets of responsibilities for governments, employers, and recruitment agents were defined, but the aspect of oversight and monitoring has been almost entirely put on the shoulder of government. He explained that, therefore, the oversight of recruitment agencies can only be fruitful when there are strong bilateral relationships between the countries which have signed labour agreements. Commenting on the dimension of ethical recruitment practices and decent work, Mr Nair noted, "We always talk about a "win-win-win" situation for the countries of origin, countries of destination, and the migrant workers. But what we also have to remember is that this is a "win" for the recruitment agencies and the private sector too, as they also have a huge role and responsibility and a lot to gain."

Elaborating on the Nepali experience of migration governance, Mr Umesh Dhungana shared about the provisions such as demand verification at the GoN's diplomatic missions abroad to minimise fraudulent job demands and decentralisation of migration-related services at the proximity of the workers. He shared that the Foreign Employment Act (2007) has been amended to promote ethical recruitment practices and an extensive Foreign Employment Information Management System has also been set up to bring all key

32 United Nations, *Making Migration Work for All: Report of the Secretary-General* (Geneva: United Nations, 2017). Available at https://refugeesmigrants.un.org/sites/default/files/sg_report_en.pdf

33 International Labour Organization, *General Principles and Operational Guidelines for Fair Recruitment* (Geneva: International Labour Organization, 2016). Available at https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_536263.pdf

stakeholders in a common platform and facilitate transparency in recruitment processes and improved record-keeping. Mr Dhungana informed that Nepal has signed BLAs with Malaysia,³⁴ Japan,³⁵ the United Arab Emirates (UAE),³⁶ and Mauritius³⁷ in the past two years, and agreements with Oman, Turkey, Saudi Arabia, Kuwait, and Israel are being planned. He noted that these BLAs and MoUs have emphasised on equality of treatment in wage and non-wage benefits, access to justice with free representation, and temporary work permit, insurance, and personal leave during emergencies. Mr Dhungana also explained the functioning of joint working groups, coordination of diplomatic missions, and concerned labour ministries. He shared that the GoN is planning strategies for cooperation with destination countries at bilateral and multilateral levels, the NHRIs, and the UN network to ensure ethical recruitment as a way forward to implementing the GCM objectives. He also highlighted that regional consultative processes like the Colombo Process and the Abu Dhabi Dialogue have facilitated the sharing of good practices in migration governance and identification of avenues for better cooperation between the countries.

Adoption of a 'whole-of-society' approach with the involvement of the NHRIs, trade unions, and the CSOs was emphasised in the panel. The panellists highlighted that the NHRIs are important stakeholders under the formal agenda of the UN and play a role for cooperation in addressing migration challenges. They bring together the government, state and inter-state agencies, and civil society and have an important role in advising the governments.

Floor discussion

The floor yielded several questions covering the regulation and scope of the ICRMW, as well as the present and future plans and the review processes for the implementation of the GCM. Concerns were raised regarding the effectiveness of the states' monitoring mechanisms and the effective implementation of the bilateral agreements in the recruitment process. Further, inquiries were made regarding the available mechanisms that governments used while drafting the MoUs and BLAs, and especially on whether the concerned stakeholders were consulted before and after the implementation of such agreements.

In response to the queries regarding the processes for the implementation of the GCM, Mr Dhungana clarified that the modalities on how the regional consultations will be conducted are being deliberated with the member states in New York and that it will be shared with all regional stakeholders and networks. He added that in 2022, there will be a country-level review undertaken under the International Migration Review Forum 2020.³⁸ The panellists agreed that role of all present stakeholders was to adopt a 'whole-of-society' approach to collectively work not just for the regional reviews but also at the country level so

34 Government of Nepal and Government of Malaysia, *Memorandum of Understanding between the Government of Nepal and the Government of Malaysia on the Recruitment, Employment and Repatriation of the Workers* (signed 29 October 2018). Available at https://www.ceslam.org/uploads/backup/GoN_2018_MoUNepalAndMalaysia.pdf

35 Government of Nepal, *Directive (With First amendment, 2010), 2009 for Sending Nepalese Technical Interns to Japan* (Kathmandu: Government of Nepal, 2009). Available at https://www.ceslam.org/uploads/backup/GoN_2009_JITCODirective.pdf

36 Government of Nepal and Government of United Arab Emirates, *Memorandum of Understanding between the Government of Nepal and the Government of the United Arab Emirates in the Recruitment, Employment and Repatriation of Workers* (signed 14 June 2019). Available at https://www.ceslam.org/uploads/backup/GoN_2019_MoUNepalandUAE.pdf

37 Government of Nepal and Government of the Republic of Mauritius, *Memorandum of Understanding between the Government of Nepal and the Government of the Republic of Mauritius on the Recruitment and Employment of Workers from Nepal* (signed 11 June 2019). Available at https://www.ceslam.org/uploads/backup/GoN_2019_MoUwithMauritius.pdf

38 United Nations, *Global Compact for Safe, Orderly and Regular Migration* (Geneva: United Nations, 2018).

that the preparation for the country level would be reflected at the regional level. Regular consultation and coordination with a wide variety of stakeholders including trade unions, civil societies, human rights associations, and academia were deemed crucial.

From the context of the ICRMW, it was noted that only two South Asian countries (Sri Lanka and Bangladesh) have ratified this convention. The discussion emphasised the importance of the ratification of the convention and its implementation through the national laws and legislations. The movement of migrant workers at the sub-regional level in South Asia was seen as presenting a variety of challenges and that called for political will and ownership for better management.

Mr Tan Sri Othman Bin Hasim, the session chair, highlighted the challenges and opportunities to strengthen migration governance and rights of the migrant workers. He urged that the onus to implement the discussed ideas at the national level in their home countries was on the respective states. He focused on the instrumental role that can be played by the NHRIs in the implementation of these available instruments on a national scale. The NHRIs can influence their respective governments in signing and ratifying the agreed frameworks. He explained that migration governance should aim to protect women, children, domestic workers, and those in vulnerable positions. The prominent players, therefore, are not just limited to the government but also include the NHRIs, local authorities, and regional organisations, among others.

2.1.2 Session 2: Promoting the practice of fair and responsible recruitment

The session was chaired by Dr Er Mohammed Saif A. A. Al-Kuwari, the Vice-Chairman of National Human Rights Committee of Qatar, and was moderated by Dr Jeevan Baniya, Assistant Director at Social Science Baha/Centre for the Study of Labour and Mobility (SSB/CESLAM), a research organisation based in Kathmandu. Ms Alcestis Abrera Mangahas, Former Deputy Regional Director of ILO Regional Office for Asia and the Pacific, was the key speaker at the session. The panellists included: Dr Ganesh Gurung, Executive Chairperson of Policy Research Institute, GoN; Mr Sarat Dash, Chief of Mission of IOM for Sri Lanka and Maldives; Mr Bernardo Cocco, Deputy Resident Representative of UNDP Nepal; and Mr Mohammad Almal, a representative from the Ministry of Administrative Development, Labour and Social Affairs, Qatar.

The moderator, Dr Jeevan Baniya, initiated the session by highlighting the importance of dialogue around migration and fair recruitment as it could lead to substantive outcomes in terms of protection and promotion of the rights and welfare of migrant workers, and bring about economic development of both labour-sending and -receiving countries. The speaker, Ms Alcestis Abrera Mangahas, focused her presentation on recruitment with emphasis on protection of the rights of migrant workers at the beginning of their migration journey. She deemed the pre-departure stage to be important as many crucial decisions regarding channels of migration, selection of recruitment agencies, and decision about financing the migration, among others, were made during the initial phase. Moreover, this phase is under the supervision of the governments of labour-sending countries.



Panelists during the session on 'Promoting the practice of fair and responsible recruitment'

In her presentation, Ms Mangahas highlighted that many human rights violations were taking place during the migration process. She said that the pre-departure stage consists of several steps for migration, comprising of documentation, application and interview, screening for medical clearance, skill certification, signing of the contract, and departure to the destination. The recruitment agencies play the role of facilitators and help the workers navigate these

steps. Ms Mangahas explained that some of the key challenges faced by the migrant workers during the pre-departure stage include chaotic intermediation, dissemination of wrong and misleading information, fraudulent contracting, and heavy fees. She further said that there are hidden costs of corruption and inefficiency by both government and private sectors, making migration a challenging affair for the workers.

Ms Mangahas stressed that there are many layers of interaction between recruitment agencies in both the sending and the receiving countries. She explained that along with the recruitment agencies, there is domination of several other private and commercial interests in migration, including that of agents, subagents, medical testing centres, skill certifying institutions, and embassies, and a combination of these factors increased the risk of human trafficking and forced labour.

Explaining the recruitment-related costs, Ms Mangahas noted that there is no standard definition of recruitment fees and related costs, and there is no unanimity in the fees paid by the migrant workers based on the agreement between the CoO and the CoD. She explained that the calculation of recruitment and related costs paid by the migrant workers was particularly challenging because sometimes even the migrant workers were unaware of the costs. Also, in the cases when the migrant workers were not made to pay the recruitment cost upfront, their salary would later be deducted to pay for these costs without any prior information. She added that the workers were not informed about crucial information regarding their migration and the circumstances they were likely to face. This situation was more prominent in the case of low-skilled migrants working in the construction, agriculture, and domestic sectors.

As per the statistics shared by Ms Mangahas, over 40 per cent of the migrant workers across the world are from Asia, making it more important for the Asian countries to be accountable for the protection of the rights of their migrant workers.³⁹ She also pointed out the complexity of migration dynamics in Asia as it comprises origin, destination as well as transit countries, making it difficult to come up with a simple, one-dimensional solution. Ms Mangahas observed that these discussions had come in a crucial time in the migration scene in the Asia Pacific as the labour markets abroad were declining gradually, affecting the

³⁹ International Organization for Migration, *World Migration Report 2020* (Geneva: International Organization for Migration, 2019). Available at https://www.iom.int/sites/default/files/country/docs/china/r5_world_migration_report_2018_en.pdf

quality and the nature of the recruitment process. 'The fear is that there will be a rush to the bottom as the countries begin to compete for employment opportunities in the Middle East', she said.

Ms Mangahas also acknowledged the efforts from various governments and the private sector to regulate the recruitment fees and costs. She said that the private sector has been coming forward bringing in solutions to the table, talking about how they can engage in fair recruitment practices, and strengthening collaboration with the labour-sending countries for many years. She also emphasised the importance of collaboration between the governments and employers of both the origin and destination countries to achieve positive outcomes while designing and implementing programmes related to foreign employment.

Panel discussion

The panellists discussed the perspectives, actions, and potential roles of the institutions in the CoOs and CoDs in ensuring fair and ethical recruitment. Perspectives of business and human rights, as well as the existing international frameworks on fair and ethical recruitment and their bearings on business and human rights were also deliberated upon.

There have been many attempts at reforming recruitment practices by the governments, human rights organisations, and even the private sectors. Dr Ganesh Gurung emphasised that practices such as zero cost to the migrants, transparency, no confiscation of documents, job safety, and ability to work with dignity throughout their migration journey are some aspects of ethical, fair, and responsible recruitment. He explained that the concepts of fair and ethical recruitment are grounded in human rights principles and outline the responsibilities of employers, recruitment agencies, and the states for making labour migration safe and dignified.

One of the panellists, Mr Sarat Dash, raised questions regarding the role of the recruitment agencies to undertake their businesses more responsibly to protect the rights of the workers. He emphasised that recruitment practices, in general, should take place in alignment with the internationally recognised human rights and labour standards, including freedom of association, collective bargaining, prevention and elimination of forced labour, child labour, and discrimination. Mr Dash highlighted the significant role of private recruitment agencies for facilitating the migration process of workers. He observed that since making profit appeared to be the ultimate motive of the recruitment agencies and faulty recruitment practices existed, many people had become victims of forced labour and trafficking.

The panellists noted that of late, both the CoO and CoD have been developing mechanisms to promote fair and ethical recruitment for the workers. For instance, Dr Gurung shared the experiences of Nepal as a migrant-sending country, where the government developed its own home-grown model called 'free-visa, free-ticket' policy in 2015.⁴⁰ According to this policy, the recruitment agencies are allowed to charge a maximum of Nepali Rupees 10,000 while sending migrant workers abroad. He said that although it was a commendable step, the GoN is still struggling to implement the policy effectively.

⁴⁰ To learn more about the 'free visa-free ticket' policy, read: Bandita Sijapati, Mohd Ayub and Himalaya Kharel, 'Making Migration Free: An Analysis of Nepal's "free-visa, free-ticket" scheme', in *South Asia Migration Report 2017: Recruitment, Remittances and Reintegration*, ed. S. Irudaya Rajan (Routledge India, 2017).

Mr Mohammad Almal, representing Qatar, a labour-receiving country, shared the initiatives of the Qatar government to make migration safe and transparent to protect the rights of the migrant workers. He informed that the Qatar government has already provisioned that the migrant workers should not be charged any amount as recruitment fees. He said that the Qatar government has licensed private companies and is monitoring them regularly to ensure that they fulfil all the guidelines for safe migration. Mr Almal claimed that the Qatar government is working in alignment with the principles of ILO and has strived to make recruitment ethical and migration dignified. He further noted that they are also collaborating with the ministries and the concerned government agencies from the CoOs. In another step to facilitate migrant workers, he said that the Qatar government has opened Qatar Visa Centres in five countries, Sri Lanka, India, Pakistan, Bangladesh, and Nepal,⁴¹ where aspiring migrant workers can receive information about their contracts and nature of employment.

Mr Dash explained that the instances of human rights violation not only affect the reputation of the destination countries but also that of business houses and employers. He shared the incident of the collapse of the Rana Plaza in Bangladesh in 2013, which affected many reputed clothing brands and their buyers.⁴² Many brands decided to withdraw their production after the incident as they were concerned about the working conditions and safety of the labourers. Mr Dash emphasised that there has been progress on this front by the private sector and business entities over the last decade and they had been taking measures to change their work modalities and prioritise the rights of the workers.

The panellists also discussed the global and regional processes, including the GCM, the Colombo Process and the Abu Dhabi Dialogue, that raise the issues of ethical and fair recruitment to draw the attention of the migrant-sending and -receiving countries on a regular basis. They also shared about the general UN principles acceded to by the state and business communities, which outline the corporate sector's responsibility to adhere to the international labour standards and the state's responsibility to protect the workers and ensure their access to justice and remedy.

Dr Gurung highlighted some of the points from the perspective of a labour-sending country which could make fair and ethical recruitment possible. His points included: finding a niche for the country's workers in foreign labour markets, equipping the workers with special skills, exploring new destinations for work, promoting the use of technology and using the same to monitor the protection of migrant workers, and making employers accountable as they could be the best game changers in foreign employment. In order to effectively implement fair recruitment, Dr Gurung argued that all the labour-sending countries should collaborate and abide by these points so that the employers would not have any other alternative but to follow ethical recruitment while hiring workers. Similarly, Mr Dash said that promoting partnerships among various stakeholders, including the private sector, could be the key to promoting fair and ethical recruitment practices.

41 See 'Qatar Visa Centre Opened in Nepal', Qatar Embassy in Kathmandu, Nepal, 30 May 2019, Available at <http://kathmandu.embassy.qa/en/news/detail/2019/05/30/qatar-visa-centre-opened-in-nepal>. For further information on QVC, see: <https://www.qatarvisacenter.com/home>

42 The Rana Plaza building in Dhaka, Bangladesh housed five garment factories. Its collapse on 24 April 2013 killed at least 1132 people and injured more than 2500 people. For details, see https://www.ilo.org/global/topics/geip/WCMS_614394/lang-en/index.htm

Floor discussion

The floor discussion centred around the need for awareness among the migrant workers about their legal rights and duties in the CoD. The participants agreed that the migrant workers have a significant role in exposing the cases of violations and wrongdoings by filing complaints against the recruitment agencies and employers in the CoO and the CoD. They shared that pre-departure orientation and awareness programmes can help make the workers aware of their rights. In this context, Ms Mangahas also pointed out that most of these orientation programmes tended to be generic and failed to capture the destination-specific information. Therefore, there is still a lot of cooperation required between the government and CSOs to design such orientation programmes effectively.

Another issue raised during discussion was about the Nepali workers working in various states of India and the government mechanism for the protection of their rights. Due to the open border between India and Nepal, many workers go to work in India seasonally. It was noted that since there is a lack of realistic figures regarding the actual number of Nepali migrant workers in India, less attention is being paid to their plights.

The participants also highlighted the role of the NHRIs in making the government, private sector, and NGOs accountable for the protection of the rights of the migrant workers. Citing the case of Qatar, Dr Al-Kuwari said that the Human Rights Committee in Qatar receives complaints from labourers regarding human rights violations. Such complaints are transferred to the concerned ministerial authorities along with legal recommendations from the committee. The committee conducts regular follow-up to see that the dispute is settled and justice is provided to the workers.

The inter-agency cooperation between the NHRIs was seen as providing a concrete ground for advocacy. Their mandates, local presence, and the set of expertise were deemed crucial to support state-level advocacy at both the sending and the receiving countries. It was noted that along with the NHRIs, the governments can also play their part in criminalising the unscrupulous agents and recruitment companies, thereby increasing access of the migrant workers to justice. According to the participants, sensitising the private sector about human rights approaches is equally important to achieve fair and ethical recruitment.

2.1.3 Session 3: Issues on irregular labour migration

The session was chaired by Ms Kagwiria Mbogori, Chairperson, National Commission on Human Rights, Kenya, and moderated by Ms Natalie Greenfield, Senior Investigator/Conciliator and accredited mediator at the Australian Human Rights Commission. The speaker in this session was Mr William Gois, Regional Director, Migrant Forum in Asia, and the panellists were: Ms Mohna Ansari, Member, the NHRC Nepal; Mr Nirmal Raj Kafle, Joint Secretary, MoFA, Nepal; Dr Mohamed El Hachimi, Advisor to the President of National Human Rights Council of Morocco; and Mr Laxman Basnet, General Secretary, South Asian Regional Trade Union Council.

The speaker, Mr William Gois, explained irregular migration as arising out of desperation and stressed that criminalisation of irregular migrants has not been a solution to this. Instead, it has contributed to creating

an atmosphere of fear in accessing legal remedy in cases of workplace exploitation of such migrant workers. He explained that the enhanced role of the NHRIs, the CSOs, and trade unions could help in changing the narrative of ‘illegal’ migration.

Mr Gois noted that irregular migration is a reflection of a lack of proper governance of migration and the bilateral agreements are inadequate to serve as the ‘mantra’ for the governance process of labour migration. Further, he explained that slow-moving regional processes such as the Colombo Process, the Abu Dhabi Dialogue, and the Association of South East Asian Nations (ASEAN) Consensus on the Protection and Promotion of the Rights of Migrant Workers (2018),⁴³ and lack of commitment toward the implementation of ratified treaties such as the ILO and human rights conventions also lead to an ecosystem within which irregular migration takes place. He highlighted that over-regulation of migration with too many steps in the recruitment process also creates room for corruption at different levels in the bureaucracy or by recruitment agents and sub-agents. Similarly, only partial access to information and justice mechanism and a lack of proper labour inspection of workplace or living standards of migrant workers also inhibit the actual implementation of policies. He further stressed that irregular migration is usually tolerated when the economy is doing well, but when the economy is challenged, the migrant workers are made the target of different cleansing or purging of work-force for political reasons.

Mr Gois explained that since many CoOs are experiencing livelihood crises such as agrarian crisis leading to suicides among people in the agriculture sector, and huge debts, and lack of employment due to conflict and climate change. These crises lead people to migrating out of ‘desperation’ to fulfil their right to life and dignity, and the right to work. He emphasised that the criminalisation of migrants in an irregular status is not the answer. He reiterated that detention does not serve as a deterrence, it rather helps employers to create an environment of fear, intimidation, and exploitation that condemns migrant workers to continue to work in the shadows, in fear of being noticed, and to avoid complaining, lest they lose their jobs.

Mr Gois observed that the GCM is yet to come up with a programme that meaningfully and sustainably addresses irregular migration. It is important for the civil society actors to bring up irregular migration issues within the migration discourse. He explained that the need for the GCM was triggered in 2015 due to the irregular migration flows happening around the Mediterranean. However, during the actual negotiation, the issue became politicised and was left unaddressed, thus compromising the 360-degree vision of the GCM. Mr Gois opined that the goals of the GCM on providing regular and alternative pathways for migration can be tracked by civil society actors and the NHRIs to address the issue of irregular migration. He added that the NHRIs had not been able to fully use their jurisdiction to work extra-territorially to see how the human rights entitlements are being denied across the border. Trade unions and the NHRIs need to be able to forge MoUs to get the whole picture of people on the move.

‘We need to have a rational discourse on “why do people move” instead of only condemning it as trafficking. We need to also go beyond the ASEAN Consensus which recognises that “sometimes migrants become irregular for no reasons of their own” as that gives only half the picture for irregular migration’, stressed Mr Gois. Mr Gois concluded by stating that the GCM is anchored on national-level implementation. The NHRIs, trade unions, and civil society members will need to look at the happenings at

⁴³ For details about the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers (2018), see <https://asean.org/storage/2019/01/3-March-2018-ASEAN-Consensus-on-the-Protection-and-Promotion-of-the-Rights-of-Migrant-Workers.pdf>

the national level to draw up a commitment from the ground level to push the government to go beyond the current framing of migration. He stressed on the need to move away from a discourse of 'securitised borders' and 'fear of the other', having bilateral agreements that recognise interdependence and regional processes that try to share common goals to protect the rights of migrants irrespective of their status.

Panel discussion

The panel discussion was around the role of government, civil society actors, the NHRIs, and intermediaries, and employers in promoting regular and ethical migration, as well as providing a safe space for irregular migrants and survivors of human trafficking. It was focused on the inadequacies of the legal system in handling the cases of fraud and trafficking and the role played by the diplomatic missions of the CoO and the CoD, such as by providing legal assistance and shelter to all migrants including irregular migrants. The panel concluded that transparent bilateral agreements among the countries of origin, transit, and destination and innovative entrepreneurial mechanisms, as seen in the Intergovernmental Conference on GCM in Morocco, could be used to politically address the issue of irregular migrants internationally. At the national level, the CoOs needed to revamp their approach to 'development' by making it oriented toward the grassroots.

Panellist Ms Mohna Ansari explained that in order to address trafficking issues, the government needs to rigorously investigate and prosecute the act of trafficking. She shared that the cases of human trafficking are reported as cases of deception, fraud, or irregularity in the process of labour migration in Nepal. She highlighted that in Nepal's current jurisdictional practices related to migration, perpetrators are on the safe side, having a nexus with politicians. Multi-agency cooperation among the NHRIs, relevant government ministries, trade unions, and immigration departments will yield better migration management. In Kenya, Ms Kagwiria Mbogori explained that the NHRIs are at the forefront of working with multiple agencies in a programme called 'Better Migration Management' which includes other neighbouring countries in the East and the Horn of Africa, which is a very lucrative corridor for transit and trafficking for regular and irregular migrants.⁴⁴

Ms Mbogori explained that in Kenya, foreign irregular migrants are referred to as 'aliens' and the laws need to be changed to address this. She highlighted that as soon as one becomes an irregular migrant in a country like theirs, it became an opportunity for law officials to levy charges on such persons in the name of law and order. She shared that the NHRIs in Kenya had been working to ensure that migrants were not unnecessarily harassed. She further said that the CSOs are important for public opinion formation and raising the voices of migrants, especially when migrants come from marginalised communities whose voices are unheard.

Elaborating on the role of the diplomatic missions of the CoO, Mr Nirmal Raj Kafle shared that the Nepali embassies abroad provide humanitarian aid as their first priority for migrant workers. He explained that the Nepali embassies did not ask the legal status of the migrant workers for providing consular services. Further, he shared that MoFA Nepal has been emphasising the availability of temporary shelters and food

⁴⁴ Better Migration Project is commissioned by European Union (EU) and German Federal Ministry for Economic Cooperation and Development (BMZ) in the countries in the Horn of Africa from 2016-2022. For details, see <https://www.giz.de/en/worldwide/40602.html>

in the embassies in coordination with the governments in the destination countries. The embassies lay special priority on women migrant workers and both healthcare and psychosocial counselling facilities are made available, along with interpretation services and the services of labour attachés. Mr Kafle said that constructive engagement of state, civil society, and the NHRIs is crucial for a 'whole-of-state' approach to address the challenges of migrant workers. To highlight and contrast principle with actual practice in case of Nepal, Mr Laxman Basnet pointed out that a lot of non-transparent and confidentiality clauses are kept when bilateral agreements are signed; the migrant workers, on whom the actual practical effects of the agreements will fall, are not consulted or are kept in the dark.

On regularisation of migrants, Dr Mohamed El Hachimi shared that Morocco has experienced unprecedented inflow of migrants from countries in the sub-Saharan African region who aspire to enter European countries, and in some cases, their stay has been protracted in Morocco for more than ten years. Dr Hachimi further explained that since these migrants did not enter Morocco with the intention to work, they had not been covered in the category of migrant workers as defined in the ICRMW. In order to address this issue, the Moroccan government came up with the National Strategy of Migration in 2013 that allowed regularisation of this category of irregular migrants.⁴⁵ He stated that the Moroccan authorities organised two campaigns and were able to regularise 50,000 of such migrants coming from sub-Saharan Africa and that was a huge achievement given the economic and social situation of Morocco.

Further, the panel discussed the political ways in which irregular migrants are exploited during elections. They noted that the rise of far-right parties in the CoDs could lead to a change in the status of migrant workers from regular to irregular workers. They highlighted that civil society in the destination countries can play a crucial role to put pressure on these countries to respect the rights of migrant workers. Mr Basnet, referring to the context of Nepal, argued that the government tends to pursue the development agenda without considering social justice for the people who are left behind at the bottom of the economic pyramid. 'We need to focus on the educational and awareness needs of the poor people to prevent them from being lured into irregular migration by various agents who sell them dreams', he stressed.

Ms Mbogori highlighted that there is a very direct nexus between high levels of unemployment, poverty, dearth of skills, and irregular migration in the African region. She explained that migrant workers do not enter the CoDs as irregular migrants, they have enough documents to enter, but once they enter, they become undocumented and are deemed illegal due to the laws of the land. She recommended that if a transparent and open database of migrants leaving the country is maintained in the CoO with records of the next of kin, contracting agency, CoD, prospective employer and contact details, it will help reduce exploitation and irregularity. The panellists called for an inter-NHRI collaboration for multilateral or bilateral liaisons so the NHRIs in the region with more experience could work with the NHRIs with less experience.

⁴⁵ The National Immigration and Asylum Strategy (SNIA) announced in 2013 recognised the need for a humane and rights-based approach for the management of migration. For details, see: Lowe, Christina, Nathalie Both, Marta Foresti and Amy Leach with Kate Rist, *what drives reform? A political economy analysis of migration policy in Morocco*, (London: ODI, 2020). https://www.odi.org/sites/odi.org.uk/files/resource-documents/morocco_pea_case_study_1.pdf

Floor discussion

The floor discussion highlighted the importance of stakeholder consultation in the preparation for the Universal Periodic Review for Nepal in November 2020, and also while signing bilateral agreements.⁴⁶ The bilateral agreements are seen as weak instruments since most countries do not have a mechanism to monitor their implementation. The implementing and monitoring bodies at the ground level were deemed as capable of playing an important role to fill the information gap about the legal mechanisms among the migrant workers. Worker awareness was highlighted as being important to avoid their victimisation and also encourage them to seek remedy. It was stressed that the pre-departure orientation of migrant workers should be done in a manner that reinstates the whole rights framework. A delegate from Kuwait stressed that the diplomatic missions from the CoO play an important role to coordinate in the CoD to inform and update the stakeholders in the CoD on any regulations or new decisions taken from the CoO regarding the recruitment of workers.

Participants highlighted that in order to balance the power relations, the countries of origin, transit, and destination need to acknowledge their interdependence and come together as equals while framing the bilateral and multilateral agreements. Further, they noted that participation of members of civil society and trade unions in the discussion of the bilateral agreements in the CoO and CoD could be a progressive step toward the implementation of the GCM. Dr Hachimi stressed that a multilateral approach in migration would be useful in dealing with migration issues as no single country can deal with the problems of migration on its own. Explaining the Moroccan experience of being a transit country for migrants from sub-Saharan Africa entering Europe, he shared that Europe had only provided financial aid to Morocco to prevent migrants from entering Europe but such an approach was insufficient. He felt that there is a need to find alternative policies to address this issue holistically.

Bringing up the issue of acknowledgement of irregular migrants at the policy level, a delegate from Kenya shared that countries shy from recognising that majority of their labour migrants are irregular or in the informal sector, and irregular migration is not addressed in their labour migration policies. She explained that there is almost a fear of changing the status of the undocumented/irregular/illegal migrants into a regular one through regularisation programmes. Adding to this, Mr Gois said that there are sometimes all-out crackdowns on irregular migrants in the CoD, creating an atmosphere of fear and intimidation. He urged that we need to think about how we can open up more regular pathways at the regional level with different kinds of visa regimes. He also stressed that civil society, academia, trade unions, and the NHRIs can play a major role to drive away the anti-discourse on migration, and move together as a global community.

The floor also focused on the social factors related to the irregularity of migrant workers and the concerns about upholding the dignity of migrant workers. It was suggested that generating local entrepreneurship and other economic opportunities, as has been practised by some local NGOs in Nepal, could also help solve the problem. Mr Laxman Basnet stressed that migration from Nepal has not led to its 'development' if the rate of injuries, deaths, and disability among the migrant workers is taken into account. He said that skills training and pre-departure training will be necessary to generate the 'value' of workers. 'We need to

⁴⁶ The Universal Periodic Review (UPR) is a unique process which involves a periodic review of the human rights records of all 193 UN Member States. For details, see <https://www.ohchr.org/en/hrbodies/upr/pages/basicfacts.aspx>

make the prospective migrant workers aware of the real challenges of going to work in a foreign country and the kind of deceptions and risks that are possible,' he explained.

On human trafficking, a delegate from Jordan shared that although Jordan has bilateral agreements with Nepal, Kenya, Uganda, and Ghana, none of these countries have missions in Jordan and that has been a big concern in the context of irregular migration. Ms Ansari noted that a complaint mechanism regarding human trafficking is lacking in many countries. Oftentimes, the governments tend to introduce bans on migration to address irregular migration. She explained that the NHRC Nepal received complaints of trafficking directly from the victims or through the CSOs; however, the reluctance of victims to openly share their abuses is a problem while handling cases. She further stated that the case department of the Department of Foreign Employment, Nepal, has received 2383 complaints so far, but these are put under cases of 'fraud' or 'cheating'. She also informed that the NHRC Nepal has established the Office of the Special Rapporteur on Trafficking in Persons since 2005 and it publishes reports annually with recommendations for stakeholders, including the GoN, to create a better enabling environment to hold the government accountable. The NHRC Nepal has a focus on missing persons' investigation this year.

2.1.4 Session 4: Ensuring access to justice for migrant workers

The panel was chaired by Advocate Bongani Majola, Chairperson, South African Human Rights Commission, and moderated by Mr Homero Matthew P. Rusiana, Director IV for the Commission on Human Rights (CHR), Philippines. Mr Sudip Pathak, Member, NHRC Nepal, and Mr Deepak Dhital, Former Ambassador of Nepal to United Nations in Geneva were the speakers for the session. The panellists were: Mr Shom Luitel, Advisor, Peoples Forum for Human Rights, Nepal; Mr Dato' Sri M. Ramachelvam, Chairperson, Bar Council, Migrants, Refugees and Immigration Affairs Committee, Malaysia; Ms Leah Tanodra-Armamento, Commissioner, the Commission on Human Rights, Philippines.



Attorney Homero Matthew P. Rusiana, Director IV for the Commission on Human Rights, Philippines, moderates the session on 'Ensuring access to justice for migrant workers'

Mr Homero Matthew P. Rusiana introduced the panel with some incisive questions: Are the irregular migrant workers aware that they need not be treated as criminals or violators of domestic law in the receiving country? Are the victims of unfair and unethical recruitment aware of the processes and remedies available for receiving compensation, and the ways to come out of bondage? Are these issues arising from irregular migration or from unethical and unfair recruitment?

Mr Deepak Dhital made the presentation on behalf of both the speakers. He emphasised that migrant workers, regardless of their status as being regular or irregular, documented or undocumented, deserve fair and equal protection of their rights and access to justice. Mr Dhital highlighted the provisions in the International Recruitment Integrity System of IOM, and General Principles and Operational Guidelines for Fair Recruitment of ILO that protect the rights of migrant workers during recruitment. He also briefly discussed the role of the GCM, GANHRI, the ICRMW, and regional bodies or networks such as ASEAN, SAARC,⁴⁷ and the Colombo Process on this issue.

Mr Dhital further explained that recruitment for non-existing jobs, overcharging recruitment fees, substituting contracts for low-quality, low-paid jobs, providing falsified information about jobs and the terms and conditions of the contract have been common fraudulent practices by the recruitment agencies. He argued that unethical recruitment could also lead to forced labour, servitude, debt bondage, poor working and living conditions, and low or no pay, among others. He added that sometimes restrictions imposed by the sending states can cause women migrant workers to take riskier paths for migration, thus making them more vulnerable in the destination countries. He called for coordinated responses from origin, transit, and destination countries in such situations.

In addition to the fear of reprisals or dismissal, Mr Dhital pointed out that the migrant workers are also facing linguistic, cultural, financial, and institutional barriers to accessing justice or effectively using the complaints mechanism. Further, he argued that the redress and remedy mechanisms have not been very effective and often no serious compensations or punitive damages were paid to the victims, and no serious sanctions were imposed on the perpetrator. Mr Dhital concluded by highlighting the possible roles of the NHRIs in promoting the enactment of the international human rights obligations by the states and business enterprises in both the CoO and the CoD. He listed some possible following mechanisms: promoting the signing of labour agreements between and among countries; reforms in legislation for migrant workers; advocacy for and pro bono legal aid to victims; monitoring of migrant workers in detention/prison; promoting migrant-friendly complaint mechanism; effective implementation of fair recruitment principles; and empowering migrant workers through comprehensive education and orientation programmes.

Panel discussion

The panel discussed the role of the NHRIs in ensuring access to justice of migrant workers and the functioning of the access to justice mechanisms in the CoOs and the CoDs. The panel agreed on the need for a trans-border framework to address the issues of access to justice to migrant workers where the NHRI networks in sending, transit, and receiving countries can play a crucial role in making the law-enforcing bodies adopt a human-rights-based approach. The role of the diplomatic mission of the CoO in the destination countries was highlighted, and the presence of labour attachés, and interpreters for native language were deemed as important facilities within the diplomatic missions. Corruption and lack of free legal aid were identified as major obstacles in the CoO. The fraudulent practices in labour

⁴⁷ As specified in the Agenda 21 of the Kathmandu Declaration (2014), the member states expressed their commitment to 'collaborate and cooperate on safe, orderly and responsible management of labour migration from South Asia to ensure safety, security and wellbeing of their migrant workers in the destination countries outside the region'. See http://mea.gov.in/Uploads/PublicationDocs/24375_EIGHTEENTH_SUMMIT_DECLARATION.pdf



Panelists during the session on 'Ensuring access to justice for migrant workers'

recruitment were flagged as leading to poor working conditions, debt bondage, and trafficking. Ineffective redress and remedy mechanisms, language barriers, and affordability of legal services by migrant workers were mentioned as hurdles for accessing justice, while increased awareness and empowerment of the migrant worker to access justice, online complaint mechanism, and expansion of free legal aid services were some of the recommendations presented. The

panellists also agreed that the NHRIs can play a role in advocacy, policy research, inquiries and public consultation on the conditions of migrant workers to strengthen their access to justice.

It was discussed that the SDG Goal 16 also provisions for equal access to justice for all by developing effective, accountable, and transparent institutions at all levels.⁴⁸ The panellists agreed that the major challenges across the CoOs and the CoDs remain the same: high costs of migration, illegal migration fees, problems with recruitment agencies and agents, abuses in various stages of the migration process, trafficking, and gender-based exploitation/abuse, and lack of access to regular forms of migration and safe migration channels. Mr Dato' Sri M Ramachelvam pointed out that having a large number of undocumented migrant workers is a pertinent issue in Malaysia and Thailand. He stated that the undocumented migrant population in Malaysia is estimated to be between 2 to 6 million.

Mr Ramachelvam explained some of the barriers faced by migrant workers and their families in accessing justice as being: language barriers, lawyer and court fees being unaffordable to migrant workers, legal barriers when domestic jurisdictions do not recognise certain categories of work as a 'job' such as domestic work, thus excluding them from legal remedy, lack of awareness among migrant workers on the legal processes of the destination country, and practical barriers such as not having resident or work permit. He stated that laws and lawyers generally look after those in power and those who have resources, and to a large extent, the law has to be forced to take into account the rights of the powerless and the vulnerable. He highlighted that the NHRIs can play an important role to ensure that the law keeps up with the principles of justice and the needs of vulnerable communities in the society.

The panellists shared about the existing good practices in the CoO and the CoD such as the provision of free legal aid to migrant workers in Bangladesh and the Philippines, and the online Consular Services Management System (MADAD) in India.⁴⁹ Administrative bodies such as the Department of Foreign Employment in Nepal, the National Labour Relation Commission in the Philippines, regular courts dealing with criminal cases of migrant workers, the Foreign Employment Tribunal (FET), and the diplomatic missions with their labour attachés in the destination countries also play an important role in improving

⁴⁸ The Goal 16 of SDGs is to: 'Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.'

⁴⁹ For more information on MADAD, see <http://www.madad.gov.in/AppConsular/welcomeLink>.

the access to justice of migrant workers. However, panellists agreed that most of these mechanisms are centralised in the capital city and lack in trained staff. Mr Shom Luitel said that low level of legal awareness of the migrant workers is in itself a barrier in accessing justice mechanisms by them, and corruption and lack of free legal aid are also major obstacles in the CoO.

Mr Luitel provided some recommendations to improve the access to justice of migrant workers from a CoO perspective: appoint labour attachés from a legal background, provide free legal aid to the migrant workers in all cases (civil or criminal), initiate legal-awareness programmes for migrant workers, establish online complaint system for migrant workers, and allow migrant workers to file complaints in their native language. For example, he highlighted that the MoU between the NHRC Nepal and the NHRC Qatar provisions the Nepali migrant workers in Qatar to be able to file a complaint in the Nepali language.⁵⁰ Similarly, establishment of a special tribunal that would prioritise the processing of cases of migrant workers and charge no fees from them and reforms in the laws in line with international standards related to migrant workers were also suggested as possible ways forward.

Mr Ramachelvam flagged some key recommendations for filling the gap in the protection of the rights of the migrant workers from a CoD perspective (Malaysia). Some of the recommendations were targeted to the governments of the labour-sending and -receiving countries, and some were addressed to the labour-recruiting intermediaries. The sending countries were advised to conduct a broad-based public information campaign targeting migrant workers where they would be made aware about their rights and obligations, and the ways they could get assistance when their rights were violated. The destination countries were advised to revise their rules to allow migrant workers who have filed cases to automatically continue staying in the country while the resolution of their cases is pending, and also allow for the transfer of employers for workers who have undergone mistreatment, abuse, or violation of their rights at the hands of their current employer. Further, transparency and regularisation of agencies involved in the recruitment process, oversight on outsourcing agencies, collection of proper data on migrants, and a broad-based reform in existing laws for including sectors considered informal (such as domestic work) so that there are pathways to address the violation of their rights were also recommended. Mr Ramachelvam highlighted the importance of ensuring firewalls so that the migrant workers, including illegal and undocumented workers, can access their fundamental rights.

It was highlighted during the panel discussion that the NHRIs can play an important role in receiving, investigating, and resolving complaints of human rights violations and raising awareness in the community through human rights education. Ms Tanodra-Armamento emphasised that the NHRIs can take up an advocacy role through their publications of reviews of draft legislation and participation in congressional (parliamentary) meetings. She said that the NHRIs can help ensure a human-rights-based approach that respects the rights of the migrant workers and their families. The NHRIs can investigate the allegations of human rights violations against migrant workers and their families through complaints of affected individuals or voluntarily inquire into the cases on behalf of the affected individuals. NHRIs can also protect the rights of migrants in detention. Ms Tanodra-Armamento stressed that the NHRIs in receiving countries are particularly well placed to look into the human rights conditions of migrant workers in detention and to

50 National Human Rights Committee in the State of Qatar and the National Human Rights Commission of Nepal, *Memorandum of Understanding between the National Human Rights Committee in the State of Qatar and the National Human Rights Commission of Nepal* (signed 16 November 2015). https://www.nhrcnepal.org/nhrc_new/doc/newsletter/MoU_NepalNHRC-QatarNHRC.pdf.

ensure that the legal framework governing their detention can and does protect their rights in practice. She explained that the NHRIs have speaking rights at the Human Rights Council and the sessions of the Treaty Bodies and they can speak and report on behalf of migrant workers and their families to the UN bodies. She further pointed out that the networking of the NHRIs and cross-border cooperation to protect the migrant rights are more important when the existing human rights regulations are not binding. She concluded that the NHRIs in relevant sending, transit, and receiving states can develop joint implementation plans to identify and respond to areas of concern in cooperation with the governments and the CSOs.

Floor discussion

During the floor discussion, the participants called for an expanded understanding of ‘access to justice’ which also incorporates social justice and the issues of dignity of migrant workers in the CoO and the CoD. They suggested that the NHRIs can play a role to include the concerns of migrant workers in the education system and sensitisation programmes from a human rights perspective. Similarly, those in the CoO can also be sensitised to not view migrant workers as those running away from their countries.

Mr Ramachelvam commented that trafficking legislation provides for compensatory orders to be made since in some countries; if one is a trafficking victim, it is also a pathway to employment, permanent residence, and citizenship. So trafficking survivors were more likely to receive social justice than regular migrants, he explained. He further elaborated on the differences in the ways in which low-skilled migrants and the ‘expatriate communities’ are treated in the destination countries. He suggested that the civil society and the NHRIs need to ensure non-discrimination and equal treatment of all persons irrespective of their income levels.

The role of inter-country cooperation in ensuring the correct flow of information to migrant workers at different stages of employment was also discussed. It was deemed essential to provide migrant workers with comprehensive information at every stage of migration: pre-departure, transit, arrival, at work, return, and post-return. An institutionalised approach and a political commitment that fights corruption were emphasised as necessary to resolve these issues. Empowerment of migrants was deemed essential for them to claim their rights. Ms Tanodra-Armamento shared that the Commission of Human Rights in the Philippines has been partnering with the CSOs to capacitate migrants in general. Their policy office has started to conduct consultations with migrants, the overseas Filipino workers, and their families. Mr Luitel highlighted that there are three core elements of access to justice: just law, proficient law enforcement agencies, and victim awareness on legal proceedings. He explained that the formal justice system only works when there is a complaint, but when there is no complaint, the justice system will not work. So, it was deemed very important to empower the community of migrant workers.

It was argued that the presence of a monitoring mechanism for implementation of the agreed objectives in various international conventions or agreements can support in keeping track of the progress made. Ms Tanodra-Armamento shared that the Philippines and Qatar have an agreement relating to migrant workers where Qatar assured them that there would be no substitution of contracts, the Kafala system would be removed, and the No Objection Certificate policy for Filipino workers to transfer to another employer will be used.

A participant argued that the diplomatic missions of the CoO in the labour destinations can help address the issue of confiscation of passports of migrant workers by employers/intermediaries since such confiscation is considered as an act of trafficking and the passport cannot be withheld as it is the property of a nation. Other issues discussed were the plight of migrant workers with serious injuries, or who have been in the state of coma. Heightened cooperation from employers in destination countries, taking the agenda of human rights of migrant workers to the sub-national levels, and adopting a gender perspective on access to justice were also called for during the discussion.

The panel chair, Advocate Bongani Majola, concluded the panel discussion observing that plenty of legal frameworks and conventions and commitments existed keeping the migrant workers at the centre. He noted that the sending, transit, and destination countries all receive benefits from the migrant workers in some way. Advocate Majola suggested that the states involved in the exchange of labour migrants can come up with a multilateral implementation agreement and each of the states can enter into implementation through bilateral agreements. He felt that this would be an important step as labour migration is indeed a trans-border issue, and it cannot be solved in isolation. He said that an implementation forum with a global network can help address and monitor such issues. In his remarks, he also drew attention to the scarcity of resources in labour-receiving countries, which might create barriers to providing migrant workers with health assistance, as these services have been insufficient even for the receiving country's own residents in some cases.

2.1.5 Session 5: Inter-NHRIs cooperation in protection and promotion of rights of the migrant workers

This session was chaired by Dr Carlos Alfonso Negret Mosquera, Chairperson, GANHRI, and moderated by Mr Gauri Pradhan, eminent human rights defender and social activist in Nepal. The speaker of the session was Ms Andrea Kampf, Senior Researcher and Policy Advisor, German Institute of Human Rights, and Member of Migration Task Force, GANHRI. The panellists for the session included: Professor Fatima Ayed Al-Rashidi, Founder and Chief, Humanitarian Without Borders, Kuwait; Mr Sushil Pyakurel, Advisor to the President of Nepal and Former Member of the NHRC Nepal; Mr Lee Cheol Woo, Chairperson of the May 18 Memorial Foundation, Republic of South Korea; Dr Nomita Halder NDC, Member, National Human Rights Commission of Bangladesh; and Dr Binda Pandey, Hon. Member of Federal Parliament of Nepal and Member of ILO Governing Body.

Ms Andrea Kampf's paper was related to the need for cooperation among the NHRIs to achieve the human rights of migrants. She elaborated on the role of regional networks, especially the network of European NHRIs. GANHRI consists of four regional networks, one each in Europe, Africa, Asia Pacific, and the Americas. There are 78 accredited NHRIs in the global network with notable exceptions being the United States and Saudi Arabia. In her presentation, Ms Kampf gave several examples of MoUs signed on supporting migrants from the CoO to the CoD, especially in the Asia-Pacific region. She shared the cases of inter-NHRI cooperation to influence regional migration governance and gave examples of policy papers used for advocacy in Europe and South-East Asian countries.



Ms Andrea Kampf, GANHRI, highlights the need to ensure inter-NHRIs cooperation in efforts to protect and promote the rights of migrant workers

Ms Kampf explained that the European regional network of GANHRI meets twice a year to deliberate on overall issues and developments and identify areas of convergence and cooperation between various countries. It also publishes joint advocacy papers and reports. However, she remarked that the lack of required funding is a key limitation in GANHRI. She also said that the countries in the European network of GANHRI face organisational difficulties in finding common topics between the diverse states due to

differing state mandates and interests. Other challenges also come from the difficulties of aligning the work of the NHRIs at the national level, given the fact that migration governance is usually done at the state level or between institutions.

Ms Kampf shared that the most important challenge had been the implementation of the agreed-upon frameworks and legal provisions in the GCM at the national and regional levels. She explained that the Task Force on Migration started in 2017 with a member country from each region expressing interest in the consultation of the implementation of the GCM. The countries were Morocco from Africa, the Philippines from Asia Pacific, Germany from Europe, and Mexico from the Americas. Ms Kampf noted that the Task Force successfully focused on the rights of participation for the NHRIs in the strong follow-up and review of the GCM and took stock of the work of the NHRIs in the study. She also suggested that there is a need for a better institutional mechanism, including tools to strengthen the functions and the implementation capacity of GANHRI alongside the comprehensive provisions outlined in the 23 objectives of the GCM.

Panel discussion

The panellists focused their discussion on the need for synergistically addressing the problems faced by migrant workers through possible networking among the NHRIs, the government, and civil society. Further, the role of intergovernmental bodies and partnerships between the CoO and the CoD were also deliberated upon from the perspectives of different countries: Kuwait, South Korea, Bangladesh, and Nepal.

The panellists noted that migration consists of movement which leads to transition and the UN definition of migrants left out many vulnerable people and their families who may have genuine and multiple reasons to migrate. Professor Fatima Ayed Al-Rashidi recommended the proper enforcement of available laws. At the same time, other methods of strengthening networks between the NHRIs and governments, building capacity of governments and human rights institutions were also important, she said.

Cooperation and alliance between governments and the NHRIs are instrumental in the implementation of the available legal frameworks. Mr Sushil Pyakurel said that many human rights issues need to be tackled with the cooperation from the NHRIs, civil society, and governments. He explained that Nepal is in a unique position as it is not just a CoO but also a CoD with migrant workers coming from countries like India and Bangladesh. However, despite such cases, he pointed out that Nepal does not have legal provisions available that address such migrant workers' issues. He also noted that even though most South Asian countries have their respective NHRIs and the South Asian region has been the origin for a sizable number of migrant workers going to other regions, there is no formal (functioning) regional-level cooperation and network between the South Asian countries.



Panelists during the session on 'Inter-NHRIs cooperation in protection and promotion of rights of the migrant workers'

Mr Lee Cheol Woo highlighted the role of NGOs in Korea and provided an example of the Gwangju Migrant Workers Centre founded in 1997, which provides various services such as consultation, medical support to illegal migrant workers, instruction in learning of the Korean language, free room and board to migrant workers who have lost jobs or have experienced industrial accidents, and also organises solidarity activities.⁵¹ Mr Woo shared that the centre has also issued joint statements to urge the enactment of anti-segregation laws, ratification of the GCM, improvement in the system by removing anti-human rights provisions and has also been pressing the employers to guarantee migrant workers the freedom to change their workplace. Although Korea has not joined or adopted the GCM yet, it has been monitoring the situation of migrant workers via the Employment Permit System,⁵² explained Mr Woo. It was deemed important that the governments in both the CoOs and the CoDs ratify the GCM for intergovernmental cooperation. Similarly, Mr Woo shared that the Korean Confederation of Trade Unions has also cooperated with their Nepali counterparts to take the issue of migration and human rights further.⁵³

Dr Nomita Halder shared some examples of creating synergy between the CoOs and the CoDs in the context of the implementation of the GCM. She stressed that strong and effective national human rights protection systems are needed to ensure compliance and implementation of national laws and international human rights norms, provide redress to human rights violations, monitor human rights situations, support the work of human rights defenders and CSOs, and lead human rights advocacy and policy interventions. She suggested that the NHRIs need cooperation in tackling migration as migration is a transnational issue where cooperation can cover a diverse spectrum and more can be done at regional

51 'Gwangju Migrant Workers Center: For 20 Years, a Home Away from the Homeland', *Hankyoreh*, 25 January 2016. Available at http://english.hani.co.kr/arti/english_edition/e_international/227733.html

52 For more information on the Employment Permit System, see <https://www.eps.go.kr/pb/index.html>

53 For more information on the Korean Confederation of Trade Unions, see <http://nodong.org/english/>

levels. Dr Halder concluded that with transnational cooperation among the NHRIs, the interventions can be made more context-specific and a better understanding of labour market realities can be acquired.

Dr Binda Pandey explained that inter-ministerial cooperation across the CoO and the CoD is necessary to implement the national and international legal frameworks that protect the human rights of the migrant workers. Beyond this, all stakeholders, including social partners like recruitment agencies and trade unions should guarantee the rights of the migrant workers and ensure their safety. Although the government has more responsibility to ensure fair and ethical recruitment, the employer and the recruitment agencies are also important for their implementation, explained Dr Pandey. She suggested that trade unions and workers' associations should act as representatives and the voice of the migrant workers. Additionally, she suggested that the CSOs and human rights institutions can play a vital role in monitoring and advocating for alternative policy in the changing context. She highlighted that cooperation with the Nepal Bar Council and individual lawyers can be helpful for ensuring access to justice and that fact-based and logical data provided by academia also remains equally important. MoLESS should become the 'focal point' in bringing together different agencies, institutions, and commissions together, stressed Dr Pandey.

Dr Pandey also provided an example of a successful and effective role played by trade union associations like General Federation of Nepalese Trade Unions (GEFONT) in order to support Nepali migrant workers in South Korea.⁵⁴ Such activities by trade unions in the destination countries have been a point of emulation in other countries like Bahrain, Hong Kong, Kuwait and Malaysia as well, explained Dr Pandey. Similarly, bilateral agreements and MoUs with trade unions, and collaboration with Global Union Federation, an international federation of global trade unions, has yielded positive outcomes at the regional and international levels. Dr Pandey emphasised that engagement of trade unions with a network of parliamentarians through the MoFA has also promoted migrant workers' rights and increased lobbying efforts to international governments. She said that the GoN has been trying to maximise the role of the parliamentary forum to have multi-stakeholder and multilateral discussions at the national level. Similarly, Mr Pyakurel explained about an organisational network called Former Commissioners' Society of the NHRC Nepal, which has been working as a bridge between the civil society and the NHRIs to strengthen them and enhance their capacity. He stated that liaising with the regional networks such as SAARC and the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC) to work in tandem with the NHRIs remained a challenge.⁵⁵

Floor discussion

The floor discussion revolved around the issue of providing redress in violation of human rights and the legal basis for the NHRIs to provide that redress. Participants also raised pertinent points on the experience of Nepal in integrating the irregular migrant workers and the role of trade unions in assisting them. The importance of multi-stakeholder support from trade unions, NGOs, and civil society in monitoring and implementing good practices in the recruitment process in the CoOs was emphasised. Similarly, the procedural bottlenecks experienced by the NHRIs of the CoO and the CoD in the formal repatriation and management of migrant workers and the role given to the provincial governments in managing the migrant worker's issues in the context of the federal structure of Nepal were also discussed.

54 For more information on GEFONT, see <https://www.gefont.org/>

55 For more information on BIMSTEC, see <https://bimstec.org/>

Dr Pandey commented on the evolving role of trade unions in protecting the rights of the migrant workers in the context of the Republic of Korea, Malaysia, and Kuwait. In Hong Kong, Nepali migrants' construction and domestic workers' union and Nepali migrants' trade union were formed under the larger federation of the trade unions of Hong Kong. She noted that in the case of Qatar, forming trade unions was not allowed, but after a complaint was lodged by International Trade Union Confederation (ITUC) in ILO, there were some policy reforms, and now, five companies have joined together as an association, and this can be taken up as a pilot study for further collaboration mechanisms.⁵⁶ She further explained that in countries where trade unions are not allowed, the ILO has been linking the migrant workers with the solidarity organisations and the NHRIs of those countries, and there have been improvements in the human rights situation.

Dr Pandey said that every migrant worker in Nepal has the right to participate in migrant unions and especially immigrants from India are provided with trade union connections where they are linked with Nepali trade unions and human rights organisations. She further informed that the labour laws in Nepal can only be prepared at the federal level but ways to direct the power and agency of the federal government to the local and provincial governments are being discussed.



Human rights and development professionals from Nepal and abroad attend the session on 'Inter-NHRIs cooperation in protection and promotion of rights of the migrant workers'

Professor Al-Rashidi highlighted the Qatari Human Rights Commission's establishment of an observatory council to monitor the progress and implementation of different treaties and conventions. Similarly, Dr Halder stressed on Bangladesh's efforts in protecting the rights of migrant workers through its Ministry of Expatriates and Overseas Employment.⁵⁷ Every Bangladeshi migrant worker is required to make a smart card that consists of all the information of the worker. Similarly, the ministry is referred to if there is any problem or case of human rights abuse of the worker. She explained that the Wage Earners' Welfare Board handles cases of distressed persons and also takes charge of the dead bodies of migrant workers.⁵⁸ The board provides 300,000 Bangladeshi Takas to each family who lost their family member, along with educational and employment support. It also provides training support and language classes for workers going abroad.

Mr Pyakurel explained that inter-ministerial coordination is lacking in Nepal and national institutions can lobby for the promotion of such mechanisms. Nepal and India need to come up with joint measures for the protection of their migrant workers. He stressed on the need for thematic research in the south-Asian

⁵⁶ ITUC lodged a complaint in 2014 about the exploitative conditions of migrant workers building infrastructures for the 2022 FIFA World Cup. For details, see <https://www.ituc-csi.org/iilo-decision-heralds-new-era-for>

⁵⁷ For more information on the Ministry of Expatriates and Overseas Employment, Bangladesh, see <https://probashi.gov.bd/>

⁵⁸ For more information on the Wage Earners' Welfare Board, Bangladesh, see <http://www.wewb.gov.bd/>

region on the issue of cross-border migration. Adding to it, Ms Kampf restated that social and political science research in this field needed to be strengthened.

The chair for the session, Dr Carlos Alfonso Negret Mosquera, elaborated on the relationship between governance, human rights, and migration. He pointed out that the issue of human rights is contingent on country-specific contexts and avenues of collaboration are emerging as countries undergo democratic transformation at the international level. Such changes will help create international legal and institutional frameworks that will help guide national governments. Dr Mosquera stressed that the NHRIs and transnational human rights networks must play a crucial role in order to facilitate, influence, and implement the available legal frameworks. 'Human rights are not optional rights, but they are part of the fundamental rights as per the Article 13 of the UDHR [Universal Declaration of Human Rights] which states that everyone has the right to move freely and the right to choose their residence in the territory of a state, and the right to leave country including his own and the right to move back. This is the challenge and the call to bring about synergies and collective transformation that we seek', Dr Mosquera concluded.



Dr Carlos Alfonso Negret Mosquera, Chairperson of GANHRI, chaired the session on 'Inter-NHRIs cooperation in protection and promotion of rights of the migrant workers'

3. Delivery of Country Statements by NHRIs

Delegates from the NHRIs representing fifteen countries presented their country statements regarding their country contexts, challenges, achievements, and action plan to address the concerns relating to the human rights of migrant workers. Presented below are the key points from the country statements. Ms Aminath Eenas, President of the Human Rights Commission of the Maldives, chaired the session.



NHRI delegates deliver their country statements during the conference

Australia

According to the Global Slavery Index (2018), 15,000 people are living in modern slavery in Australia. The Australian Human Rights Commission is aware of the vulnerability faced by the migrant workers in Australia and also in Australian companies' supply chains. The commission has been involved in the protection of the rights of migrants, particularly in three areas: investigation and conciliation service for complaints; capacity building in coordination with Australia's regional partners to address the human

rights challenges faced by migrant workers from the Pacific region; and support for the implementation of the Modern Slavery Act 2018 (Cth). Activities such as investigation and conciliation of complaints, human rights education and promotion, policy and legislative development, and court interventions are engrained in the statutory functions of the Commission. The commission also raises issues regarding recruitment fees, confiscation of passports, and difficulties faced by workers due to language barriers. The migrant workers facing discrimination can access the commission's complaint-handling mechanism. The commission's law and the complaint process is the same for both local and immigrant workers, and the unlawful discrimination based on age, sex, race, disability, and gender identity is prohibited. The workers can also appeal in the federal court if the cases cannot be resolved through the commission. Similarly, there are projects to support Australian businesses to implement legislation to reduce the risks of labour exploitation and modern slavery. The commission has also expressed its commitment to continue working to educate and promote respect for human rights in Australia generally, and in relation to the protection of migrant worker rights, wherever possible.

Bangladesh

The National Human Rights Commission of Bangladesh has been undertaking several activities to sensitise the government and advocate for the rights of the migrant workers. Some of the on-going activities of the commission include legislation enforcement, skill development, awareness-raising, and networking with the NHRIs. The commission advocates for the provision of skill and language training, particularly to women domestic workers going for foreign employment. It has also been working with the Bangladesh government by identifying loopholes in laws and policies related to the rights of migrant workers. The commission has stated that it will collaborate with the NHRIs internationally to strengthen their partnerships and share best practices among each other.

European Network of National Human Rights Institutions (ENNHRI)

The European Union (EU) has strong regional networks comprising more than 40 NHRIs coming from both EU and non-EU countries. The European Network of National Human Rights Institutions (ENNHRI) supports and upholds every effort in the bilateral, regional, or cross-regional cooperation among the NHRIs and other stakeholders. ENNHRI engages with regional and international mechanisms to support the development of European NHRIs. To this end, it has established close cooperation with organs and institutions from the Council of Europe, the EU and the UN. ENNHRI's Asylum and Migration Working Group contributed to the work of the Drafting Group on Migration and Human Rights (CDDH-MIG) of the Council of Europe by collating good practices from across Europe on effective alternatives to migrant detention. In addition, ENNHRI has been following the developments at the level of the European Committee on Legal Cooperation (CDCJ) of the Council of Europe with regard to the Draft European Rules on the Conditions for the Administrative Detention of Migrants. ENNHRI also coordinates the exchange of information and good practice between the members to facilitate peer learning and to identify trends, common practices, and issues for collective actions. In 2019, European NHRIs have shared information about their recent work on migrants' access to economic and social rights, in particular, regarding access to the labour market, the right to adequate housing, the right to health, the right to education, and access to social security.

ENNHRI's thematic priority for 2020 is migration. ENNHRI's Asylum and Migration Working Group will focus particularly on strengthening NHRI's work on promoting and protecting migrants' rights at borders. ENNHRI will facilitate the exchange of methodologies for monitoring and initiate a collective discussion on regional recommendations, which can link regional policy and legislative developments. Cooperation among NHRIs and CSOs will be particularly encouraged.

India

Social welfare and sustenance of development depend on the migration of labour and skilled personnel. India is one of the largest migrant-sending as well as migrant-receiving countries, and it has a 17.5-million-strong diaspora according to the UN statistics 2019. India is also the top recipient of migrant remittances since 2008. India has not yet ratified the ICRMW; however, the National Human Rights Commission of India is committed to ensuring access to justice for all of its citizens with economic or other disadvantages. The commission has a Core Group on Bonded and Migrant Labour whose recent meeting recommended measures for aligning migrant workers to social security schemes and improving their working conditions. The Core Group provided the following recommendations: maintaining data on migrant workers; adopting pro-migrant strategies such as proper housing, sanitation, education and health for migrant families; ensuring the implementation of the Inter-State Migrant Workmen Act 1979; increased coordination between the Ministry of Panchayati Raj and Rural Development; and finally, increased research on gaps in social security and health rights of the migrant workers. The commission has recognised some challenges faced by inter-state migrant workers including their lack of awareness of their rights, coercion, and exploitation by unscrupulous labour agents, deception and trafficking of young girls and women migrant workers, poor social and political integration of migrants in the destination areas, and inadequate implementation of laws regarding the protection of migrant workers at worksites.

Jordan

The National Centre for Human Rights (NCHR) Jordan has a mission to protect human rights, disseminate human rights culture, provide consultation and legal assistance, and take necessary administrative procedures to deal with the human rights complaints and regulate human rights violations. The Jordanian government has not ratified the ICRMW, but Jordan has ratified 26 of the international conventions, among them seven of the eight core ILO conventions. The number of migrant workers in Jordan is about 1.2 million. The NCHR has been dealing with cases of human rights violations and providing legal assistance to all migrant and domestic workers since its establishment. The NCHR has units for complaints and legal assistance, monitoring, and criminal justice. The follow-up mechanism helps monitor and oversee the complaints and issues of human rights violations. The NCHR of Jordan, chaired by the Ministry of Justice, has the following objectives: raise awareness about labour rights to labour inspectors and security personnel; hold workshops, training, and programmes relating to human rights and the international human rights conventions; conduct regular visits to industries, agriculture sectors, and recruitment agencies; conduct training programmes in partnership with international organisations about raising awareness to the recruitment agencies; and mediate with workers and their lawyers.

Kenya

Due to the increasing number of youths migrating in search of employment opportunities from Kenya, the Kenya National Commission on Human Rights has realised the need for a sustainable approach to migration governance. The commission has initiated projects related to migration and human rights in order to advocate for a human-rights-based approach in migration governance and management, and to ensure the dignity of migrants. The commission supervises and provides recommendations to state and non-state actors regarding human rights and lobbies with the government to safeguard human rights principles in migration governance. The projects initiated by the commission have helped to enhance the internal capacity of the NHRIs for migration management and has facilitated collaboration with various state and non-state actors for strengthening their collective efforts. Some of the activities being carried out by the commission on migration and human rights include training to the referral partners to enable them to receive, manage, and refer cases on violation of migrants' rights; conducting surveys on the status of migrant workers in detention and other holding centres; developing key policy documents and advocating with the government for mainstreaming migrants' rights; sensitising the judiciary in migration governance; and enhancing collaboration with the security agencies and other local and regional state and non-state actors for creating awareness, ensuring the rights of migrants, and providing access to justice and reintegration.

Malaysia

The Human Rights Commission of Malaysia (SUHAKAM) has the mandate to promote awareness on and provide human rights education, advising the government on legislation and procedures related to human rights, and inquire into complaints of infringements of human rights. According to the statistics provided by the Ministry of Human Resources in 2014, 69 per cent of the migrant workers in Malaysia were undocumented. SUHAKAM has identified the following as main issues related to migrant workers: minimum wage violations; forced overtime; child labour; sexual harassment; exposure to toxic substances and other extreme occupational hazards; retaliation against workers who attempt to organise; physical abuse by employers; retention of passport and travel documents; and breach of their work permits. Migrant workers have been confronted with problems like exorbitant recruitment fees, long overtime hours, unsafe work environments, and low wages, among others. The migrant workers were often at the mercy of their employers due to their vulnerability and are usually forced to work in uncondusive working conditions due to their debts to the recruitment agencies. SUHAKAM is working closely with the Ministry of Human Resources to strengthen the protection of migrant workers. Based on the recommendations provided on the accession of the ICRMW, the Malaysian government is conducting technical reviews with relevant stakeholders, including a tripartite consultation process with employers, workers' organisations, and CSOs. SUHAKAM plans to work for capacity building of the NHRIs through information sharing, training, and exchange programmes, among others.

Mauritius

Mauritius receives most of the migrant workers from India and Bangladesh. Mauritius has not ratified the ICRMW and the reason being that while Mauritius is a multicultural society, it is an island with limited resources and not in a position to accept workers along with their families. But just because the convention has not been ratified, it does not mean that migrant workers do not enjoy worker rights. Mauritius has a very strong domestic legislation for the rights of the migrant workers. The remedies provided for the victimised migrant workers include complaint mechanism where the National Human Rights Commission (NHRC) of Mauritius is concerned mostly with violations of human rights. The NHRI's such as the Equal Approach Commission deal with discrimination and sexual harassment, and the Independent Police Complaint Commission, which used to be under the mandate of the NHRC Mauritius but is a commission on its own now, deals with the complaints related to on-duty police, as well as cases of corruption and money laundering. It is important to note that the NHRC takes individual complaints, referrals, and newspaper articles into account and adopts a proactive approach in alleviating the cases of human rights violations. Migrant workers can register formal complaints in case of non-compliance to the terms and conditions of employment, and other issues pertaining to labour inspectors and the police in case of human rights violations. It makes mandatory for employers to bear the cost of repatriation to the CoO, provide lodging, food, and safety training to migrant workers. Similarly, the civil code of Mauritius protects the civil rights of all migrant workers.

Mongolia

As per the data of the Mongolian Immigration Agency (2019), over 28,000 foreign nationals are residing and/or working in Mongolia. Likewise, many Mongolians also go for foreign employment, with Korea being a popular migration destination. Though the country has not ratified the ICRMW, domestic laws, including the Law on the Legal Status of Foreign Nationals, Law on Sending Labour Force Abroad and Receiving Labour Force and Specialists from Abroad, are in place for regulating the issues faced by the labour force coming to Mongolia. The National Human Rights Commission of Mongolia also plays its part in receiving and resolving complaints about human rights violations lodged by foreign nationals. The commission also refers the cases to the concerned authority when required. Some other activities of the commission include conducting regular inquiries into detention centres and prisons; consulting with the imprisoned foreigners to follow up with their complaints; and providing legal advice. The commission has highlighted the roles of the NHRI's in the protection of the rights of migrant workers and members of their families through raising awareness of the government organisations, law enforcement agencies, private companies and employers regarding human rights issues. The role of the NHRI's is also significant in promoting human rights education and conducting advocacy activities for the general public, receiving and resolving the complaints of human rights violations, and engaging with the international and regional human rights mechanisms. Furthermore, the NHRI's effectively collaborate for constructive partnerships with the stakeholders within and outside the state for addressing the human rights issues of migrant workers.

Morocco

Morocco is both a sending and a receiving country in terms of migration, and it has become a land of asylum and long-term settlement for migrants. It has regular migrant workers, a relatively large number of foreign students, migrants with an irregular status who are 'in transit' often for years, and finally asylum seekers and refugees. The regular and irregular emigration of Moroccans and the growing visibility of new populations of immigrants (Chinese, Filipino, or even Nepali as some security arrests have revealed) in Moroccan cities undoubtedly attest to the fact that Morocco faces a complex reality which constitutes both a challenge and an opportunity. In 2003, a law on the entry and residence of foreigners, illegal emigration and immigration was adopted, followed in 2007 by the signing of an agreement with the UNHCR regarding the review and the granting of asylum applications. Simultaneously, and with the support of the European Union, a policy to control illegal emigration has been put in place. These campaigns have given rise to numerous violations of the rights of migrants, like arrests of refugees, violence and mistreatment, rejections without referral to justice, etc. Without contesting the right of Moroccan authorities to control the entry and stay of foreigners and their duty to fight against human trafficking, the National Human Rights Council (CNDH) believes that public authorities cannot evade the constitutional provisions in the matter of human rights and rights of foreigners, the international commitments under the ratification of all the instruments of protection of human rights and in particular, the ICCPR, the ICESCR, the UN Convention against Torture, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, and the 1951 Refugee Convention. The latest initiative is the June 2013 signing of a joint declaration establishing a mobility partnership between the Kingdom of Morocco and the European Union and its member states. Based on this collection of elements, the CNDH calls on public authorities, all social actors and state partners to take note of these new realities and to act together to develop and implement a genuine public policy that protects human rights based on international cooperation and integration of civil society. It calls to establish a national legal and institutional framework of asylum, which is based on the principles set out in the preamble of the 2011 Moroccan constitution, and which organises the status of refugees in Morocco and the conditions for the exercise of the right of asylum recognised in Article 30 of the constitution.

Qatar

Qatar previously used the sponsorship system where a worker under the sponsorship was not eligible to move freely from one job to another. Furthermore, a worker under sponsorship was not allowed to leave the country without obtaining prior permission. The Nation Human Rights Committee (NHRC) of Qatar was established in 2002, and it has made recommendations to undermine the sponsorship and exit permit system by creating a wage protection system (WPS) regardless of the company's financial condition. It also recommended the Qatar government to ratify the ICRMW. The state of Qatar took an unprecedented step in 2018 to protect workers' right to receive a fair wage, establishing the Workers' Support and Insurance Fund, which will become operational before the end of December 2019. The fund shall pay workers overdue wages in a timely manner following a decision issued by the Labor Dispute Settlement Committee. The Decree Law regulating the National Human Rights Committee and its amendments entrusted the committee with the exercise of certain powers, including considering any abuses or violations of human rights, settlement of complaints or concerns reported to it on such violations, and

coordination with the competent authorities to address such issues, and preventing them from recurrence. As a permanent and structured mechanism for receiving and handling complaints from citizens and residents, the committee has set up a hotline to receive complaints in several languages, in addition to receiving complaints at the Committee's premises. The NHRC also offers a free legal advice service.

Saudi Arabia

As per the statistics from the Internal Ministry and the Immigration Department, Saudi Arabia had 8,473,490 legal immigrants, and 2,386,040 illegal immigrants. Saudi Arabia has brought attention to the issues of migrant workers many times at the international level and is committed to providing support to migrant workers in accessing justice. Workers often work for more than 12 hours a day in Saudi Arabia, which is against the labour law that requires an 8-hour work-day. Further, the workers engage in these additional hours mostly without additional payment and have one day off in a week. Saudi Arabia acknowledges such malpractices and has committed to stopping these. For 50 years, the country had semi-labour courts which did not belong to the Justice Ministry. Since 2018, a labour court with three degrees of appeal has been introduced. Yet, people in Saudi Arabia cannot get their rights directly. In the past, they also cooperated with some embassies like those of the Philippines, India, Bangladesh, and Egypt to receive complaints about abuse from official or non-official authorities.

South Africa

South Africa has a large number of mostly irregular migrant workers who are exploited, abused, and subjected to working conditions that are less favourable than that of nationals of the country. Trafficking in persons is also very common in South Africa. Following steps are planned by the South African NHRIs: meeting with the Ministry of Labour, the Ministry of Home Affairs, the Ministry of Youth, Women and People with Disabilities, and other relevant government departments to discuss the outcome of this important conference; and meeting with the relevant NGOs and CSOs, and migrant representatives' organisations to establish what data they have on migrant workers. They also plan on identifying relevant recruitment agencies and visiting various youth organisations to introduce the concept of migration for work to the unemployed youth in South Africa since a programme of this nature will provide welcome relief to the young workers and their families. Orientation and other programmes to prepare the youth adequately to work in other countries will be developed thereafter. The Kathmandu Declaration and the ongoing collaboration with the NHRIs who work with migrant workers is anticipated to be very useful in South Africa's youth migration programme.

Thailand

Migrant workers are vulnerable to violations of human rights in Thailand and are subject to arrest, extortion, and deportation. With this realisation, the National Human Rights Commission of Thailand works for the promotion and protection of human rights of migrant workers. The commission receives complaints, conducts an investigation, and provides recommendations to the relevant parties. In some cases, the commission also recommends the government to review laws to facilitate the protection

of the rights of migrant workers and enhance cooperation and coordination for the same among the government agencies. One of the missions of the commission is to encourage the Thai government to become a party to the ICRMW. In case of ratification, the Thai government is required to amend and enact their domestic laws in alignment with the Convention. The commission has stated that it will put all its efforts and available resources to carry out its duties in supporting the government to ratify the convention and in protecting the rights of all migrant workers in Thailand.

Philippines

According to the data of 2013, 10.2 million Filipinos were living outside the country with 4.2 million of them as temporary workers and 1.2 million as irregular workers. The temporary and irregular migrants working abroad are generally referred to as Overseas Filipino Workers (OFWs) and the remittance sent by the OFWs in 2017 alone accounted for 2005.2 billion pesos. In this context, the Commission of Human Rights of the Philippines has initiated various activities for protecting the rights of the workers. Some of the activities of the commission include taking part in the human rights reporting process to the UN Treaty Bodies; holding discussions on the GCM; and establishing a Migrant's Rights Observatory that enhances systematic rights-based reporting, monitoring, and evaluation system on government's compliance with the laws, regulations, and conventions. Similarly, the commission also encourages the OFWs to report violations through various forms of information technology. It also has a mandate to build the capacity of CSOs, partners, and staff of the commission, and forge partnerships with relevant state and non-state actors and the NHRIs in monitoring the compliance to obligations of duty-bearers to migrant workers' rights.

4. Key Highlights of the Kathmandu Declaration and Action Points

Background of the Kathmandu Declaration 2019

The NHRC Nepal deems protection of human rights of the migrant workers an important issue for Nepal, as much as for the Asia-Pacific region and the world at large. In case of Nepal, around 50 million people are migrant workers engaged in various jobs in the labour destination countries. The remittances they send home is equivalent to 25 per cent of the GDP on an average in the recent years. Around 56 per cent of the households in Nepal receive remittances from their family members who are migrant workers. Labour migration and the concomitant remittances have become an important part of the social and economic life of the nation. It is, therefore, extremely important to keep open all channels of cooperation and coordination for protection of rights of the migrant workers.



Interacting for consensus building on the Kathmandu Declaration

The Asia-Pacific region contributes about 40 per cent of the migrant workers to the world. A larger percentage of these migratory flows are within the region, and in that respect, the Asia-Pacific experience in labour migration is of interest and importance to the world community. The situation of low-skilled and semi-skilled workers who constitute the bulk of labour migrants from a number of highly populous Asian countries received prominence in the Kathmandu Declaration.

The NHRC Nepal has been closely working with GANHRI in protection of migrants' rights. GANHRI has to its credit the rich experience of having organised international conferences on protection and promotion of the rights of migrant workers over the last three decades. Alongside GANHRI, Nepal organised international conference on the rights of migrant workers in 2012. The conference held in 2019 was a continuation of that important exercise. Apart from it, the adoption of the GCM by the UN in December 2018 has brought

about unprecedented scope and opportunities for all stakeholders to contribute to the implementation of the GCM from their respective areas. Paragraph 44 of the GCM recognises the NHRIs as important players in the implementation of the GCM, among others. The International Conference on Protection of Rights of the Migrant Workers was to seize that opportunity for global cooperation in this important sector.

The GCM is a thoroughly human-rights-oriented international policy and strategic initiative to protect and promote the rights of all migrants, including the migrant workers. It takes a 360-degree view of migration and integrates human-rights-oriented, people-centred, gender-sensitive, child-friendly, and whole-of-government and whole-of-civil-society approaches to protection of the human rights of migrants.

GANHRI has its own extensive network through which it remains connected not just with the NHRIs, but also with the government agencies, CSOs, media, and international human rights defenders. It has become a useful platform to discuss issues and concerns on universalisation of all human rights conventions, and their proper implementation in the global, regional, and national contexts. International migration calls for mechanisms for cross-border cooperation in order to ensure that the rights of the migrant workers are protected through all stages of migration, irrespective of their migration status. As monitors of national human rights implementation, the NHRIs have an extended role to protect the rights of the migrant workers in a globalised and integrated world where people move in search of decent jobs.

Against this background, the international conference organised by the NHRC Nepal came out with the Kathmandu Declaration 2019. The participants of the conference were from the NHRIs, GANHRI, UN agencies, governments, community-based organisations, solicitors, researchers, academicians, intellectuals, and the media. Altogether 60 international participants took part and contributed to the success of the conference.

The Kathmandu Declaration 2019

The NHRC Nepal prepared an initial draft of the declaration in advance of the conference date and discussed on the modality and the content of the draft with key domestic and international stakeholders (see Annex 15 for the full document of the Kathmandu Declaration). Useful comments and suggestions received from the discussion were integrated into the drafting process and a working draft was thus prepared. Copies of the initial draft declaration were distributed among the participants on 12 November 2019 immediately after the inaugural session of the conference. For the convenience of the participants, a Drafting Committee comprising 22 delegates from various countries and from various disciplines was formed on a voluntary basis. On behalf of the NHRC Nepal, Mr Deepak Dhital, former PR/Ambassador of Nepal to UN and other international organisations in Geneva, was nominated a moderator of the Drafting Committee. Hon. Member of the NHRC Nepal, Mr Sudip Pathak, synchronised the consultation process of domestic and international key players as coordinator of the Conference Organising Committee. Eminent personalities representing GANHRI, the NHRIs, Governments, the UN agencies, CSOs, experts, media persons, and intelligentsia joined the Drafting Committee in a representative manner. They were briefed on the content and approach taken by the initial draft of the declaration. Following discussions, members of the Drafting Committee agreed to present their comments and suggestions in track-change

mode. All comments were collated by the moderator and the most constructive views and comments were incorporated into the draft text II and presented to the Drafting Committee for further inputs and suggestions. In the next sitting, most of the points to be incorporated were sorted out, and a general consensus was developed on the final version of the declaration. It was finalised after a discussion in the third meeting of the Drafting Committee on 13 November 2019. The Drafting Committee members were appreciative of the homework behind the initial draft presented on behalf of the NHRC Nepal.

The finalised version of the Draft Declaration was presented by the moderator in the final plenary session of the conference chaired by the Hon. Chairperson of the NHRC Nepal, Justice Anup Raj Sharma on 14 November 2019. After comments and observations by the participants of the plenary, the chair put it before the participants of the plenary session for adoption. It was then adopted by acclamation on the basis of consensus decision.

General Structure of the Declaration

The Kathmandu Declaration, 2019, is first and foremost a consensus document of the NHRIs showing their willingness and ability to cooperate with multiple stakeholders in the protection of the rights of the migrant workers in all phases of migration, and regardless of the status of the migrants. It has reasserted the important role played by the NHRIs together with GANHRI and other stakeholders in bringing forward the cause of the migrant workers and added that the adoption of the GCM by the UN in December 2018 has opened up new avenues of cooperation for the NHRIs, among others, to further contribute to systemic protection of migrants' rights in the countries of origin, transit, and destination and through the entire process of migration. The declaration points out the urgency of universalising all human rights and labour rights conventions for fulfilling not just the interest of the migrant workers, but also the interest of sending, receiving, and transit countries and their governments as inclusive realisation of human rights by all brings a situation of win-win to everybody.

The declaration emphasises on human rights approach to labour migration, putting the dignity and best interest of the migrant workers at the centre while managing the entire cycle of migration. It reiterates the elimination of bad practices in labour migration and lists good practices to be followed by the recruitment agencies, employers, government law enforcement agencies, diplomatic missions, and other stakeholders in the process of migration to make labour migration dignified, secure, and mutually beneficial. It further gives a gender lens to migration and points out the vulnerabilities and special protection needs of women migrant workers. It suggests more effective access to justice mechanisms for those migrant workers whose rights get violated in the migration cycle. The declaration has presented mutual cooperation and coordination in the activities of all stakeholders who get involved directly or indirectly in the migration process as a key to positive change in the migration landscape.

Drawing from the principles established by the text of the declaration, a ten-point action plan is also attached along with the Kathmandu Declaration. These actions points can be implemented by the NHRIs in parts and as a whole through multi-stakeholder cooperation. The NHRC Nepal is ready to join hands with all relevant stakeholders, including donor partners to turn these action agenda into visible reality.

5. Signing of the MoU between NHRC Nepal and SUHAKAM



Hon. Anup Raj Sharma, Chairperson of NHRC Nepal, and Hon. Tan Sri Othman bin Hashim, Chairperson of SUHAKAM, signing the MoU to promote cooperation to ensure the protection of the rights of migrant workers

The NHRC Nepal and SUHAKAM (the Human Rights Commission of Malaysia) signed a MoU on 14 November 2019. The MoU was signed by the NHRC Nepal Chairperson Anup Raj Sharma and SUHAKAM Chairperson Tan Sri Othman bin Hashim. The MoU aims to regulate and facilitate the bilateral relations between the two NHRIs. It will promote cooperation and exchange between the parties based on the Seoul Guidelines on the Cooperation of National

Human Rights Institutions for the Promotion and Protection of Migrant Rights in Asia (adopted in Seoul in November 2008) and other outcomes of NHRIs' international conferences on rights of the migrant workers.

Further, the parties have agreed to conduct joint efforts within their mandate to advance workers' rights in Malaysia and Nepal and adequately respond to complaints relating to rights of the migrant workers according to prevailing labour laws of each country. Other areas of cooperation include engaging with each other to protect the rights of the migrant workers; educating employers, workers, and other appropriate persons on the rights of migrant workers; and facilitating the provision of training, technical assistance, and legal assistance to migrant workers. Both the countries will also conduct monitoring of the immigration depots, prisons, and other places of detention in order to create an enabling environment for the protection and promotion of rights of the migrant workers (see Annex 14 for the full text of the MoU).

6. Concluding Session

Mr Sudip Pathak, Member of the NHRC Nepal and Conference Convener, extended honour and gratitude to the representatives from national and international human rights institutions, government organisations, civil society, the UN agencies, academia, media, and private business institutions for their valuable participation in the conference during his closing remarks. He hoped that the adoption of the action plan in the form of the Kathmandu Declaration will provide opportunities for the stakeholders to work in a systematic

and organised manner for protecting the human rights of the migrant workers. He further stated that the NHRC Nepal considered the rights of migrant workers as one of its priority issues and thus had been undertaking several activities, including consultations with the right holders and government and non-government stakeholders, monitoring of human rights situations of migrant workers and their families, providing recommendations to the GoN, and collaborating with the NHRIs and other stakeholders both within and outside the country. Since the problems faced by migrant workers are not just limited to their home country, Mr Pathak outlined that signing of MoU with South Korea and Qatar previously, and with Malaysia during the conference will be significant for protecting the rights of the workers.

Similarly, Mr Anup Raj Sharma, Chairperson of the NHRC Nepal said that organising the international conference was a step to open avenues of collaboration between stakeholders including the NHRIs, government, civil society, and private businesses. Mr Sharma expressed his gratitude towards GANHRI for its constructive engagement. He believed that the opinions and inputs of participants remained huge assets for the conference and will be useful in shaping the future journey of the NHRC Nepal. He further thanked the GoN and the UN agencies, including the United Nations Development Programme, the ILO, and the IOM for their support throughout the conference.



Hon. Sudip Pathak, Member of NHRC Nepal, delivers the concluding remarks at the end of three-day conference

Annexes

Annex 1:

Bio of Session Chairs



Mr Tan Sri Othman bin Hashim

Mr Tan Sri Othman bin Hashim is the Chairman of the Human Rights Commission of Malaysia (SUHAKAM). As a Permanent Representative to the United Nations and International Organisations in Geneva, he was accredited to the United Nations Human Rights Council (UNHRC). In his 37 years of career, he has disseminated his diverse capacities in the Ministry of Foreign Affairs and Diplomatic Missions and has also served as Ambassador to the Czech Republic and the United States of America. Mr Hashim was a member of the delegation for Malaysia's first Universal Periodic Review (UPR) on Human Rights to the UNHRC in 2009. He was also involved in the preparation of the report for subsequent UPR of Malaysia on Human Rights. He also has headed the Malaysian delegations to the regular sessions of the UNHRC from 2009-2012.



Dr Er Mohammed Saif A. A. Al-Kuwari

Dr Al-Kuwari is the Vice Chairman of the National Human Rights Committee of Qatar and is also a member of the Governance Committee of the Asia Pacific Forum (APF). He holds a PhD in Civil Engineering from Cairo University. In 2014, Dr Al-Kuwari was awarded as an international ambassador for social responsibility of the CSR Regional Network and United Nations Commissioner for Evangelization of the United Nations goals for sustainable development 2030. In 2019, Dr Al-Kuwari was awarded an Honorary Membership of the International Union for Social Responsibility. He has authored 16 books and has contributed to 39 scientific and technical research papers in the fields of human rights, materials engineering, buildings, environment, and construction specifications and other related areas.



Ms Kagwiria Mbogori

Ms Kagwiria Mbogori is the Chairperson of the Kenya National Commission on Human Rights (KNCHR). She focuses on the promotion of a culture of respect for human rights in Kenya. She holds a Master's of Law from the University of Notre Dame, Indiana, majoring in International Human Rights Law (LLM). Prior to joining KNCHR, Ms Mbogori served the UNDP as the Chief Technical Advisor for the Judiciary of South Sudan. She also worked for the United Nations Mission in Liberia (UNMIL) from 2004 to 2013. Ms Kagwiria also served as the Executive Director of the Kenya Section of the International Commission of Jurists (ICJ-Kenya) and Senior Programmes Officer/Ag Executive Director in the Federation of Women Lawyers (FIDA), Kenya. She also serves as a member of the Jury for the Nuremberg Human Rights Awards.



Professor Bongani Christopher Majola

Professor Bongani Christopher Majola is the Chairperson of the South African Human Rights Commission. He is an advocate who holds a Master's of Law degree (LLM) from Harvard Law School, USA. Before being appointed as the Chairperson of the Commission he served as the Assistant Secretary General of the UN and Registrar of the UN International Criminal Tribunal of Rwanda (UNICTR) from January 2013 to December 2015. In addition, from January 2003 to December 2012, Professor Majola supported the Chief Prosecutor as Deputy Chief Prosecutor, UNICTR, in the prosecution of suspects indicted for the international crimes of genocide, crimes against humanity and war crimes committed during the Rwandan genocide of 1994.



Dr Carlos Alfonso Negret Mosquera

Dr Carlos Alfonso Negret Mosquera is the Chairperson of the Global Alliance of National Human Rights Institutions (GANHRI). Dr Mosquera has been the Ombudsman of Ombudsman's Office of Colombia since 2016, and was elected by the regional networks of GANHRI to the position of the chair during the General Assembly in Geneva, Switzerland. He is also a lawyer with specialisation in International Human Rights Law from the Universidad Alfonso X El Sabio University in Spain. He was also a member of the Disciplinary Jurisdictional Chamber of the Superior Council of the Judiciary, Consul General of Colombia in Chicago. He is an advisor to important institutions such as ICBF, the Invias and the Comptroller General of the Republic.



Ms Aminath Eenas

Ms Aminath Eenas is the President of the Human Rights Commission of Maldives (HRCM). She has been contributing to the sector of child and women's rights since the past 15 years. She has been actively involved in awareness programmes in women rights and child rights issues through the correctional programmes for juveniles, preparation of national reports, and reports for UNICEF. She also has experience in working with perpetrators. She has been advocating for and protecting human rights in the Maldives with passion and firmness of purpose. She has also served as a Counsellor in the Ministry of Gender, Family Development and Social Security.



Mr Anup Raj Sharma

Mr Anup Raj Sharma is the Chairperson of the National Human Rights Commission of Nepal. Mr. Sharma Bio details referred to the Annex 5 as office bearer of the Commission.

Annex 2:

Bio of Speakers



Ms Maria Nenette A. Motus

Ms Maria Nenette A. Motus has been the Regional Director for IOM in Asia and the Pacific since March 2016. Her responsibilities include overseeing the activities of the IOM Regional Office and providing guidance and support to IOM country offices in the Asia Pacific region. Ms Nenette has worked with the IOM for over twenty-five years in Asia, Africa, the Caribbean, the Middle East and Europe. Prior to her transfer to the IOM Regional Office for Asia and the Pacific, she served as the Senior Migration Health Policy Adviser and Global Coordinator for Emergency Health Operations based in IOM Geneva Headquarters from 2009 to 2015. She was previously based in the IOM Regional Office in Asia and Pacific as the Regional Migration Health Manager for South East Asia from 2006 to 2009.



Ms Alcestis Abrera Mangahas

Ms Alcestis Abrera Mangahas was the Deputy Regional Director of ILO's Regional Office for Asia and the Pacific from 2011-2015. She was responsible for migration and trafficking related programmes in Asia and the Pacific. Ms Mangahas has also served as Chief Technical Adviser of the Rehabilitation of Returning Migrant Workers Project, Senior Forced Labour and Trafficking Specialist of the Special Action Programme on Forced Labour and as Chief Technical Adviser of the Mekong Sub-regional Project on Human Trafficking in the ILO. Before joining the ILO, Ms Abrera Mangahas was the Deputy Administrator of the Philippines Overseas Employment Administration, Department of Labor and Employment of the Government of the Philippines. She was awarded as one of the 100 Influential Women Policy Makers and Visionaries 2014 by Filipina Women's Network (FWN) for her contributions.



Mr William Gois

Mr William Gois is the Regional Coordinator of the Migrant Forum in Asia (MFA), a regional network of NGOs, associations and trade unions of migrant workers, and individual advocates in Asia who are committed to protect and promote the rights and welfare of migrant workers and members of their families. He also chairs and works closely with several international bodies and forums that address the concerns of the rights of the migrant workers. For over ten years, he has been at the forefront of international advocacy efforts engaging and influencing international and multilateral organisations to promote and protect the human rights and labour rights of migrant workers and members of their families through fair and informed migration and sustainable development policies. He works closely with the UN Treaty Bodies, with the Office of the High Commissioner on Human Rights (OHCHR) and the Committee on Migrant Workers and other special mandates. With his leadership, MFA was invited to conduct research on recruitment with the UAE government for the Abu Dhabi Dialogue.



Mr Sudip Pathak

Mr Sudip Pathak is the Member of the National Human Rights Commission of Nepal. The detail Bio of members is referred to **Annex 5** as an office bearer of the commission



Mr Deepak Dhital

Mr Deepak Dhital was the Permanent Representative/Ambassador of Nepal to the United Nations, other international organisations and the WTO in Geneva from 2014 to 2019. As a career diplomat, Mr Dhital served in various capacities at the Nepalese Missions abroad. He also served as the DCM at Nepal Embassy for EU and BENELUX countries in Brussels, Charge de' Affairs at Nepal Embassy in Kuala Lumpur, which he founded on behalf of GoN in 2003, and DCM/DPR to UNESCAP at Nepal Embassy in Bangkok, in different periods. He also served as an officer under the Ministry of Tourism and Civil Aviation and as a sub-editor in The Rising Nepal, an English daily. While Mr Dhital served as PR/Ambassador in Geneva, Nepal was elected to the Governing Body of the ILO as a Deputy Member, and to the Human Rights Council as a member for the first time in both cases. Nepal also assumed chairmanship of the Colombo Process, a regional consultative forum of 12 Asian nations on the mobility and management of overseas migrant workers.



Ms Andrea Kämpf

Ms Andrea Kämpf is a senior researcher and policy adviser of the Department of International Human Rights Policy at the German Institute for Human Rights. A lawyer by profession, she focuses on migration and the linkage to development, accountability mechanisms, environmental and social standards, and the promotion of civil society. Alongside her work at the Institute, she teaches a Master's degree course on human rights and development at the University of Applied Science in Düsseldorf, pursues an LLM in mediation and conflict management at the University of Frankfurt/Oder and works as a consultant for the Panel of the Independent Complaints Mechanism of DEGINvest, the German development finance institution for private companies. Before joining the Institute in 2007, she spent several years working with EU-funded development projects and for the Organization for Security and Co-operation in Europe.

Annex 3:

Bio of Moderators



Mr Gauri Pradhan

Mr Gauri Pradhan is an eminent human rights defender and social activist. He has been in this field for more than 30 years. He is a former member of the NHRC Nepal. Mr Pradhan was the Coordinator of the International Conference on the NHRIs Collaboration on the Rights of Migrant Workers which was organised by the NHRC Nepal in 2012. He is associated with several national, regional and international CSOs on human rights, peace and social justice. He has been actively engaged in advocacy, alliance building and monitoring of the implementation of the Istanbul Programme of Action (IPoA) and other Internationally Agreed Development Goals (IADGs) including SDGs for LDCs. Mr Pradhan was also nominated to and acted as an Adviser to the UN-NGO Committee on Violence against Children in 2006. As a member of the Experts team, he is one of the signatories of Abidjan Guidelines on Right to Education 2019.



Mr Homero Matthew P. Rusiana

Mr Homero Matthew P. Rusiana is currently holding a Director IV position for the Commission on Human Rights (CHR). He has been serving the Philippine Government for the past 39 years and is considered a champion in promoting human rights reform. He has been a reputable member of the Commission on Human Rights since it was created in the year 1986. He started his career as a court process server for the Court of First Instance in Davao City, Philippines (1980-1986). He was exposed to activities of NHRIs as a delegate in the several international conventions including Australian International Development Assistant Bureau (AIDAB), International Conference on Institutional Protection of Human Rights: Role of National Human Rights Institutions held in Dhaka, Bangladesh and Regional Workshop on the Establishment of National Human Rights Mechanisms in the Pacific held in Mulifanua, Samoa, from 27-29 April 2009.



Dr Jeevan Baniya

Dr Jeevan Baniya holds a PhD in Political Science from University of Oslo, Norway. He is the Assistant Director at Centre for the Study of Labour and Mobility (CESLAM), Social Science Baha, a well-known research institute in Nepal. He has also served as an Expert Member in Task Force Committee formed by the Ministry of Labour, Employment and Social Security (MoLESS), GoN. In that capacity, he reviewed foreign employment-related policies, laws, and other provisions, identified problems and challenges associated with foreign employment, and made policy and strategy related recommendations and suggestions for enhancing safe, managed, and dignified foreign employment. He has published several research papers and articles on labour and migration. He has also served as a faculty at Department of International Relations and Diplomacy (MIRD), Tribhuvan University, where he has taught Master's and PhD degree courses.



Ms Natalie Greenfield

Ms Natalie Greenfield is a Senior Investigator/Conciliator and accredited mediator at the Australian Human Rights Commission (the Commission). She handles complaints of unlawful discrimination in a number of areas of public life including employment and breaches of the various human rights instruments administered by the Commission. Ms Greenfield is also involved in the Commission's community education and engagement work including delivering information to various stakeholder groups on Australia's federal anti-discrimination laws and human rights obligations. Ms Greenfield studied law and international studies at the University of Technology, Sydney and prior to the Commission, she worked at the Office of the Australian Information Commissioner and for local government in the United Kingdom in the area of the protection of vulnerable adults.



Ms Sharu Joshi Shrestha

Ms Sharu Joshi Shrestha has been working in the field of gender and development for more than 25 years, especially with the GoN and the UN agencies. Since 2018, she is working independently towards empowering youth. One of her notable contributions is on the development of foreign labour migration related laws and policies and promoting the rights of women migrant workers and their families. Recently, she has been supporting the Ministry of Labor, Employment and Social Security and Foreign Employment Board. Ms Joshi has coordinated UN Women's Asia Pacific and the Arab States Regional Program on 'Empowering Women Migrant Workers' from 2002-2016. One of her most recent works is leading a study on 'Social Cost of Foreign Labour Migration' for the Foreign Employment Board. She is also an author of a book named 'Euta Sinko Bhachi Herada' (A small bit from my side).

Annex 4:

Bio of Panellists



Dr Pia Oberoi

Dr Pia Oberoi is currently Senior Advisor on Migration and Human Rights for the Asia Pacific Region based in the Bangkok office of the United Nations Human Rights Office (OHCHR). She is responsible for developing and implementing research and policy on migration and human rights in the region. Prior to this role, she was the head of global migration team at OHCHR where she headed the Office's global work on policy and legal issues related to the human rights of all migrants and the intersections between migration and human rights. Before that, she led the migrants' rights related work of Amnesty International's International Secretariat and has been an expert consultant for NGOs and policy think tanks in the Asia Pacific region and around the world. Pia has published and lectured extensively on migration and human rights issues, and holds a DPhil in International Relations from St Antony's College, Oxford University.



Ms Rekha Sharma

Ms Rekha Sharma is the Chairperson of National Commission for Women, India. She commenced her office as the Chairperson on 29 September 2017. Before being involved with the Commission, she was actively associated with CSOs in different roles. The issues on women's rights and liberty have been her major work area in which her contribution is appreciated. She has been striving to overcome the diverse causes of vulnerability towards women. Prior to joining the Commission, she was also a Member of the District Consumer & Redressal Forum in the Government of Haryana. In addition, under her guidance, a 'Digital Shakti Campaign' has been launched by National Commission for Women in collaboration with Facebook and Cyber Peace Foundation to train around 60,000 women in Indian universities on online safety across major cities in India. She has also led some major law reviews undertaken by the Commission like guardianship rights for mothers, property rights of women and other laws related to sexual harassment of women at the workplace.



Mr Shabarinath Nair

Mr Shabarinath Nair is the Labour Migration Specialist for South Asia, based in the ILO Decent Work Technical Support Team (DWT) in New Delhi. He provides technical advisory services to seven countries in the sub-region: Afghanistan, Bangladesh, India, Maldives, Nepal, Pakistan and Sri Lanka. Before joining the DWT, he was leading ILO's work on global migration policy including for the inter-governmental negotiations and adoption of the GCM, and for the newly established UN Network on Migration with postings in both the ILO Headquarters in Geneva and at the ILO's office for the United Nations in New York. He was also a focal point for Asia and the Middle East in the Labour Migration Branch. Prior to joining the ILO, he worked with the Swiss Agency for Development and Cooperation (SDC), Federal Department of Foreign Affairs, Government of Switzerland.



Mr Umesh Dhungana

Mr Umesh Dhungana is the Joint Secretary of the Ministry of Labor, Employment and Social Security. He is currently looking after the Employment Management Division of the Ministry. He is responsible for promoting labour diplomacy and coordinating with the Department of Foreign Employment to regulate and monitor the organisations working in the foreign employment sector. He is also coordinating with the IOM, the Colombo Process member states, the Abu Dhabi Dialogue and other related regional and international organisations working in the sector of foreign employment.



Mr Bernardo Cocco

Mr Bernardo Cocco was appointed the UNDP Deputy Resident Representative for Nepal in August 2019. Mr Cocco was recruited by the UNDP in 2002 as part of the management training programme. Since then he has worked in field assignments in Nigeria, Fiji and Kosovo, and also at the New York Headquarters in various postings in the areas of governance, support during elections, and crisis recovery. He has experience in programme design/planning, implementation, monitoring, innovation, knowledge management, corporate affairs, and operations. Prior to this appointment, Bernardo was a Global Policy Advisor and Team Leader, Knowledge Management and Innovation, Bureau for Policy and Programme Support, UNDP, New York (December 2013-August 2019). Mr Cocco holds a Master's degree in Development Studies from the London School of Economics and a BA in International Relations from the University of Sussex (UK).



Dr Ganesh Gurung

Dr Ganesh Gurung holds a PhD in Sociology and is a visiting Fellow to Harvard University, USA, and University of East Anglia, UK. He is the Executive Chairman of Policy Research Institute, Nepal. He is a renowned person with an enormous contribution in the sector of migration in Nepal. His expertise is appreciated at both national and international levels. Dr Gurung also served as a Convener of High-level Task Force on Foreign Employment of Nepal Government (2012-2013). He was also the Vice Chairman of Social Welfare Council and has also served as the Acting Chair in the then Foreign Employment Promotion Board. He was also a member of the National Planning Commission from the year 2009 to 2010. In addition, he also served as Yoneyama Visiting Fellow in Japan. He has written and edited several books and articles in both national and international arenas. His contribution in academia is valued.



Mr Sarat Dash

Mr Sarat Dash has been appointed as Chief of Mission to the Democratic Socialist Republic of Sri Lanka and the Republic of Maldives for IOM. Mr Dash worked as the Chief of Mission of the Republic of Yemen managing one of IOM's largest humanitarian assistance programmes in the world. He was also IOM's Chief of Mission in Bangladesh. In addition, between July 2008 and January 2012 he also served as the IOM's Chief of Mission in Nepal. In 2001, he was awarded the IOM Director General's Award for his work with earthquake victims. Mr Dash has also conceptualised and implemented a multi-stakeholder project including the private sector for the economic rehabilitation of victims of human trafficking. He has also promoted IOM programme interventions focused on improving the migration policy environment, capacity building of counterparts and direct assistance to migrants and their families.



Ms Mohna Ansari

Ms Mohna Ansari is a Member of the National Human Rights Commission of Nepal. The detail Bio of the member is referred to Annex 5 as office bearer of NHRC Nepal.



Mr Nirmal Raj Kafle

Mr Nirmal Raj Kafle is a Joint Secretary in the Ministry of Foreign Affairs, and in-charge of Europe and the Americas Division. Prior to this appointment in August 2019, Mr Kafle served as Deputy Permanent Representative of the Permanent Mission of Nepal to the United Nations in New York from July 2016. While in the Mission, he chaired the Committee on Conferences, a subsidiary organ of the General Assembly, for the year 2018. He was also elected Vice Chair of the Executive Board of UNICEF in the same year. He holds a Master's degree in Public Policy and Management from the University of Melbourne, Australia.



Dr Mohamed El Hachimi

Dr Mohamed El Hachimi is an advisor to the president of the National Human Rights Council of Morocco (CNDH), and is in charge of public policies evaluation. He is also a professor of Political Science and senior research fellow at the CERSS. He studied Political Science (PhD) at Mohamed V University, Rabat, and International Politics and Human Rights (MA) at City University, London. He has published several books and articles (in English, French, and Arabic) on Transitional Justice, democratisation, security and justice sector reform, civil society, new forms of activism in the Maghreb. He is the head of the international research group on 'State, Society and Dynamics of Political Change in the MENA Region' created in 2017. His research interest revolves around issues related to democracy and democratisation, human rights, civil society, and social activism in the MENA region.



Mr Laxman Basnet

Mr Laxman Basnet is currently the General Secretary of South Asian Regional Trade Union Council (SARTUC). Mr Basnet formally started his political career as an activist for Nepali Congress in 1967. He joined the trade union movement after the re-establishment of NTUC in 1990 as its President and served till 2013. He has become a member of ICFTU-AP and ITUC since 1992. He was also a member of the ILO Governing Body from 1997 to 2009. Currently, he is also the General Convention delegate of the Nepali Congress Party.



Mr Shom Luitel

Mr Shom Luitel is a human rights lawyer with 15 years of dynamic involvement in the sector of migration. He has contributed in national, regional and international mechanisms/processes such as GFMD, ADD, CP, and SAARC advocating for migrant rights and access to justice. Mr Luitel was the founding member and the former president of the People's Forum for Human Rights-Nepal. He shares his expertise in the organisation as an advisor since the implementation of the project 'Free Legal Aid and Paralegal Service to Migrant Workers', supported by Safer Migration Project (SaMi) of Helvetas, Swiss Intercooperation Nepal. Mr Luitel has been providing technical assistance and legal advice for safer, managed and decent migration process as a migration expert. In addition, he also worked as a legal advisor and has contributed to GoN on drafting laws and policies related to foreign employment.



Dato' Sri M. Ramachelvam

Dato' Sri M. Ramachelvam is currently a Co-chairperson of the Migrants Refugees & Immigration Affairs Committee (MRIAC). He is involved in the Task Force on the Independent Police Complaints & Misconduct Commission (IPCMC) of the Bar Council of Malaysia. He serves as the Deputy Chairperson of the Civil and Law Reform Committee of the Bar Council of Malaysia. He has been appointed as a Member of the Independent Committee on the Management of Foreign Workers by the Government of Malaysia. He is a founding member of the National Human Rights Society (HAKAM) and also contributes as the Deputy President of HAKAM. Mr Ramachelvam was admitted and enrolled as an Advocate & Solicitor of the High Court of Malaya in 1985.



Ms Leah C. Tanodra-Armamento

Ms Leah C. Tanodra-Armamento is a Commissioner of the Commission on Human Rights, the Philippines. She has been in government service for three decades. Her active involvement in the sector of human rights seems an exemplary endeavour. Ms Tanodra-Armamento has worked for five years with the office of the Solicitor General as an Associate Solicitor, where she assisted the solicitors in habeas corpus cases. During her work tenure at the Department of Justice, she created the Task Force on Agrarian Justice and established the guidelines in handling agrarian dispute-related criminal complaints. Several reforms brought while she held the position are valued. Ms Tanodra-Armamento also held a post at the Philippine National Police Reform Commission as the Secretariat Chairperson. Her immense contribution in the final peace agreement's implementation between the Government of the Philippines (GPH) and Moro National Liberation Front (MILF) is highly appreciated.



Professor Fatima Ayed A. Al-Rashidi

Professor Fatima Ayed A. Al-Rashidi is currently an international consultant. She is a human rights activist. She has extensively participated in more than 20 trainings including good governance, human trafficking, international refugees' law, statelessness, labour migrant and mixed migrant. Moreover, she has also attended and contributed to several seminars and conferences focusing on human rights at the national and international levels. She is also the founder of Humanists without Borders and co-founder of Scientific Creativity Centre. In addition, she is also a member of several institutions including the Kuwait Human Rights Association and Kuwait Association of Basic Essential Human Rights. She holds a Master of Political Sciences in Public Governance in the Arab World and has completed her Postgraduate of International Relations in Contemporary Diplomacy. Further, she has contributed to various research and is also a Writing Award Winner of 1992.



Mr Sushil Pyakurel

Mr Sushil Pyakurel is an expert adviser on political and human rights affairs to the President of the Federal Democratic Republic of Nepal, Rt. Hon. Bidhya Devi Bhandari. He is a former Commissioner of NHRC Nepal. He has been actively involved in the promotion and protection of human rights and democracy in Nepal. Mr Pyakurel is the winner of the 2010 Gwangju Prize for Human Rights administered by the May 18 Memorial Foundation in Gwangju, Korea. He is the founder of various human rights bodies and organisations in Nepal. He has been honoured as an outstanding social activist by 'Antarastriya Manch'. He also received a Letter of Appreciation from the GoN in 1991 for his Outstanding Contribution to the Committee on Investigation of Cases of Disappearances during the Panchayat regime (that lasted for 30 years from 1960-1990).



Mr Lee Cheol Woo

Mr Lee Cheol Woo is the Chairperson of the May 18 Memorial Foundation. He is also the founder of the Gwangju Foreign Workers Center that aimed to improve the human rights and treatment of workers and foreign workers in the 1970s and 1980s. He is also the representative of Gwangju Support Center for Migrant Workers. The Presidential Award recipient from the Korean President, he was also the member of the advisory committee of the 12th National Unification Advisory Council. He was also the member of the draft committee of the Gwangju Human Rights Charter Legislation (Gwangju Metropolitan City).



Dr Nomita Halder

Dr Nomita Halder is a Member of National Human Rights Commission, Bangladesh. She was also the Secretary of the Ministry of Expatriates' Welfare & Overseas Employment. During her service, she introduced six distinct language courses (English, Japanese, Korean, Cantonese, Mandarin and Arabic) for aspirant migrant workers. With intensive and repeated negotiations, she was able to create a new job market in Japan. She played a leading role in signing a MoU with KSA and UAE, and a Memorandum of Cooperation with Japan regarding sending human resources. She also organised the first-ever Labour Welfare Conference at Dhaka in 2018. Her utmost effort was to improve migration governance to promote women's safe migration and prevention of human trafficking. In addition, she also served as the private secretary of Sheikh Hasina MP, the Hon. Prime Minister of Bangladesh. Her extensive contribution towards regular, orderly and safer migration is valued.



Dr Binda Pandey

Dr Binda Pandey is serving as an Hon. Member of House of Representatives in Federal Parliament. Since 1993, she became a full-time trade union activist, and presently she is chairing the GEFONT-TUPI, a think-tank organisation. Since 2011, Dr Pandey has been representing the trade unions of Asia Pacific in ILO-GB. Dr Pandey was a founding member of the National Women Commission formed by the GoN in 2002. She served as the chair of the Fundamental Rights and Directive Principles Committee of the Constituent Assembly in 2008. Her PhD Dissertation 'Women Empowerment in Politics: A Case Study of Communist Party of Nepal - Unified Marxist-Leninist (CPN-UML) through Feminist Inquiry' was published as a book entitled *Women in Nepali Politics* in 2019.

Annex 5: **Bio of NHRC Office Bearers**



Mr Anup Raj Sharma

Mr Anup Raj Sharma is the Chairperson of the NHRC Nepal. He became the Chairperson of the Commission on 20 October 2014. Mr Sharma has devoted himself for the respect, protection and promotion of human rights in regards to the access to human rights in each and every households in the country. Moreover, being an advocate by profession, he also held the honourable post of Justice in the Supreme Court from 1 January 2004 to 12 December 2009. He was then appointed as the Chief Justice of the Supreme Court from 13 December 2009 till he retired on 26 March 2010. In addition, he was also the executive committee member of the Nepal Bar Association as well as the Vice Chairperson of the Legal Aid Committee. His immense contribution in the protection and promotion of human rights in both national and transnational boundaries is treasured.



Mr Prakash Chandra Sharma Osti

Mr Prakash Chandra Sharma Osti is a Member of the NHRC Nepal. Prior to his appointment in NHRC, he was a Justice of the Supreme Court of Nepal from 2008-2013. He served as an Advocate/Senior Advocate for the Supreme Court for 32 years, from 1976 to 2008. His contribution in the legal sector is reflected through the various positions he has held in different organisations throughout his career. He has been involved in the teaching field as a lecturer. He has published a few books and more than 270 articles and seminar papers.



Mr Sudip Pathak

Mr Sudip Pathak is a Member of the NHRC Nepal. Mr Pathak has been contributing to foster respect and ensure the protection and promotion of human rights, both domestically and internationally. He is assigned as a focal commissioner to oversee the protection and promotion of the rights of migrant workers and refugees, transitional justice, environment and development, the rights of the detainees and prisoners, and, lastly, to facilitate and converse with the GoN. Mr Pathak is also a member of the recommendation committee on behalf of the NHRC to recommend to appoint the members to the Commission on the Investigation of Disappeared Persons and Truth and Reconciliation Commission, Nepal.

Mr Pathak has also contributed to the signing of the 'Activation Plan of National Human Rights Commission Nepal and National Human Rights Committee Qatar Memorandum of Understanding (MoU) on Migration'. He also served as a human rights defender through the Human Rights Organisation, Nepal (HURON).

Albeit he was held in judicial custody for three years during the students' movement dating 1980-1990, Mr Pathak remained a prominent advocate in

the movement towards contriving human rights and democracy in Nepal. He has been honoured with the 'Suprabal Sewa Award' by the Rt. Hon. President of Nepal, Ms Bidhya Devi Bhandari and the 'Non-Violence and Peace Award' by the Non-Violence Coordination Committee, Nepal.



Ms Mohna Ansari

Ms. Mohna Ansari Awarded by 'Suprabal Jana Sewa Shree' from Nepal's President in 2012, Ms Ansari is one of Nepal's profound leading human rights activists and is the only female attorney from the minority Muslim community. Before being a Commissioner of the NHRC Nepal, she was also a member of National Women's Commission. She has also worked as a journalist. In addition, she has also worked in Amnesty International, Nepal. After graduating in law, she was involved with the Nepal Bar Association and later with several development agencies. Her specialisation is in women's empowerment, social inclusion, peace building and conflict resolution. She is also the recipient of 'Navadevi Award' which celebrates womanhood, recognising female heroes of Nepal.



Mr Govinda Sharma Paudyal

Mr Govinda Sharma Paudyal is a Member of the NHRC Nepal. Prior to his position at NHRC, he worked as a Senior Advocate at the Supreme Court of Nepal. He has also contributed as an Associate Professor of Law at Nepal Law Campus, Kathmandu. He was also Assistant Dean of Faculty of Law at Tribhuvan University. He also worked as a Lecturer and Assistant Campus Chief at Prithvi Narayan Campus, Pokhara. He has a few publications on family law and property law.



Mr Bed Bhattarai

Mr Bed Bhattarai is the Secretary of the NHRC Nepal. Prior to holding the position of Secretary, he joined the NHRC as a Regional Director. In the capacity of the Regional Director of the Mid-West Regional Office of the Commission, he worked closely with the civil society members, NGOs, victims of the conflict, the OHCHR and other international organisations, state agencies, political parties including the then rebellion party CPN Maoist, for the respect, protection and fulfilment of human rights in the country. He was involved in the monitoring of the situation of human rights, especially the civil and political rights of the people, in the region during the People's Movement II in 2006, Madhesh Movements, Tharuhat Movement and the Constitution Assembly elections. He has also contributed to the national conference of the Human Rights Defenders and successfully worked as the Convener of the International Conference of the NHRIs of the Asia Pacific Region for the Promotion and Protection of the Rights of the Migrant Workers in which the Kathmandu Resolution 2012 was adopted by the participating NHRIs of the Asia and the Pacific region. Mr Bhattarai has published a number of articles.

Annex 6:

Statement by Rt Hon. Vice-President Nanda Bahadur Pun 'Pasang' at the inaugural ceremony

Chair of this important Programme and Hon. Chairperson of National Human Rights Commission of Nepal
Hon. Ministers,
Chairperson of the Global Alliance of National Human Rights Institutions Honourable Dr Carlos Alfonso Negret Mosquera,
Representatives of the National Human Rights Institutions of various countries,
Representatives of Diplomatic Missions in Nepal,
Representatives of human rights institutions and civil society,
Representatives of the Private Businesses, Media Friends,
Ladies and Gentlemen,
Hearty Namaskar to you all!

I am very happy to be present at the inaugural ceremony of the International Conference on 'Protection of the Rights of Migrant Workers' organized by the National Human Rights Commission and meet with heads and office-bearers of human rights commissions of various continents and distinguished personalities active in this sector. First of all, I would like to extend my best wishes for the grand success of this three-day conference.

Heads and office-bearers of Human Rights Commissions, government representatives, civil society representatives, and international migration experts from 22 countries have arrived here to the land of Gautam Buddha and Sagarmatha to attend this international conference. As per our custom, guests are treated as gods. We are very happy to welcome our guests who are here to attend this programme to the land of Gautam Buddha and Sagarmatha, and to Kathmandu rich in art, culture and heritage. We wish that your stay in Nepal becomes a happy and fully comfortable one.

Ladies and gentlemen

For a human to live a life, for the happy life of him/herself and her/his family and the future of the next generation, any profession, business or employment has to be chosen. However, many citizens do not get employment opportunities of their choice in their country. Some are forced to take up foreign employment due to circumstance and compulsion. Due to development of information technology and the changed context people can go to any corner of the world today and work. Hundreds of thousands of people are using the medium of foreign employment to make their own and their family members' future bright. They are also making significant contribution to the economic development and prosperity of their respective country. This is a happy outcome of foreign employment.

Whether it is citizens of a developed country or underdeveloped country, people are involved in foreign employment in one way or the other. As human wishes are unlimited, we cannot stop it. The natural destination of foreign employment of the undeveloped and underdeveloped countries is developed country. There are some citizens of developed countries who wish to go to the least developed country for

employment, where numerous potentials are found. Naturally, for people who wish to do something, or something new, the undeveloped country provides a big opportunity for the same.

But the situation of all the citizens going for foreign employment is not the same. If some studies are to be considered there are serious problems within the foreign employment. The migrant workers are facing numerous hardships and concerns, while the alarming picture of sexual exploitation and labour employment is before us. The migrant workers go to foreign employment based on some conditions but data show that once they reach in the destination country it is different. Not getting the pre-determined salary, not getting salary on time, labour exploitation, sexual exploitation, expelling from work without any reason, domestic violence are the common problems that the migrant workers are facing. And, this is an outright serious violation of the human rights of the migrant workers.

The problems faced by the migrant workers are our common problems. Hence, it is our common responsibility to protect their human rights, and other rights. In today's 21st century, deprivation in any pretext from any side of the rights and freedom of those who have gone to a foreign land to make an income is not acceptable. To put an end to this situation, the concerned states need to ensure the implementation of labour-friendly policies. Every country is making an effort to protect the rights and well-being of the migrant workers. And the labour destination countries should be more responsible in resolving the problems of the workers. Their labour policies should be labour-friendly. I believe that they should give services and facilities to them in par with their own citizens based on their skills and abilities.

Addressing these problems and protecting the human rights of the migrant workers is not possible only through the lone effort of the concerned country. Collective efforts are essential for it. In this, the human rights commissions should also increase their role. The Global Alliance of National Human Rights Institutions (GANHRI) should increase its role. And all the countries should support and contribute to this campaign. I believe that this international conference organized in Kathmandu will give a new message to the world for establishing and realizing the rights of the migrant workers. I would like to thank the National Human Rights Commission from the bottom of my heart for hosting this important event.

Ladies and Gentlemen

The number of people leaving Nepal for foreign employment to various countries is significant. Around 6 million Nepalis are working in various countries today. There is no country where Nepalis have not reached for employment. The contribution of remittance to the Gross Domestic Product of Nepal is around 25 per cent. With this, we can say that the contribution of Nepali brothers and sisters working in different countries to Nepal's economy is very big. On this occasion, I would like to extend my respect to the Nepali citizens working in various countries around the globe.

We believe that the biggest impact of the failure to establish the rights of migrant workers is on the Nepalis. Because hundreds of thousands of our citizens are in foreign employment, and the Nepalis in foreign employment are facing numerous problems. I am very sad to be sharing with you here today that in the fiscal year 2074/75 a total of 821 Nepalis lost their lives in course of foreign employment. Thousands have been rendered disabled. Every day, the Tribhuvan International Airport, our only international airport,

receives dead bodies of Nepali workers in foreign employment. With no crime, many of our citizens are serving jail sentence in different countries, with some awaiting death sentence. We believe that sentencing people to jail and awarding death sentence for no crime is the most serious violation of human rights. Other countries may also be facing problems like this.

Nepal is ever ready for the protection of the rights of migrant workers. Nepal is increasing the effectiveness of its measures to ensure that its citizens do not face trouble and their rights are guaranteed in migration. A separate Department has been established along with offices in all the seven provinces for the management of the foreign employment sector. The foreign employment tribunal has been set up as a separate judicial body for better access to justice of the migrant workers. Likewise, mandatory insurance, welfare fund, pre-departure training and other provisions have been established. At the international level too, Nepal is signing labour agreement with the destination countries, and taking part in the Colombo process, Abu Dhabi Dialogue and various international and regional processes. Nepal has joined and is preparing to implement the Global Compact for Migration, endorsed last year for the protection of the rights of the migrant workers.

In addition to the efforts of the Government of Nepal, the National Human Rights Commission of Nepal has also prioritized the protection of the rights of migrant workers. The NHRC Nepal has been monitoring the situation of the rights of migrant workers, and making recommendations to the government. This year, the NHRC's research on the situation of rights of migrant workers has made some important revelations. The effort initiated by the NHRC Nepal for bilateral cooperation with human rights institutions of the destination countries of Nepali workers is also playing an important role.

The workers are the builders of the world. So, I believe that we need to protect the rights of the workers in respect of the builders of the world. For this, all nations, national human rights commissions of all the countries, concerned international agencies and the private sector need to join hands, which I believe is the need of the hour. I would also like to appeal to you all that no matter which country are the citizens from and which country they are working, they are workers. It is our common duty to protect the rights of the workers. I am confident that this conference and the Kathmandu Declaration to be endorsed by this conference would make a concrete contribution to the protection of the rights of the workers going for foreign employment.

I would also like to draw the attention of our guests to another topic, which is that we are observing Visit Nepal Year 2020. Nepal is one of the best tourist destinations in the world. We want our foreign friends to visit Nepal. I heartily request all the guests here, your families and through you the citizens of your country to visit Nepal during Visit Nepal Year 2020.

Finally, I would like to extend my hearty gratitude to National Human Rights Commission Nepal, its Chairperson Hon. Anup Raj Sharma, Hon. members and the entire NHRC family for organising this important event and inviting me to be a part of it. Also, I request the foreign guests to take out some time to visit and enjoy Nepal's tourist sites.

Thank you. Namaste!

Annex 7:

Remarks by Hon. Mr Gokarna Bista, Minister for Labour, Employment and Social Security

Chairperson of the Inaugural Session,
Chief Guest Rt Hon. Vice-president Nanda Bahadur Pun,
Hon. Minister for Foreign Affairs,
Distinguished guests and participant brothers and sisters;

I express happiness over this important occasion as Nepal hosts the International Conference on the Protection of the Rights of Migrant workers, and heartily wish for the success of the Conference.

The number of people going for international migration is increasing lately due to globalization, changes in demographic structure and the tendency among the people at large to seek comparatively benefitting employment. Currently, nearly 280 million people are in international migration across the globe. Of them, nearly two-third constitutes labour migration.

In the field of labour migration, lately the issue of rights and security of labourers is getting global recognition and priority. This is also evident in the fact that decent employment has been included in the Sustainable Development Goals, while 152 countries of the world have agreed to the Global Compact for Migration developed with a focus on migrant workers. This situation however did not develop naturally, but is a result of the initiative by the United Nations and continued advocacy and collective efforts in bilateral and multilateral international forums by various countries including Nepal. And focus should now be given to make such forums more result-oriented in the interest of the migrant workers.

The more priority the issue of labour migration and the rights of the migrant workers gets worldwide, results will be seen with the workers getting real sense of the principles, norms and values being developed around the world in the field of labour migration.

The government of Nepal has adopted various policies, legal and institutional measures in order to make foreign employment safe, respected, organised and transparent by freeing the Nepali workers, who leave the country, society and family in search of employment due to poverty, scarcity and unemployment, of fraud and exploitation. Such efforts shall be continued as per the need. With a focus on the interest of the Nepali workers, the government has reached bilateral agreement and signed Memorandum of Understanding with various countries and the process has been forwarded to do so with some more countries. We have been emphasizing on zero cost for Nepali workers going for foreign employment and to establish a provision where they can work with self-respect and dignity. The Government of Nepal has also enforced a policy of equal pay for equal work and equal treatment for all workers, local or foreign, inside the country. It has also ensured that the rights granted by the Labour Act is enforced equally for all the workers.

It also guarantees the right to all workers, domestic and foreign, to participate in the contribution-based social security plan. In this regard, we do not believe in the discrimination carried out on the basis of a different citizenship or passport, and we also expect that nobody resorts to such discrimination. As a result, the government is continuously striving to ensure that the Nepali workers working in various destination countries are entitled to equal privileges and social security in par with the citizens of the particular country.

In some destination countries, as the workers are not allowed to keep their passports with them, their freedom of movement is restricted, they cannot return home even when their family members are seriously ill or die, cannot change their employer even if there is labour exploitation, and are forced to stay quiet even in a very precarious condition. They are deprived of minimum human rights while women and domestic workers are highly vulnerable. These are issues of human rights concern. In today's world when international conventions and recommendations have been made for the protection and promotion of the interest of animals, the difficulty faced in establishing human behaviour and rights for the migrant workers is not only a matter of concern and challenge to the government of Nepal but an international human rights concern.

Some important achievements have been made in the life of the workers, along with other human achievements made in course of the long history of development of the human race. But still workers are highly vulnerable and have not been able to enjoy their basic rights. For this, honest initiative and commitments of all of us is essential to advocate in the favour of workers, and promote their rights and well-being. And our collective efforts will become meaningful only if this matter is made a matter of concern for ordinary citizens across the globe, and not limit it to the individuals and organisations working in the field of migration.

As remittance is the direct and immediate outcome of labour migration, this always comes in the forefront in the debate on international labour migration. But the social cost of labour migration is not being rightly assessed and analyzed in the way with which it is taking a serious form. Hence, the matter of social cost should also get entry into the discussion and reforms taking place in the field of labour migration.

I believe that the conclusion to be drawn by delegates from various countries contributing to the field of human rights and the Kathmandu Declaration would be successful in giving the world the right direction on a multi-dimensional issue like labour migration. Finally, I wish for the success of the conference and for the happy stay in Nepal of the foreign guests.

Thank You!

Gokarna Bista

Minister

Ministry of Labour, Employment and Social Security

Annex 8:

Remarks by Hon. Mr Pradeep Kumar Gyawali, Minister for Foreign Affairs

Chief Guest of the Conference Vice President Rt Hon. Mr. Nanda Bahadur Pun,
Hon. Minister for Labour, Employment and Social Security Mr. Gokarna Bista,
Hon. Chairperson of National Human Rights Commission of Nepal Mr. Anup Raj Sharma,
HE Valerie Julliard, UN RC
Hon. Members of the Parliament,
Hon. Dr. Carlos Alfonso Negret Mosquera, Chairperson of Global Alliance for National Human Rights Institutions,
Hon. Members of the National Human Rights Commission,
Hon. Chairpersons and Members of National Human Right Institutions of various countries,
Excellencies and Distinguished Delegates,
Representatives of Development Partners, United Nations Agencies, Private Sector, Civil Society, Academia and the Media,
Ladies and Gentlemen.
Namaskar and Good afternoon to you all.

It is a distinct honour and privilege to be at this important International Conference on Protection of the Rights of Migrant Workers organized under the auspices of National Human Rights Commission.

I would like to express my gratitude to the organizer for inviting me to share my thoughts at this important occasion.

Before I begin, I would like to extend warm welcome to all international participants to Nepal and wish for your comfortable stay.

Ladies and Gentlemen,
Migration has been a defining phenomenon of our time. We have seen migrant workers being important vehicle of high economic growth, infrastructure development and critical source to replenish the shortfall of working population in many countries.

Skills, knowledge and labour of migrant workers have been important force of production in the receiving countries and they provide critical human resources for agriculture, industries, trade and other sectors.

Migrant workers have also been the carrier of goodwill and source of co-existence and diversity in many countries.

On the other hand, the remittances sent by migrant workers have been significant source of income to their families back home that has played important role to keep economy of the countries of origin vibrant.

They have helped both the countries of origin and destination to strike balance between labour supply and demand; stimulate innovation, transfer skills and technologies; and assist to attain sustainable development.

If managed well, migration has a potential to create a win-win situation to all three parties in the process – the countries of origin, countries of destination and the migrant workers themselves.

According to UN Department of Economic and Social Affairs, there were 164 million migrant workers worldwide in the year 2017. Data shows that annually 2.5 million Asian workers are leaving their country of origin in search of works to various destinations in Western Europe, US and countries in the Middle East.

As the number and demand for migrant workers increases worldwide, associated issues and challenges tend to surface in the process of recruitment, transfer, employment, social security and repatriation.

Most notably, in our own experience and from the experiences of elsewhere extrapolated from well-documented studies, the issues of low and discriminatory wages, unhygienic working conditions, violence and sexual harassments are some of the critical challenges faced by the migrant workers.

There are other challenges that further expose migrant workers to risks and vulnerabilities.

The issues such as low wages, exploitation, non-payment or delayed payment of wages, and cheating and malpractices in the recruitment process are some of the challenges that demand careful attention. Migrant workers tend to be vulnerable to human traffickers and smugglers. This is more severe among the low skilled labourers in comparison to the skilled workers.

All these factors have implications to the welfare, wellbeing and human rights of the migrant workers.

Often, they do not find themselves in a situation to express their problems and seek redress through locally available mechanism under the laws of the host government. Lack of knowledge of local rules and regulations coupled with language barriers and cultural differences come as impediments for them to avail legal remedies and administrative grievance handling processes.

In recent years, there is growing international awareness about the challenges faced by the migrant workers and the need to respect basic human rights and welfare of this group of people.

Adoption of the International Convention on Protection of Rights of All Migrant Workers and Members of Their Families in 1990 was an important achievement in this regard.

Similarly, negotiation and adoption of the Global Compact for Safe, Orderly and Regular Migration (GCM) was another significant milestone towards holistically addressing the issues surrounding migration in general, including the migrant workers.

GCM provides a framework for cooperation to facilitate safe, orderly and regular migration and address the risks and challenges associated with the process. It offers sound way forward to decent job, health and safety at the workplace, non-discrimination in wage on the basis of gender, nationality and cultural difference of the migrant workers.

What is important at this stage is implementation of the agreed commitments contained in the GCM, engage in constructive dialogues and cooperation in addressing migrant workers related issues and enhance their welfare and protection.

Ladies and gentlemen,

A significant number of Nepali youths are living in different foreign countries as migrant workers. Therefore, the issue of migrant workers receives high importance in the policies and diplomacy of the Government of Nepal. Protection of the rights and interests of migrant workers, addressing the issues of exploitation and discrimination constitute critical areas of priority to the Government of Nepal.

A State party to various 24 human rights related international instruments and different ILO Conventions including the International Covenant on Civil and Political Rights, Nepal attaches high importance to issues of human rights of all people. Lord Buddha's teachings of peace, humanity, compassion and oriental philosophy of human dignity, freedom and benevolence like सर्वे भवन्तु सुखिनः सर्वे सन्तु निरामयाः (May all be happy, may all be healthy) deeply inspire us. We have abolished death penalty and practice non-discrimination as sacrosanct. We have built national institutions and necessary legal and policy frameworks for promotion and protection of human rights.

The Constitution of Nepal guarantees right to labour and right against exploitation. Our laws guarantee equal pay for equal work. The Foreign Employment Act, 2007 and its implementing regulations 2008 govern and regulate outward migration for foreign employment and rights and welfare of the migrant workers.

The Foreign Employment Policy aims at reducing risks and vulnerabilities of migrant workers and creating a safe, dignified and managed working environment.

The National Human Rights Commission, an independent national human rights institution, functions as oversight agency in areas of promotion and protection of human rights. We are glad to see that NHRC in recent years has paid equal attention to the rights and welfare of the migrant workers.

A member of UN Human Rights Council, we have played constructive, objective and impartial role for the promotion and protection of human rights of all around the world. We would like our people wherever they live and work as migrant workers enjoy rights equal to that of local population in the work place and receive equal economic and legal security from the country concerned.

In close coordination, the Ministry of Foreign Affairs, Department of Consular Services and Nepali diplomatic Missions abroad provide necessary services and protect interests and welfare of our migrant workers, including through rescue and repatriation services in time of difficulties.

Nepal attaches high importance to the attainment of the 2030 Agenda for Sustainable Development, including Goals 8 and 10 related to the migrant workers. While the main thrust of the present Government has been to create employment opportunities at home for our youth, with a view to better protect rights and interests, provide safety and prevent unfair practices in the process of those going for foreign employment as migrant workers, the Government of Nepal has accorded priority to concluding bilateral labour agreements with the labour receiving countries.

As a significant number of our nationals work as migrant workers, Nepal remains keen to work with all stakeholders and partners for the protection and promotion of the rights, interest and welfare of migrant workers.

This requires close collaboration and cooperation between the countries of origin and destination. Other national and international stakeholders can add value in building synergies and effectiveness in our actions. The constructive role of recruitment agencies, private sector, civil society actors and the media is equally important.

Skills and capacity development, comprehensive pre-departure, on arrival and before return orientation to the migrant workers would help them understand their rights and responsibilities and the available remedial measures in case of violations. Use of information and communication technologies would be useful in protecting the rights of migrant workers.

A year after the adoption of the GCM, I believe this Conference would offer an opportunity to the participants for open and interactive dialogues in assessing the risks and challenges that the migrant workers are facing today and in exploring the ways to address those challenges in a cooperative and collaborative manner.

I wish to extend my best wishes for the success of this Conference.

I thank you all for your attention.

Annex 9:

Speech by Hon. Anup Raj Sharma, Chairperson, National Human Rights Commission of Nepal, at the inaugural session

Rt. Hon. Vice-president of Nepal Nanda Bahadur Pun 'Pasang',
Hon. Minister for Foreign Affairs Mr. Pradeep Kumar Gyawali,
Hon. Minister for Labour, Employment and Social Security Mr. Gokarna Bista,
Hon. Chairperson of the Global Alliance of National Human Rights Institutions Dr. Carlos Alfonso Negret Mosquera,
UN Resident Coordinator Valerie Julliard,
Chairpersons, Commissioners and Representatives of National Human Rights Institutions from different countries,
Representatives of diplomatic corps, development partners and UN Agencies,
Civil Society and media personnel
Ladies and gentlemen,

It is our great privilege and honour to welcome you all distinguished guests from National Human Rights Institutions, Government Organizations, Civil Society, UN agencies, experts, intelligentsia and academicians, media, and business representative to this International Conference on Protection of Rights of the Migrant Workers organized in Kathmandu under the auspices of National Human Rights Commission, Nepal.

Labour migration is an important part of overall global migration accounting for two-thirds of all international migratory flows. It benefits both the countries of destination and countries of origin by balancing the supply and demand of labour force. The migrant workers get opportunity for employment and their families receive the benefit of remittances from such opportunities. Protection of their rights in the whole migration process is therefore an issue of prime importance for both sending and receiving countries.

To look at other side of the coin, increased movement and mobility of people has created situation where migrant workers are increasingly facing challenges in the enjoyment of their fundamental human and labour rights. It is happening in their own home countries, at transits and in destinations. In some dire situations, migrant workers end up in vicious cycle of grave human rights abuses, including exploitation, forced labour and human trafficking. In addition, workers are at times deprived of their inalienable rights, such as right to decent work, freedom of movement, freedom of association, collective bargaining, rest and leave, basic pay, and taking part in their national elections.

We are here to assess the major challenges and opportunities to protect the rights of the migrant workers, share our experiences, and come up with measures to overcome the challenges and to strengthen the multi stakeholders' collaboration including NHRIs.

Recruiters and employers play appreciable role linking migrant workers to employment opportunities abroad and establishing them in jobs. However, some of their practices have also pushed workers to a cycle of exploitation and human rights abuses. State machineries are found not very effective in protecting migrant workers in times of need and ensure effective access to justice with necessary redress and remedies. Women and girls migrating abroad for work are facing further abuses ranging from sexual and gender-based discrimination to violence, physical and psychological abuses and so on. Despite normative frameworks, such as international human rights laws, international and regional mechanisms and guidelines, as well as national legislations, workers migrating overseas are facing the challenges. This calls for institutionalized and effective approach to implement the existing measures, timely adoption of policies and legislations, and forging international and regional cooperation for harmonization of policies and regulations. There is an urgent need to make sure that businesses respect human rights of the migrant workers by complying with the internationally recognized standards, including UN Guidelines on Business and Human Rights, ILO's Fair Recruitment Initiatives and IOM's International Recruitment Integrity System (IRIS), among others.

Some unscrupulous agents and intermediaries send workers through irregular pathways putting them at further risk of trafficking and human smuggling, which must be stopped through tougher sanctions against the offenders and providing legal and other support to the victims. In some countries, restrictive and discriminatory policies or practices of governments are apparent reasons behind people being pushed to migrate irregularly. Women are found to be more affected by restrictive measures to realize their potentials to have a decent work and higher earning. Gender equality and gender sensitivity in migration are crucial issues to be respected and fulfilled.

The Global Compact for Safe, Orderly and Regular Migration (GCM) has given due consideration to human rights issues associated with migration and also opened up avenues for international cooperation and partnership for better governance and management of migration. It provides an unprecedented opportunity to reform in governance of international migration, including movement and mobility of migrant workers in a more organized manner.

In March 2019, the Global Alliance of National Human Rights Institutions (GANHRI), by adopting an outcome statement during its annual conference, asserted its role to ensure human rights-based and gender-responsive implementation, follow-up and review of the GCM objectives. It has emphasized that NHRIs should play a comprehensive and coherent oversight and monitoring role towards ensuring respect for international human rights obligations in migration. We all are encouraged by this timely initiative of GANHRI. In many ways, this Conference may be taken as continuation of the initiative taken by GANHRI.

I am confident that the conference will hold extensive discussion on various challenges and prospects for protecting rights of the migrant workers in all stages of the migration process. The outcome of the Conference - the Kathmandu Declaration, we hope will contribute significantly to bring together all the stakeholders including NHRIs in implementing appropriate policies and measures and create an environment for better respect and enjoyment of human rights. I hope this Conference will also allow opportunity to strengthen inter-NHRIs cooperation and make their roles towards protecting rights of migrant workers more effective. May I also take this opportunity to put forward our humble request

to GANHRI to take initiative for the implementation of the outcome document of this Conference by establishing some strong and effective mechanisms.

Finally, I would like to extend our sincere gratitude to the Rt. Hon. Vice-President, Mr. Nanda Bahadur Pun 'Pasang' for gracing the event as well as for inaugurating the conference and delivering highly valuable remarks to enthuse all of us.

I would like to thank Hon. Ministers; Hon. Chairperson of Global Alliance of National Human Rights Institutions; Chairpersons, Commissioners and Representatives of NHRIs from various countries; and all the distinguished guests.

Similarly, we are equally thankful to the Government of Nepal for providing support, including necessary budget to organize this conference; and the UN agencies including United Nations Development Program (UNDP), International Labour Organization (ILO) and International Organization for Migration (IOM) for some relevant technical and expert support for the Conference.

On behalf of NHRC Nepal, I would like to extend my hearty thanks to all the participants, and wish you will enjoy your stay in Nepal. Finally, I hope that this kind of conference will be held periodically in the future either by the GANHRI, APF or any NHRIs.

Thank you
12 November 2019
Kathmandu

Annex 10:

Welcome speech by Hon. Prakash Osti, Member, National Human Rights Commission of Nepal, at the inaugural session

Hon. Chairperson Justice Anup Raj Sharma, National Human Rights Commission of Nepal,
Chief Guest of the Inaugural Ceremony Rt. Hon. Vice-president Mr. Nanda Bahadur Pun 'Pasang',
Hon. Minister for Foreign Affairs Mr. Pradeep Kumar Gyawali;
Hon. Minister for Labour, Employment and Social Security Mr. Gokarna Bista;
Hon. Chairperson of Global Alliance of National Human Rights Institution Dr. Carlos Alfonso Negret Mosquera;
Former Chairperson of National Human Rights Commission of Nepal Justice Kedar Nath Upadhyaya and former Commissioners of NHRC, Nepal;
Representatives of Nepal government
Chairpersons, Commissioners and Representatives of National Human Rights Institutions from different countries;
Representatives of Nepal based diplomatic communities, development partners and UN agencies;
Representatives of human rights and civil society organizations, experts, intelligentsia, academia and media;
Representatives of private businesses;
Ladies and gentlemen.

National Human Rights Commission of Nepal is highly honoured and greatly pleased to welcome our distinguished participants to this Conference in the land of Sagarmatha (the Mount Everest) and the birth place of Gautam Buddha, the peace advocate.

Distinguished Ladies and Gentlemen,

There has been a strong desire of a world where all human rights are respected and all human beings are free from abuses and discriminations. There are examples where such desires have turned into reality but a large number of world's population is still far from this experience.

Amongst the world's population, a large number is moving abroad mainly for employment with a desire to strengthen their financial status, living standard or personal skills. Many migrants have been benefited from the opportunity to work abroad but for others it remains merely unfulfilled desire. Migrant workers are facing human rights abuses in a routine basis because of unfair recruitment practices; lack of effective laws and policies or implementation of existing policies; inadequate mechanism in protection and remedy; and lack of information and access to justice. The challenges that the migrant workers are facing today are a global phenomenon. Especially, women migrant workers are facing multiple challenges. A significant number of them have faced variety of challenges from their home to the country of destinations during their migration and employment cycle. We have learned that the migrant workers from especially from the global south are facing similar abuses ranging from exploitation to forced labour or act of human trafficking.

There have been number of efforts being taken place to increase protection of rights of the migrant workers globally. Last year, an important instrument, The Global Compact for Safe, Orderly and Regular Migration (GCM), has been adopted in order to strengthen protection of rights of the migrant workers. The GCM anticipates the active roles of NHRIs in implementation, follow-up and review of the GCM objectives. Then, the Global Alliance for National Human Rights Institutions (GANHRI) in March this year asserted NHRIs' role in implementation, follow-up and review of the GCM objectives. GANHRI has emphasized its role to be a comprehensive and coherent.

In the last two decades, over four million Nepali have migrated abroad for the sake of work. Rights of the migrant workers is one of the priority issues for National Human Rights Commission, Nepal. We have been working in collaboration with the Nepal government, business sector, trade unions and civil society for the better protection of the Nepali migrant workers and their family. The NHRC, Nepal has been working in cooperation and collaboration with NHRIs in other countries.

National Human Rights Commission of Nepal has organized an international conference on migrants' rights in 2012. The Conference adopted the Kathmandu declaration as its outcome. Further to that, rights of the migrant workers remained amongst key issues which was discussed in the International Conference on Human Rights organized by the NHRC, Nepal in Kathmandu in 2018. NHRC Nepal aims to contribute in an international cooperation for the protection of rights of the migrant workers. The NHRC, Nepal, therefore, organized this international Conference.

This International Conference envisage to come up with practical outcomes and aims to agree not only a Conference Declaration but also a plan of action to implement Declaration which will enhance better cooperation between NHRIs, governments and civil society.

The key objectives of the Conference include:

1. Assessing the major challenges and opportunities to protect the rights of the migrant workers in south-south migration.
2. Suggesting measures to implement the broader objectives of the GCM through a cooperative framework.
3. Strengthening the Inter-NHRIs cooperation with multi-stakeholder approach in respect to rights protection.
4. Enhancing partnership and cooperation with particular focus on fair and responsible recruitment and access to justice.

I am confident that the measures will be identified at the end of this Conference for constructive engagement of Governments, civil society organizations, and social partners with NHRIs.

Finally,

I would like to welcome our Chief Guest Rt. Hon. Vice President of Nepal, Ministers, representatives of the Nepal government, diplomatic missions and development partners, National Human Rights Institutions, media and Civil Society Organizations, experts, UN agencies, intelligentsia and academicians.

12 November 2019

Annex 11:

Speech by Mr Sudip Pathak, Member, National Human Rights Commission of Nepal, at the cultural programme

Hon. Chairperson of NHRC, Nepal

Hon. Chairperson of GANHRI

Distinguished participants of International Conference

Ladies and Gentlemen.

All after very productive and useful two days in the International Conference, I would like to take only two minutes before we begin the cultural dinner.

I, on behalf of National Human Rights Commission of Nepal, would like to extend our sincere thanks to all our guests for joining us this evening. I am extremely honored to welcome you all in the cultural dinner.

We have one more day to work hard to yield some fruit from this international conference. I can assume how much all the participants are tired after two heavy days. As you are in the country which is very rich in cultural diversity, the NHRC Nepal is offering the typical Nepali cultural performance this evening. I am sure it will serve you to regain your energy level, helping to work harder tomorrow towards coming up with a productive outcome.

Without further delay, I would like to invite all of you to the cultural dinner. For that, may I invite first all the Hon. Chairpersons of NHRIs presence here to toast and begin the cultural dinner.

Annex 12:

Speech by Hon. Anup Raj Sharma, Chairperson, National Human Rights Commission of Nepal, at the concluding session

Hon. Chairperson of the Global Alliance of National Human Rights Institutions Dr. Carlos Alfonso Negret Mosquera,

Chairpersons, Commissioners and Representatives of National Human Rights Institutions from different countries,

Hon. Members, NHRC Nepal

Former Commissioners, NHRC Nepal

Representatives of diplomatic corps, development partners and UN Agencies,

Civil Society and media personnel

Ladies and gentlemen,

I am very happy to stand up in front of you all to deliver my concluding remarks after very productive Conference. The Conference was attended by 28 countries including Nepal, 60 international participants attended the conference. Global wise Africa, Asia, America, Europe and Asia Pacific.

May I start by thanking my fellow Members who always kept their energy high to do something remarkable. The NHRC, Nepal after considering the issue of rights of the migrant workers in its priority envisioned to do something which could be useful for the NHRIs, governments, international communities and civil societies towards protecting migrant workers. In that regards, I am enormously happy today to see we were able to leave a footprint by concluding a fruitful International Conference which has opened up avenues of collaboration between stakeholders including NHRIs, government, civil society and private business. There were significant contributions of my fellow Members Prakash Osti, Sudip Pathak, Mohana Ansari and Govinda Sharma Poudyal. Of course, kudos to Member Sudip Pathak who with the team of staff of NHRC with relentless pursuit made the conference successful. I would like extend my sincere thanks to Secretary of NHRC, Nepal; Conference Secretariat; and all Staff team of NHRC, Nepal for their tireless efforts.

This event, of course, would not have succeeded without constructive engagement of Global Alliance of National Human Rights Institutions (GANHRI) and its Hon. Chairperson Dr Carlos Alfonso Negret Mosquera, I am especially thankful to Hon. Chairperson of GANHRI for not only taking time to come to us but providing guidance.

I am equally thankful to the participants and highly appreciate their dedications. The opinions and the inputs of participants remained huge assets for this conference and also in shaping our future journey.

We are equally thankful to the Government of Nepal for providing necessary support to organize this conference; and the UN agencies including United Nations Development Program (UNDP), International Labour Organization (ILO) and International Organization for Migration (IOM) for their necessary support to the Conference.

National Human Rights Commission of Nepal highly values the cooperation extended by the representatives of international communities, development partners, Nepali media, civil society, experts to make this event successful. I hope you all will be away taking sweet memories of an interesting dialogues and commitments. However, this is not the end of our endeavor but rather it is a beginning of our collaborative actions in protection and promotion of rights of the migrant workers.

Thank you

14 November 2019

Annex 13:

Speech by Mr Sudip Pathak, Member, National Human Rights Commission of Nepal, at the Concluding Session

Hon. Chairperson of National Human Rights Commission of Nepal Justice Anup Raj Sharma
Hon. Chairperson of the Global Alliance of National Human Rights Institutions Dr. Carlos Alfonso Negret Mosquera,
Hon. Members of National Human Rights Commission of Nepal
Hon. Chairpersons, Hon. Commissioners and Representatives of National Human Rights Institutions from different countries,
Former Commissioners of National Human Rights Commission of Nepal
Representatives of diplomatic corps, development partners and UN Agencies,
Representatives of Civil Society and media personnel,
Ladies and gentlemen.

I have a great privilege and honour to extend a sincere gratitude to the distinguished representatives from National Human Rights Institutions, Government organizations, Civil Society, UN agencies, experts, intelligentsia and academicians, media personnel, and business representative for their highly valuable and constructive participation in this Conference. As the Convener of this International Conference, I am very much excited to see the outcomes of this conference which has created opportunity to work in collaboration amongst NHRIs, governments, civil societies and private businesses. I believe, it has also contributed to make our collective efforts more systematic and organized through the Action Plan we all have adopted together with the Kathmandu Declaration today.

Since the National Human Rights Commission of Nepal considered rights of the migrant workers as one of the priority issues, we have invested our efforts to undertake activities to protect rights of migrant workers in collaborative manner both nationally and internationally. In the recent years we did number of consultations with rights holders, the government of Nepal, international organizations, civil societies, the experts and private businesses. We are heavily engaged in monitoring the situation of rights of the migrant workers and their family, and recommending the government of Nepal. Recently, we undertook research documenting cases including through onsite visit in all provinces of Nepal.

There are problems being faced by migrant workers not only in their home country but also in destinations. NHRIs in the globe are seeking concrete solutions to such problems. In that regard, we signed Memorandum of Understanding (MoU) with South Korea and Qatar. Even today we signed one more MoU with Malaysia. We were envisioning to create opportunity where NHRIs, Civil Society, Governments and other stakeholders from several countries could work in collaboration. I am very happy to see the wish being fulfilled today amid the valuable participation of distinguished participants who have agreed to a common consensus.

I take this opportunity to extend my sincere gratitude to Justice Anup Raj Sharma, the Hon. Chairperson of National Human Rights Commission of Nepal who not only supported and inspired but also encouraged all of us to do something remarkable. I similarly extend thanks to Hon. Members Prakash Osti, Mohana Ansari and Govinda Sharma Poudyal for their support.

I do remember the day when we put forward our proposal to host this International Conference during GANHRI's annual conference in Geneva in March this year and the Hon. Chairperson of GANHRI together with GANHRI family supported our proposal. The support of GANHRI to our proposal was another milestone for us to organize this Conference. I, therefore, would like to extend my sincere gratitude to Hon. Chairperson of GANHRI and the GANHRI members.

I would like to extend our thanks to paper writers and presenters, panellists and moderators who made this conference lively. I am thankful to the Government of Nepal for providing financial support because of their commitment towards human rights as well as other logistic arrangement to organize this conference; and the UN agencies including United Nations Development Program (UNDP), International Labour Organization (ILO) and International Organization for Migration (IOM) for their support to the Conference. Cooperation and support of Nepali media, civil society, experts to make this event successful is highly appreciated.

I would like to thank Secretary Bed Bhattarai and whole Staff team of NHRC, Nepal for their tireless work to organize this conference. Furthermore, I would like to thank Kamal Thapa Kshetri, (Migrant Focal Person) who did coordinations, collaborations, and facilitations to organize this conference. I specially would like remember the hard work of Directors Murari Kharel and Nava Raj Sapkota, Deputy Directors Loknath Bastola and Shwarnima Bhandari, Officers Babu Kaji KC, Ravi Lal Nepali, Rajendra Neupane, Kiran Baram for their hard work from morning to late night to make this Conference a success. Likewise, I am thankful to the Conference Advisor Former Ambassador Deepak Dhital and consultants Rameshwar Nepal, Bijaya Dahal and Ridip Khanal, rapporteurs, interpreters, security officials and others who contributed to make this event successful. I acknowledge the voluntary contribution of Center for the Study of Labour and Mobility (CESLAM).

I wish our entire international guest for their comfortable journey back to home and look forward to meet again in similar forums ahead.

Finally, I would like to thank Hotel Soaltee Crown Plaza and Hotel Crown Imperial as well as event management company House of Innovation Pvt. Ltd. for working hard to make this event successful.

Thank you

Sudip Pathak (Member)

Conference Convener, National Human Rights Commission of Nepal

14 November 2019

Annex 14:

MoU between NHRC Nepal and SUHAKAM

MEMORANDUM OF UNDERSTANDING (MoU) BETWEEN NATIONAL HUMAN RIGHTS COMMISSION OF NEPAL AND HUMAN RIGHTS COMMISSION OF MALAYSIA

The Parties have reached an understanding as follows:

1. Purpose and Scope

This MOU is intended to regulate and facilitate the mutual and bilateral relation between two APF member NHRIs: NHRCN and SUHAKAM with the aim of fostering close collaboration, exchange of information, bilateral communication relating to the complaints, joint monitoring, research and other activities in order to protect the right of the migrant workers and people residing in both countries.

2. The Mandate, Role and Responsibilities of NHRCN

The National Human Rights Commission of Nepal (NHRCN) established as an independent statutory body in 2000, has now been elevated to a powerful constitutional body with a commensurate mandate, competence and independence. NHRCN is mandated to ensure the respect, promotion and protection of human rights, is competent to launch inquiries and investigations into alleged human rights violations and can recommend legal or departmental action against human rights violators. It also carries out investigation undertaking suo-moto cognizance and also having the right equivalent to the courts during the investigation.

3. The Mandate, Role and Responsibilities of SUHAKAM

The Human Rights Commission of Malaysia (SUHAKAM) is established under the Human Rights Commission of Malaysia Act 1999. The core mandate of SUHAKAM includes to promote awareness and provide education on human rights; to advise and assist the Malaysian Government in formulating legislation and procedures and recommend for necessary measures to be taken; to recommend to the government with regard to subscription or accession of treaties and other international instruments in the field of human rights; and to inquire into complaints regarding infringements of human rights.

4. Objective

- 4.1 The objective of this MoU is to promote on equal cooperation and exchange between the Parties based on the Seoul Guidelines on the Cooperation of National Human Rights Institutions for the Promotion and Protection of Migrant Rights in Asia (Adopted in Seoul, November 2008) and other outcomes of NHRIs' international conferences on rights of the migrant workers.

- 4.2 The role of NHRIs is to facilitate and pursue the implementation of outcomes of the Global Compact on Safe, Orderly and Regular Migration (GCM) and Sustainable Development Goals (SDGs) target to protect the rights of the migrant workers in respective countries along with the protection of the rights of the people living in both countries.

5. Areas of Cooperation

- 5.1 The Parties agree to have joint efforts within their mandate to advance workers' rights in Malaysia and Nepal.
- 5.2 The Parties shall adequately respond to complaints relating to rights of migrant workers according to prevailing labour laws of each State.
- 5.3 The Parties shall engage to protect the rights of the migrant workers; to educate employers, workers and other appropriate persons on rights of migrant workers; and to facilitate provision of training, technical assistance, and legal assistance to migrant workers.
- 5.4 The Parties shall conduct monitoring of the immigration depots, prisons, and other places of detention in order to create an enabling environment for the protection and promotion of rights of the migrant workers.

6. Terms and Conditions of the MoU

The main areas of cooperation between NHRCN and SUHAKAM include, but are not limited to, those outlined below:

- 6.1 The Parties are committed to work together for the advancement of the rights of the migrant workers and people.
- 6.2 The Parties are agreed to endeavour and operate within their respective mandate to respond the violations of rights of the migrant workers and their families residing in both countries.
- 6.3 The Parties have to assign a focal person for regular communication aiming to implement the MoU.
- 6.4 The Parties are agreed to work on training, and capacity building programs for government officials, private entities, civil society members and individuals in relation to issues affecting the rights of migrant workers.
- 6.5 The Parties are agreed to work within their mandate to prevent cross border human trafficking, migrant smuggling and forced labour in Malaysia and Nepal, and work collaboratively with the respective governments to assist and facilitate the identification of victims of human trafficking and forced labour.
- 6.6 The Parties are agreed to receive complaints and process the received complaints on violation of migrant workers' human rights and labour rights, including allegations of torture while in detention, arbitrary arrest, workplace harassment and other forms of violations, within their respective mandate.

- 6.7 The Parties are agreed to conduct monitoring and research on immigrant depots, prisons, and other places of detention, and make the necessary recommendations to their respective government for amendment of the necessary laws and other necessary reforms as identified through monitoring.
- 6.8 The Parties are agreed to work in partnership with the relevant ministries, departments, diplomatic missions, agencies and organisations in order to improve migrant workers' conditions and to support them in pursuing their rights.
- 6.9 The Parties are agreed to act for establishing an active dialogue with the countries of origin and host countries through the exchange of visits and information sharing, following a flexible joint action plan, developed with input from the Parties.
- 6.10 The present MoU shall be supplemented in due course by additional protocols, guidelines, procedures and essential measures governing bilateral cooperation for efficient implementation.

7. Implementation

- 7.1 The Parties shall periodically agree to joint work plans to guide the implementation of activities in line with this MoU.
- 7.2 The implementation of this MoU is governed by the principles of partnership, complementarity, mutual support and coordination of action between NHRCN and SUHAKAM.
- 7.3 The Parties will meet every six months to discuss policy issues and will nominate focal points to act as conduits of information sharing and to coordinate joint activities.
- 7.4 The implementation of this MoU will be in compliance with the respective administrative and financial rules and procedures of the Parties and be subject to the availability of resources.

8. Financial arrangements

- 8.1 The MoU will not give rise to any financial obligation by one Party to the other.
- 8.2 Each party will bear its own cost and expenses in the implementation of this MoU.

9. Confidentiality

Each Party shall undertake to observe the confidentiality of information received from or supplied to the other Parties during the period of implantation of this MoU or other agreements made pursuant to this MoU except to the extent that:

1. the confidential information was lawfully in the receiving Party's possession before being disclosed to it by the disclosing Party; or
2. the confidential information lawfully enters the public domain; or
3. the Party to whom the confidential information relates, consents in writing to its disclosure; or

4. the information in question was independently developed by the receiving Party without reference to the confidential information received from the disclosing Party; or
5. the information was received in good faith from a third party, where no obligation of confidentiality is owed to the third party; or
6. disclosure is required by law in any country, in which case the receiving Party will promptly notify the disclosing Party so as to allow the disclosing Party a reasonable time to oppose such process; or as this MoU otherwise permits.

10. Time Frame

This MoU shall be effective from the date of signature by the duly authorised representatives of the parties to this MoU and shall remain in force for one (1) year and may be renewed as agreed by the parties to this MoU.

11. Termination

11.1 This MoU may be terminated by either Party by giving three months written notice to the other Party, which shall include the grounds and circumstances warranting the proposed early termination.

11.2 The obligations of Parties under this MoU shall survive any termination pursuant to this article to the extent necessary to permit orderly conclusion of activities.

IN WITNESS WHEREOF this MoU has been duly signed in duplicate at _____ on this _____ day of _____ in the year of 20__ in four (4) original texts in the English Language, all texts being equally authentic.

Signed for and on behalf of
Human Rights Commission of Malaysia (SUHAKAM)

Signed for and on behalf of
National Human Rights Commission of Nepal (NHRCN)

Chairperson

Date:

Chairperson

Date:

Annex 15:

Outcome Document of the Conference

Kathmandu, 12-14 November 2019

Kathmandu Declaration and Plan of Action 2019

The International Conference on Protection of Rights of the Migrant Workers held under the auspices of National Human Rights Commission of Nepal (NHRC, Nepal) on 12-14 November 2019 in Kathmandu produced an outcome document in the form of Kathmandu Declaration, 2019. Migrant workers comprise about two-thirds of all migratory flows in the contemporary world and constitute an important pillar of international migration. South-South migration is growing as a predominantly intraregional phenomenon in the Asia Pacific region and elsewhere. It calls for our common interest and attention. The Global Compact for Safe, Orderly and Regular Migration (GCM), 2018 provides an unprecedented opportunity for reforms in governance of international migration, including movement and mobility of migrant workers in a more organized manner. With a view to seizing this opportunity, the NHRC, Nepal hosted this conference inviting participants from among National Human Rights Institutions (NHRIs), Government Organizations, UN and Specialized Agencies, Non-Government Organizations, Civil Society Organizations, experts, practitioners, academicians and intelligentsia.

The conference held extensive discussion on various challenges and prospects for protecting rights of the migrant workers through all stages of the migration process, particularly focusing on the situation obtaining in South–South migration in the Asia Pacific Region. Cooperation and partnerships based on international legal and cooperative frameworks as well as synergy between human rights mechanisms and joint political commitments were deemed effective tools for protection of migrant workers’ rights.

We, the participants of the Conference,

Welcoming the efforts of the NHRC, Nepal to convene the International Conference on Protection of Rights of the Migrant Workers on November 12-14, 2019 in Kathmandu, in pursuance of its similar effort in 2012¹,

Reaffirming the Universal Declaration of Human Rights, 1948 and other human rights instruments agreed by States, including International Covenant on Civil and Political Rights (ICCPR), 1966; International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966; Convention on Elimination of All forms of Discrimination Against Women (CEDAW) 1979; International Convention on the Protection of the Rights of All Migrant Workers and their Families (ICRMW), 1990 ; other core human rights Treaties and Protocols; relevant International Labour Organization Conventions and other regional human rights instruments and mechanisms,

¹ International Conference on Cooperation between National Human Rights Institutions (NHRIs) for the Promotion and Protection of the Rights of Migrant Workers.

Reiterating the principles espoused by Vienna Declaration and Programme of Action, 1993 that all human rights are universal, interdependent, indivisible and interrelated and the international community must treat all human rights globally in a fair and equal manner,

Welcoming the precedent setting approaches that the Global Compact for Safe, Orderly and Regular Migration (GCM) (A/73/L.66) has taken, including broad-based, people-centered, human rights-oriented, gender responsive and child sensitive, whole-of-government and whole-of-society approaches in international governance of migration,

Acknowledging that the GCM is anchored in the existing international human rights instruments/mechanisms, rule of law and due process, international legal frameworks and development frameworks with political commitment such as 2030 Agenda for Sustainable Development, Addis Ababa Action Agenda, Paris Climate Agreement, and Sendai Framework for Disaster Risk Reduction,

Reprising Global Alliance for National Human Rights Institutions' (GANHRI) assertion that the implementation, follow up and review of the GCM objectives have to be comprehensive, coherent with existing human rights obligations and mechanisms, transparent, participatory, inclusive and accessible.

And also **acknowledging** the commitment that GANHRI will be engaged with the respective processes at the national, regional and global levels in this regard, as specified in the statement adopted by its annual conference in March 2019.

Mindful that increased movement and mobility of people call for NHRIs' oversight and monitoring of potential human rights violations in cross-border contexts, including outside the territory of the Country of Destination (COD) and through increased cross-border cooperation,

Recalling the win-win development outcome well-governed labour migration can deliver to the countries of origin, transit and destination, and the imperative for ensuring safety, security and dignity of the migrant workers as rights holders and contributors to the mutually beneficial process,

Bearing in mind the international benchmarks to guide the migrant workers' recruitment process and ensure decent work, such as International Labour Organizations' (ILO) General Principles and Operational Guidelines for Fair Recruitment and International Organization for Migration's (IOM) International Recruitment Integrity System (IRIS),

Recognizing the ILO Declaration on Fundamental Principles and Rights at Work, 1998 which provides a list of inalienable and non-derogable rights to be respected in every workplace across the globe,

Reciprocating the UN General Assembly General Recommendation 26 on CEDAW adopted in 2008 which lays down legitimate reasons for special protection of the rights of women migrant workers in relation to the complexities of migration pathways and the foreign employment opportunities generally available to them,

Recalling the foundational and operational principles of *'protect, respect and remedy framework'* set by the United Nations Guiding Principles on Business and Human Rights (A/HRC/17/31) that guides the respective roles and responsibilities of States and business enterprises in human rights protection,

Acknowledging the continuous emphasis on migrants' human rights protection expressed by NHRIs through the outcomes of international conferences, including through Zacatecas conference, 2004; Seoul Conference, 2010; Kathmandu conference, 2012; GANHRI Annual Conference, 2019 in Geneva and the 12th Biannual Conference of Network of African Human Rights Institutions (NANHRI), 2019 in Cairo.

Taking into account the contributions made by Regional Consultative Processes such as the Colombo Process and the Abu Dhabi Dialogue and the Bali Process in addressing migration related challenges, as well as the SAARC Plan of Action on Labour Migration and the ASEAN Consensus on the Promotion and Protection of the Rights of the Migrant Workers, 2017,

Keeping in mind the large number of unskilled, low-skilled and semi-skilled migrant workers and migrant women workers originating from the Asia Pacific Region in particular,

Adopt the following:

1. Enhance institutionalized networking of NHRIs both at the bilateral and regional levels, within the NHRI as well as with external stakeholders to strengthen cooperation, collaboration and advocacy for respect and protection of rights of the migrant workers and their families.
2. Welcome the ongoing GANHRI initiative to be an active player in the GCM implementation, follow up and review by developing relevant goals and targets for application in oversight and monitoring activities of NHRIs in national and transnational situations.
3. Encourage Countries of Origin (COOs), Countries of Transit (COT) and Countries of Destination (CODs) to put in place effective grievance mechanisms both at the State and non-State levels, which can provide effective access to justice and remedies through judicial, administrative and operational level settlements, depending on the nature and extent of violations, irrespective of migratory status.
4. Cooperate towards providing effective remedies to victims of rights violations in the migration process through measures such as complaints lodging, legal counseling, investigation, law enforcement by administrative authorities, adjudication at labour courts or other courts of law, etc., irrespective of the status of migrants, victims of trafficking or smuggling, and their families.
5. Address the problems of discrimination and violence against women migrant workers such as trafficking and smuggling, physical and sexual abuse; labour exploitation, denying basic wages; subjecting to slavery and servitude like conditions; substandard health, safety and security, etc. that may take place in connection with the recruitment process and at workplaces by identifying and sanctioning the perpetrators.

6. Open more legal and safe pathways for prospective women migrant workers to achieve gender equality in migration by making special arrangements between the COOs and CODs with credible complaint and redress mechanisms.
7. Promote universal ratification of the International Convention on the Protection of the Rights of All Migrant Workers and their Families, 1990 as well as ratification of and accession to all human rights treaties and ILO Conventions that are relevant in protection of the rights of migrant workers.
8. Encourage COOs and CODs in signing new labour agreements or amend the existing ones in line with the relevant vision, guiding principles and objectives of the GCM in general and applicable ILO Conventions in particular to ensure respect for human rights in all stages of migration.
9. Promote skill migration to match market demand, and bring employer pay principle as commitment to protecting and respecting the rights of the unskilled, low-skilled and semi-skilled migrant workers, including migrant women workers to free them from debt bondage, forced labour and modern slavery.
10. Identify and address with specific measures the existing gaps and inconsistencies in the migration policy and regulatory systems of the COOs and CODs that may cause adverse impact on human rights.
11. Promote the use of standard job contracts specifying the terms and conditions of employment which can be electronically monitored by authorities in both CODs and COOs, and eliminate non-consensual contract substitution, withholding of identity documents and underpayment or delayed payment of wages and hindrance to local mobility.
12. Enhance institutionalized mechanisms of regular contacts and collaboration between and among consular officials/labour attaches of the COOs with the law enforcement authorities of the CODs to effectively address any violations of rights, exploitation or abuse of the migrant workers.
13. Extend the legal aid programs to migrant workers who are suffering criminal or civil charges.
14. Empower migrant workers with comprehensive information and orientation packages at all stages of the migration cycle, including at pre-departure, on arrival, at work and on return, and ensure that they understand their rights and responsibilities clearly.
15. Follow and advocate international benchmarks recommended by the ILO Guidelines for Fair Recruitment and the IOM International Recruitment Integrity System (IRIS) to make recruitment process an essential first step in the rights protection of the migrant workers.
16. Eliminate overcharging, forgery and deceit in the recruitment process through collective oversight and monitoring of manpower agencies by relevant State law enforcement authorities, NHRIs, trade unions and civil society organizations.
17. Encourage employers and their respective recruitment agencies working both in COOs and CODs to adopt human rights due diligence to address, mitigate and eliminate adverse effects on human rights due to their activities.

18. Respect the human rights of migrant workers under risk or vulnerable situations due to adversity in visa status, work status or health conditions and take measures under the Rescue, Repatriation, Rehabilitation and Reintegration (4R) principle with shared responsibility of the receiving, sending and transit countries, respectively.
19. Strengthen cooperation with the Special Rapporteur on the Human Rights of Migrants and other Special Procedure Mandate Holders in implementing their key recommendations.
20. Commit to enhancing the role of NHRIs at the subnational, national, bilateral and regional levels in expanding their education and awareness campaigns about the importance of migration for sustainable development and the protection of the rights of the migrant workers.
21. Cooperate with stakeholders to ensure that rights of the migrant workers in irregular situations in the CODs are protected and they have access to justice.

Plan of Action

1. Continue signing agreements between NHRIs at the bilateral and regional levels for facilitating joint cross-border oversight and monitoring of human rights of migrant workers, including women migrant workers, irrespective of their status.
2. Identify, investigate and report for correction any gross violence, discrimination, exploitation and abuses committed against labour migrants through all phases of migration, capitalizing on NHRIs network.
3. Hold regular policy dialogues on migrant rights, engaging the governments and other relevant stakeholders of the COOs, COTs and CODs, including representatives of the migrant workers.
4. Expand networks of NHRIs with government organizations, Civil Society Organizations, Trade Unions, Lawyers' Organizations, Regional Lawyers' Networks, Migrants' Organizations, Migration Experts, Academicians, Business Councils, Chambers of Commerce and Industries, and other relevant institutions and persons for instituting credible and effective State and non-State based grievance mechanisms easily accessible to all relevant linguistic groups of migrant workers.
5. Work towards providing transitional stay permit and legal aid to the migrant workers who have fallen victim to gross human rights violations at the hands of the employer or their agents, and ensure effective access to justice and remedy, including by creating firewalls between service providers and immigration in cases of irregular migration,
6. Undertake advocacy with the COOs for strengthening the legal support system, including the provision of the legal assistance, in their missions in the CODs, for effective access by migrant workers to grievance mechanisms that lead to redress and remedies. Facilitate collaboration between consular officials/labour attaches representing the COOs and law enforcement officials of the CODs for this purpose.

7. Periodically evaluate the migrant workers information systems instituted in the COOs and CODs, particularly in South-South migration and suggest measures for improvement.
8. Strengthen bilateral, regional or multilateral frameworks of cooperation of NHRIs for protection of rights of the migrant workers, and utilize them for exchange of information and best practices as well as developing strategy for joint action.
9. Undertake advocacy for policy and regulatory reforms, their harmonization and effective enforcement, institution building, exchange of expertise and knowhow as well as standard setting on a regional basis in matters related to protection of rights of the migrant workers.
10. Establish, strengthen and institutionalize respective NHRI Migrant programs specifically for human rights protection of the migrant workers with adequate capacity, resources, information and networking.

Annex 16:

International Conference Convening Master Committee

S. No	Name	Designation	Committee Designation
1	Sudip Pathak	Member	Conference Convener
2	Bed Bhattarai	Secretary	Member
3	Murari Prasad Kharel	Director	Member
4	Tikaram Pokhrel	Director	Member
5	Yagya Prasad Adhikari	Director	Member
6	Nava Raj Sapkota	Director	Member
7	Lok Nath Bastola	Deputy Director	Member
8	Hari Prasad Gyawali	Deputy Director	Member
9	Shyam Babu Kafle	Deputy Director	Member
10	Buddha Narayan Sahani	Deputy Director	Member
11	Maya Devi Sharma	Deputy Director	Member
12	Manju Khatiwada	Deputy Director	Member
13	Swarnima Bhandari	Deputy Director	Member
14	Santosh Acharya	Deputy Director	Member
15	Ghanashyam Bhandari	Human Rights Officer	Member
16	Jitendra Karki	Account Officer	Member
17	Rajendra Prasad Neupane	Human Rights Officer	Member
18	Durga Pokhrel	Communication Officer	Member
19	Kiran Kumar Baram	Human Rights Officer	Member
20	Mohan Kafle	Human Rights Officer	Member
21	Anish Poudel	Human Rights Officer	Member
22	Khimananda Bashyal	Human Rights Officer	Member
23	Babu Kaji K.C.	Security Officer	Member
24	Rabi Lal Nepali	Officer	Member
25	Deg Raj Bhattarai	Assistant First	Member
26	Sagar Shrestha	Assistant First	Member
27	Saman Manadhar	Assistant First, Information and Technology Section	Member
28	Kamal Thapa Kshetri	Human Rights Officer, Migrant Focal Officer	Member Secretary

Annex 17:

Concept Note of the Conference

National Human Rights Commission of Nepal

International Conference on Protection of Rights of the Migrant Workers

12-14 November 2019, Kathmandu, Nepal

Concept Paper

I. Introduction

National Human Rights Institutions (NHRIs) are whistle-blowers, eye-openers and watchdogs for the protection and promotion of human rights. More people are now moving across borders than ever before because of the push and pull factors of globalization. The increased migratory flows across borders have necessitated NHRIs to find more innovative and creative approaches to addressing the cross-border and cross-regional nature of human rights violations. Their role in looking at issues related to root causes of migration such as poverty, discrimination, lack of economic opportunities and domestic and other violence is also equally important.

The United Nations recognized the role of NHRIs in protection and promotion of human rights at the international level in 1946. In 1994, the UN General Assembly adopted the Paris Principles setting standards for the NHRI structure and function. Their international network in its present form - the Global Alliance of National Human Rights Institutions (GANHRI), has completed over 25 years of existence since then. The Paris Principles has set six main criteria that the NHRIs are required to meet. These include mandate and competence; autonomy from government; independence; pluralism; adequate resources; and adequate power for investigation. To date, 124 NHRIs are accredited by the GANHRI.

The NHRIs are extending hands of cooperation at the bilateral and regional levels with partners that include governments, civil society organizations (CSOs) and business organizations to make sure that universal human rights and fundamental freedoms are respected and the dignity and worth of human life is protected in all situations.

II. The Role of NHRIs in Cross-border Situation

National Human Rights Commission of Nepal (NHRCN) has been consistently accredited with 'A' status. It is not the first time that NHRC Nepal is organizing a conference of this kind. It has to its credit the experience of having organized 'International Conference between National Human Rights Organizations (NHRIs) for the Promotion and Protection of the Rights of the Migrant Workers' in November 2012, which resulted in Kathmandu Resolution. In addition, Rights of the Migrant Workers remained one of the major issues discussed in International Human Rights Conference on

Impunity organized by NHRC Nepal in April 2018. The human rights landscape in respect to the migrant workers has changed significantly since then due to developments in international legal and policy frameworks. The specific mention of safe, orderly and regular migration by the 2030 Agenda for SDGs, the norms and standards set by ILO Conventions, the implementation of ICRMW, wherever applicable, as well as the revelations made in the reports of Special Procedure Mandate Holders, particularly the Special Rapporteur on Human Rights of Migrants, are important in this direction.

More conducive environment for international cooperation and collaboration has been created following the adoption of the Global Compact on Migration (GCM) by the United Nations in December 2018. The level of international understanding in protection of the rights of the migrant workers has risen due to the deeper and wider deliberations that have taken place within the UN system and through the activities of Global Forum on Migration and Development (GFMD) and many other organizations of repute.

NHRIs have a role to play in supporting the implementation of all international human rights obligations and commitments, including treaties and relevant objectives of the GCM, which has basically taken a human rights-based approach to migration. Properly governed and managed labour migration is a win-win for all as past experience has shown. South-South labour migration in the Asia Pacific region, with its unique opportunity and challenges to bring positive impact on the life of the migrant workers and their families as well as the economy as a whole, will be on focus for deliberations during this conference.

The number of migrant workers in the Asia Pacific region is significant, most of them falling under low skill or semi-skilled categories. These segments of workers, including women workers in the domestic and caregiving jobs, in particular, are most susceptible to rights violations at various phases of migration. Recruitment intermediaries are very often involved in planning and operation of labour mobility. There are issues on how intermediaries could be made more responsible and ethical in their practices as the first step in the protection of the rights of the migrant workers. In the same manner, if the terms of employment contracts are violated and there are risks in enjoying the inalienable rights at the workplace or any other phase of migration, effective complaint mechanism with redress of problems should be the answer. There are questions whether effective complaint mechanisms are in place in the origin, transit and destination countries. Despite the mutual benefit of development as a common denominator, numerous problems of rights violations are envisaged in labour migration. Overcoming them calls for forging a cohesive, holistic and human-centred approach to migration and ensuring deeper understanding and cooperation at multi-stakeholder level. Effective access to justice in case of violations of rights and dignity under applicable international and domestic laws is the recourse of the ultimate resort. Here also the question is how can low skill workers with limited capacity access justice and remain productive workforce. These are the issues the conference would have primary focus in deliberations.

The objectives and themes of the conference are in conformity with the recent global development in migration governance and look forward to the partnership and cooperation for their realization. There will be five thematic presentations and under each thematic presentation at least three

presentations on sub-topics that give further thoughts into the subject matter are envisaged. The five thematic areas of discussions have been divided into mutually contributory sub-topics for richer insights. Within the given time, distinguished presenters can go beyond to drive relevant points and enrich deliberations.

III. Objectives

- a. Assessing the major challenges and opportunities to protect the rights of the migrant workers in south-south migration, especially in the Asia Pacific region.
- b. Suggesting measures to implement the broader objectives of the GCM through a cooperative framework.
- c. Strengthening the inter-NHRIs cooperation with multi-stakeholder approach in respect to rights protection.
- d. Enhancing partnership and cooperation for more effective policy and measures with particular focus on fair and responsible recruitment and access to justice, including effective complaint procedure.

IV. Conference Themes

1. Migration governance and the rights of migrant workers
2. Promoting practice of fair and responsible recruitment
3. Issues on irregular migration
4. Ensuring access to justice for migrant workers
5. Inter-NHRIs cooperation in protection and promotion of rights of the migrant worker

V. Outcome and output of the Conference

- Cooperation between NHRIs strengthened to establish bilateral, sub-regional, regional and international measures for protection of the rights of the migrant workers;
- Measures identified for constructive engagement of governments, civil society organizations, and social partners with NHRIs.

Output:

- A Kathmandu Declaration will be adopted at the end of the conference. Possible action lines and follow-up measures will be carved.

VI. Modality of Conference

- Expert papers will be called on the set themes of the conference for presentation.
- Each thematic session will be followed by topical presentation/comment/views by panellists (expert) in plenary session.
- A draft Kathmandu Declaration will be discussed for consensus and adopted at the conclusion of the conference.

VII. Participants

There will be national and international participation from National Human Rights Institutions, civil society organizations, experts, UN agencies, intelligentsia and academicians. The national participation will include key human rights stakeholders working on the issues of migrant workers, including the representatives from concerned government authorities and the private sector recruitment intermediaries, etc. The expected number of participants will be 125, of which 90 will be international.

VIII. Papers

Themes

Five thematic papers will be presented in the conference.

Theme papers	Topical Focus
Presentation 1: Migration Governance and Rights of the Migrant Workers	<ol style="list-style-type: none">1: Existing Frameworks towards Protecting Rights of the Migrant Workers in the context of Global and Regional Labour Migration Trends2: Protecting the Rights, Safety and Security of Women Migrant Workers3: South-South Migration: Strengthening Joint COO and COD Government Oversight and Monitoring of Recruitment Practices
Presentation 2: Promoting Practice of Fair and Responsible Recruitment	<ol style="list-style-type: none">1: International Frameworks on Fair and Ethical Recruitment and their bearings on Business and Human Rights2: Case Study: Perspective of a Country of Origin (COO) in Ensuring Fair and Ethical Recruitment3: Perspective from the Business in a Country of Destination (COD) in Implementing Fair and Responsible Recruitment Standards
Presentation 3: Issues on Irregular (Labour) Migration	<ol style="list-style-type: none">1: Irregular Labour Migration, including human trafficking: Causes, Vulnerabilities and Consequences2: Role of Government, Civil Society and NHRIs in Protecting Irregular Migrants at Risk3: Role of Intermediaries and Employers in Ensuring Regular and Ethical Migration

Presentation 4: Ensuring Access to Justice for Migrant Workers	<ol style="list-style-type: none"> 1: An Assessment of the Access to Justice Mechanisms in Countries of Origin and Destination 2: Case Study: Challenges of Accessing Complaint Mechanisms and Case Documentation 3: Role of NHRIs in Ensuring Access to Justice
Presentation 5: Inter-NHRIs Cooperation in Protection and Promotion of Rights of the Migrant Workers	<ol style="list-style-type: none"> 1: Prospects of Strengthening Networks between NHRIs-Government-Civil Society Organizations 2: Creating Synergy between COOs and CODs in Rights Protection in the Context of GCM implementation 3: Role of Inter-Governmental Bodies in Protecting Rights of the Migrant Workers

Note: Each paper presentation will be commented upon by three experts on the topical issues of their choice as listed in the table. Innovative views or ideas are welcome in the comments. Experts who make presentation on thematic issues are further requested to submit separate write-ups for publication in the souvenir to be published to commemorate the event. Separate arrangement of honorarium are kept for written papers, which we expect by 15 October.

IX. Modality of Thematic Sessions (with tentative break-down of time allocation)

Introductory remarks by Chair	– 10 Minutes
Session objectives by Moderator	– 10 Minutes
Paper presentation by paper writer	– 20 Minutes
Topical views/opinions/comments by Panellists	– 30 Minutes (10 minutes for each)
Open floor discussion	– 30 Minutes
Sum-up by session Moderator	– 10 Minutes
Concluding remarks by session Chair	– 10 Minutes

X. Deadline to submit paper

15 October, 2019

XI. For further queries

- **Conference Convener**
 Hon. Sudip Pathak (Mr.)
 Member, National Human Rights Commission of Nepal
 Mobile: +977 9851236083
 Email sudip.pathak@nhrcnepal.org
- **Secretariat**
 National Human Rights Commission of Nepal
 Phone: +977 15547976
 Email: intlconferencermw@nhrcnepal.org
 Conference website: <https://www.intlconferencermw.nhrcnepal.org/>

Annex 18:

Programme Schedule of the Conference

National Human Rights Commission of Nepal International Conference on Protection of Rights of the Migrant Workers

12 – 14 November 2019

Kathmandu, Nepal

Day I Tuesday, 12 November	
13:45-15:00	Inaugural Function Master of Ceremony: Ms. Sabita Nakarmi , Ministry of Foreign Affairs, Nepal
13:55-14:00	Dias Call <ol style="list-style-type: none">Chairperson: Justice Anup Raj Sharma, Hon. Chairperson, National Human Rights Commission of NepalChief Guest: Rt. Hon. Vice President of Nepal Nanda Bahadur Pun 'Pasang'Guest: Hon. Minister Pradeep Kumar Gyawali, Ministry of Foreign AffairsGuest: Hon. Minister Gokarna Bista, Ministry of Labour, Employment and Social SecurityGuest: Dr. Carlos Alfonso Negret Mosquera, Hon. Chairperson, Global Alliance of National Human Rights Institutions (GANHRI), Ombudsman's Office of ColombiaGuest: Ms. Valerie Julliand, United Nations Resident Coordinator
14:00	National Anthem
14:00-14:15	Welcome: Justice Prakash Osti, Hon. Member, National Human Rights Commission of Nepal
14:15	Inauguration by Rt. Honorable Vice President of Nepal Nanda Bahadur Pun 'Pasang'
14:20	Handover of Conference Program
14:25-14:30	Ms. Valerie Julliand, United Nations Resident Coordinator
14:30-14:35	Dr. Carlos Alfonso Negret Mosquera, Hon. Chairperson, Global Alliance of National Human Rights Institutions (GANHRI), Ombudsman's Office of Colombia
14:35-14:40	Hon. Minister Gokarna Bista, Ministry of Labour, Employment and Social Security
14:40-14:45	Hon. Minister Pradeep Kumar Gyawali, Ministry of Foreign Affairs
	Chief Guest: Rt. Hon. Vice President of Nepal Nanda Bahadur Pun 'Pasang'
15:05	Handing over of Memento to Rt. Hon. Vice President of Nepal Nanda Bahadur Pun 'Pasang'
15:10	Group Photo session
Break 15:10-16:00	

Day I
Tuesday, 12 November

16:00-18:00

Session 1: Migration Governance and Rights of the Migrant Workers

Moderator:
Ms. Sharu Joshi

Chair:
Tan Sri Othman bin Hashim, Hon. Chairperson, Human Rights Commission of Malaysia (SUHAKAM)

Speaker:
Dr. Maria Nnette A. Motus, Regional Director for Asia and Pacific, International Organization of Migration (IOM)

Panelists:

- Existing Frameworks towards Protecting Rights of the Migrant Workers in the context of Global and Regional Labour Migration Trends
Dr. Pia Oberoi, Senior Advisor on Migration and Human Rights, Office of the High Commissioner for Human Rights, Asia Pacific
- Protecting the Rights, Safety and Security of Women Migrant Workers
Mrs. Rekha Sharma, Hon. Chairperson, National Women Commission of India
- South-South Migration:** Strengthening Joint COO and COD Government Oversight and Monitoring of Recruitment Practices: National and International Perspectives
Mr. Shabarinath Nair, Labor Migration Specialist for South Asia, Decent Work Team for South Asia, International Labour Organisation
Mr. Umesh Dhungana, Joint Secretary, Employment Management Division, Ministry of Labour, Employment and Social Security

Floor Discussion

Dinner 19:00 onwards

Day II
Wednesday, 13 November (08:30-16:00)

08:30-10:30

Session 1: Promoting Practice of Fair and Responsible Recruitment

Moderator:
Dr. Jeevan Baniya

Chair:
Dr. Er. Mohammed Saif A. A. Al-Kuwari, Vice-Chairman, National Human Rights Committee of Qatar

Speaker:
Ms. Alcestis Abrera Mangahas, Former Deputy Regional Director, ILO Regional Office for Asia and the Pacific

Panelists:

- International Frameworks on Fair and Ethical Recruitment and their bearings on Business and Human Rights
Mr. Bernardo Cocco, Deputy Resident Representative, UNDP Nepal
- Case Study: Perspective of a Country of Origin (COO) in Ensuring Fair and Ethical Recruitment (10 minutes)
Dr. Ganesh Gurung, Executive Chairperson, Policy Research Institute, Government of Nepal, Former Member of National Planning Commission, Nepal
- Perspective from the Business and Human Rights in a Country of Destination (COD) in Implementing Fair and Responsible Recruitment Standards
Mr. Sarat Dash, Chief of Mission for Sri Lanka and Maldives, International Organization of Migration (IOM)

Floor Discussion

Break 10:30-11:00

Day II
Wednesday, 13 November

11:00-13:00

Session 2: Issues on Irregular (Labour) Migration

Moderator:
Ms. Natalie Greenfield

Chair:
Ms. Kagwiria Mbogori, Hon. Chairperson, National Commission on Human Rights, Kenya

Speaker:
Mr. William Gois, Regional Director, Migrant Forum in Asia

- Panelists:**
1. Irregular Labour Migration including human trafficking: Causes, Vulnerabilities and Consequences
Ms. Mohna Ansari, Hon. Member, National Human Rights Commission of Nepal
 2. Role of Government, Civil Society and NHRIs in Protecting Irregular Migrants at Risk
Mr. Nirmal Raj Kafle, Joint-Secretary, Ministry of Foreign Affairs, Nepal
Mr. Mohamed El Hachimi, Advisor to the President of National Human Rights Council of Morocco (CNDH)
 3. Role of Intermediaries and Employers in Ensuring Regular and Ethical Migration.
Mr. Laxman Basnet, General Secretary, South Asian Regional Trade Union Council (SAARTUC)

Floor Discussion

Lunch Break 13:00-14:00

Day II
Wednesday, 13 November

14:00-16:00

Session 3: Ensuring Access to Justice for Migrant Workers

Moderator:
Atty. Homer Rusiana

Chair:
Adv. Bongani Majola, Hon. Chairperson, South African Human Rights Commission

Speaker:
Mr. Sudip Pathak, Hon. Member, National Human Rights Commission of Nepal
Mr. Deepak Dhital, Former Ambassador of Nepal to United Nations in Geneva

- Panelists:**
1. Assessment of the Access to Justice Mechanisms in Countries of Origin and Destination
Mr. Shom Luitel, Advisor, Peoples Forum for Human Rights, Nepal
 2. **Case Study:** Challenges of Accessing Complaint Mechanisms and Case Documentation
Dato Sri M Ramachelvam, Chairperson, Bar Council Migrants, Refugees and Immigration Affairs Committee, Malaysia
 3. Role of NHRIs in Ensuring Access to Justice
Ms. Leah Tanodra-Armamento, Hon. Commissioner, The Commission on Human Rights, Philippines

Floor Discussion

Cultural Dinner 18:30 onwards

Master of Ceremony
Ms. Sabita Nakarmi, Ministry of Foreign Affairs, Nepal

18:30-18:35 Welcome by Mr. Sudip Pathak, Hon. Member, Conference Convener

18:35 onwards Cultural Performances followed by dinner

Day III Thursday, 14 November (08:30-16:00)	
08:30-11:00	Session 1: Inter-NHRIs Cooperation in Protection and Promotion of Rights of the Migrant Workers
Moderator: Mr. Gauri Pradhan	Chair: Dr. Carlos Alfonso Negret Mosquera , Hon. Chairperson, Global Alliance of National Human Rights Institutions (GANHRI), Ombudsman's Office of Colombia Speaker: Ms. Andrea Kampf , Senior Researcher and Policy Adviser, German Institute of Human Rights, Member of Migration Task Force, Global Alliance of National Human Rights Institution (GANHRI) Panelists: 1. Prospects of Strengthening Networks between NHRIs- Government-Civil Society Organizations Prof. Fatima Ayed Al-Rashidi , Founder and Chief, Humanitarian Without Borders, Kuwait Mr. Sushil Pyakurel , Advisor to the President of Nepal and Former Member of NHRC Nepal 2. Creating Synergy between COOs and CODs in Rights Protection in the context of GCM implementation Mr. Lee Cheol Woo , Chairperson, The May 18 Memorial Foundation, Republic of South Korea Dr. Nomita Halder ndc , Hon. Member, National Human Rights Commission of Bangladesh 3. Role of Inter-Governmental Bodies in Protecting Rights of the Migrant Workers Dr. Binda Pandey , Hon. Member of Federal Parliament of Nepal, Member ILO Governing Body <i>Floor Discussion</i>
Break 11:00-11:30	
Day III Thursday, 14 November	
11:00-12:30	Session 6: Country Statements
	Chair: Ms. Aminath Eenas , Hon. President, Human Rights Commission of the Maldives Delivery of Country Statements by NHRIs
Lunch Break 13:00-14:00	
14:00-15:30	Chair: Justice Anup Raj Sharma , Hon. Chairperson, National Human Rights Commission of Nepal Presentation of Draft Kathmandu Declaration with Possible Plan of Action and Follow-up Mechanism Mr. Deepak Dhital , Former Ambassador of Nepal to United Nations in Geneva <i>General Discussion</i> <i>Adoption of Kathmandu Declaration and Action Plan 2019</i>
15:30-16:00	Signing of Memorandum of Understanding (MoU) between NHRC Malaysia and NHRC Nepal
16:00-17:00	Closing Session Remarks: 1. Justice Kedarnath Upadhyay, Former Chairperson, National Human Rights Commission of Nepal 2. Ms. Mohna Ansari, Hon. Member, National Human Rights Commission of Nepal 3. Justice Anup Raj Sharma, Hon. Chairperson, National Human Rights Commission of Nepal Press Meet

Annex 19:

List of International Participants

S. No	Name	Country	Organisation	Designation
1	Natalie Jean Greenfield	Australia	Australian Human Rights Commission	Senior Investigator/ Conciliator
2	Seweryn Antoni Ozdowski	Australia	University of Sydney	Professor
3	Mohamed Ahmed Matar Khamis Albusmait	Bahrain	Legal Affairs Department, Labour Market Regulatory Authority	Director
4	Mohamed Abdulla Saleh Mohamed Alahmedi	Bahrain	Audit and Development Department, Labour Market Regulatory Authority	Director
5	Ching Kew Roaza	Bangladesh	Bangladesh Human Rights Commission	Member
6	Nomita Halder	Bangladesh	Bangladesh Human Rights Commission	Member
7	Nivish Varma Chummun	Mauritius	National Human Rights Commission Mauritius	Investigator
8	Carlos Alfonso Negret Mosquera	Colombia	GANHRI	Chairperson
9	Maria Leonor Velasco Melo	Colombia	GANHRI	Advisor
10	Andrea Ulrike Kämpf	Germany	The German Institute for Human Rights	Coordinator of the GANHRI's task force on migration
11	Leah Tanodra Armamento	The Philippines	Commission on Human Rights of Philippines	Commissioner
12	Graciela Ann Ofilas Awkit	The Philippines	Commission on Human Rights of Philippines (CHRP), International Obligations Monitoring Division	Development Management Officer
13	Homero Matthew Pardo Rusiana	The Philippines	Commission on Human Rights of Philippines (CHRP)	Director IV, Field Operations Office
14	Eva Tzavala	Greece	European Network of National Human Rights Institutions	Director, Greek National Commission for Human Rights
15	Rekha Sharma	India	Women Commission	Chairperson
16	Subhash Chandran Kottilath Ramadas	India	Civil Society	Advocate
17	Aman Kumar	India	Banaras Hindu University	Research Fellow
18	Anjuman Ara Begum	India	Civil Society (ANNI), Thailand	South Asia Programme Officer

19	Madhavan Kallath	India	Kallath and Company WLL, Bahrain	Managing Partner
20	Kocheril Sulaiman Nizar	India	Civil Society, Qatar	Lawyer
21	Pia Anjolie Oberoi	India	OHCHR	Advisor
22	Danny Sharma	India	National Human Rights Commission of India	Assistant Registrar
23	L Hari Dhas	India	National Human Rights Commission of India	Section Officer
24	Kagwiria Mbogori	Kenya	Kenya National Commission on Human Rights	Chairperson
25	Getobai Ruth Nchagwa	Kenya	Kenya National Commission on Human Rights	Asst. Director
26	Zeid Ali Z Aldakkan	Kingdom of Saudi Arabia	Human Rights Commission Council	Member
27	Abdullah Ali M Sabig	Kingdom of Saudi Arabia	Civil Society	Arab Organization for Human Rights
28	Jaber A M Alali	Kuwait	International Relations Department, Public Authority for Manpower, State of Kuwait	Director
29	Fatimah Ayed Al-Rashidi	Kuwait	Kuwait University	Professor
30	Aida Suraya Binti Haron	Malaysia	Human Rights Commission of Malaysia	Officer
31	Ramachelvam Manimuthu	Malaysia	Bar Council Migrants, Refugees and Immigration Affairs Committee	Chairperson
32	Tan Sri Othman Bin Hashim	Malaysia	Human Rights Commission of Malaysia	Chairperson
33	Aminath Eenas	Maldives	Human Rights Commission of the Maldives	President
34	Nadia Fellah	Morocco	National Human Rights Council, Morocco	Human Rights Officer
35	Mohamed El Hachmi	Morocco	National Human Rights Council, Morocco	Advisor to the Chairperson
36	Byambadorj Jamsran Tom Olkhonuud	Mongolia	National Human Rights Commission of Mongolia	Chief Commissioner
37	Karanina Sumeo	New Zealand	New Zealand Human Rights Commission	Commissioner
38	Mohamed Ahmed Mohamed AL Rawahi	Oman	Human Rights Commission Oman	Legal Consultant for the Minister of Manpower and Member of HRC
39	Ahmed Abdullah Salim Al Mahruqi	Oman	Human Rights Commission Oman	Director of Finance and Administration
40	Omar Said Ali Salim Al- Mandhari	Oman	Human Rights Commission Oman	Director of Information Technology

41	Ashley William Bonaventure Gois	Pakistan	Migrant Forum in Asia (MFA)	Coordinator
42	Ilam Khan	Pakistan	National Institute for Science and Technology	PhD Candidate
43	Mohammed Saif A A al-Kuwari	Qatar	National Human Rights Committee	Vice Chairperson
44	Faraj Saleh M A Almarri	Qatar	National Human Rights Committee	Director of Legal Affairs
45	Chulwoo Lee	Republic of Korea	May-18 Foundation	Chairperson
46	Hyewon Lee	Republic of Korea	May-18 Foundation	
47	Matlhodi Angelina Makwetla	South Africa	South Africa Human Rights Commission	Commissioner
48	Bongani Christopher Majola	South Africa	South Africa Human Rights Commission	Chairperson
49	Solomantine Francis	Sri Lankan	Middle East Centre for Training and Development Dubai	Program Coordinator
50	Pattiyage Miyuru Kaushalya Gunasinghe	Sri Lankan	Solidarity Center	Senior Program Officer
51	Sujeewa Lal Kumara Dahanayake Liyana Arachchige	Sri Lankan	Lawyer Beyond Borders-Srilanka	Lawyer
52	Santi LATIFI	Thailand	National Human Rights Commission of Thailand	Acting Director
53	Watcharapong WANGLAO	Thailand	National Human Rights Commission of Thailand	Human Rights Officer
54	Linda Mustafa Hussein Alkalash	The Hashemite Kingdom of Jordan	Tamkeen for Legal Aid & Human Rights	Director
55	Nedal Yousef Mustafa Magableh	The Hashemite Kingdom of Jordan	National Center for Human Rights, Jordan	Director of Legislation Department
56	Alonzo Glenn Suson	United States of America	Solidarity Center	Country Program Director
57	Maria Nenette A. Motus		IOM	Regional Director for Asia and Pacific
58	Shabarinath Nair		ILO	Labor Migration Specialist for South Asia, Decent Work Team for South Asia
59	Alcestis Abrera Mangahas		ILO Regional Office for Asia and the Pacific	Former Deputy Regional Director
60	Sarat Dash		IOM	Chief of Mission for Sri Lanka and Maldives

Annex 20:

List of National Participants

National Human Rights Commission of Nepal

S. No	Name of Participant	Designation
1	Anup Raj Sharma	Hon. Chairperson
2	Prakash Chandra Sharma Osti	Hon. Member
3	Sudip Pathak	Hon. Member
4	Mohna Ansari	Hon. Member
5	Bed Bhattarai	Secretary
6	Murari Prasad Kharel	Director, Central Office
7	Tikaram Pokhrel	Director, Central Office
8	Yagya Prasad Adhikari	Director, Bagmati Province
9	Deepak Jung Dhoj Karki	Director, Gandaki Province
10	Nava Raj Sapkota	Director, Central Office
11	Samjhana Sharma	Director, Province No. 5
12	Hari Prasad Gyawali	Deputy Director, Central Office
13	Lok Nath Bastola	Deputy Director, Central Office
14	Swarnima Bhandari	Deputy Director, Central Office
15	Shyam Babu Kafle	Deputy Director, Central Office
16	Manju Khatiwada	Deputy Director, Central Office
17	Maya Devi Sharma	Deputy Director, Central Office
19	Jhankar Bahadur Rawal	Deputy Director, Sudur Paschim Province
20	Chandra Kanta Chapagain	Deputy Director, Sudur Paschim Province
21	Bir Bahadur Budha Magar	Deputy Director, Province No. 2
22	Mohan Dev Joshi	Deputy Director, Province No. 1
23	Santosh Acharya	Deputy Director, Central Office
24	Subodh Pokharel	Officiating Chief, Province No. 1
25	Ramesh Thapa	Officiating Chief, Karnali Province
26	Kamal Thapa Kshetri	Migrant Focal Officer, Central Office
27	Kiran Kumar Baram	Human Rights Officer, Central Office
28	Ravi Lal Nepali	Officer, Central Office

Non-Government Organisations

S. No	Name of Participant	Organisation
1	Ashok Rana	Youth Action Nepal
2	Nilambar Badal	Asian Forum
3	Manju Gurung	Pourakhi Nepal
4	Menaka Rajbhandari Shrestha	Women Empowerment Center
5	Shom Luitel	People Forum
6	Dil Bahadur Kathayat	Human Rights Organization (HURON), Kailali
7	K.P. Pathak	Human Rights Organization (HURON), Jhapa
8	Nisha Baniya	Joint Traded Union Confederation Council
9	Prakash Bhattarai	Center for Social Change
10	Bijaya Rai Shrestha	AMKAS Nepal
11	Kul Prasad Karki	Pravasi Nepali Coordination Committee (PNCC)
12	Shristi Kolakshyapati	Women Rehabilitation Center (WOREC Nepal)
13	Bishnu Gadtaula	Foreign Employment Orientation Association (FEONA)
14	Salahuddin A. Siddiqui	Former Justice of High Court
15	Ganesh Ghimire	Amnesty Nepal
16	Binod Karki	Supreme Court Bar Association, Nepal
17	Ishwori Prasad B.K.	Dalit Welfare Organization
18	Benu Maya Gurung	Alliance Against Trafficking in Person (AATWIN)
19	Indira Shrestha	Informal Sector Service Center (INSEC), Kathmandu
20	Charimaya Tamang	Shakti Samuha, Kathmandu
21	Megha Nath	National Association of Foreign Employment (NAFEA)
22	Bisnu Prasad Gaire	National Association of Foreign Employment (NAFEA)
23	Anjana Shakya	Himalayan Human Rights Monitor (HIMRIGHT), Kathmandu
24	Asmita Sapkota	Amnesty International, Kathmandu
25	Madhabi Bhatta	Former Member of Truth and Reconciliation Commission
26	Writu Bhatta Rai	Swatantrata Abhiyan, Kathmandu
27	Biswa Ram Khadka	Maiti Nepal, Kathmandu
28	Som Prd. Lamichhane	Pravasi Nepali Coordination Committee, Kathmandu
29	Anurag Devkota	Law and Policy for Social Justice (LAPSOJ)
30	Hom Karki	Kantipur Daily

Development Partners/Embassies

S. No	Name of Participant	Organisation
1	Tek Tamata	United Nation Development Programme
2	Manuel Micallez	US Embassy
3	Shiva Bhandari	European Union Delegation, Nepal
4	Krishma Sharma	Solidarity Centre
5	Sandhya Sitoula	International Labour Organization, Nepal
6	Prajwol Sharma	International Organization for Migration, Nepal
7	Arati Bista	Strategic Plan Support Project - National Human Rights Commission of Nepal
8	Balmukundra Humagain	WINROCK International
9	Tarun Adhikari	Safer Migration Initiatives (SAMI), HELVETAS
10	Rita Sapkota	Embassy of Qatar in Nepal

Government Organisations

S No.	Name of Participant	Organisation
1	Harish Chandra Ghimire	Ministry of Foreign Affairs
2	Kiran Shakya	Ministry of Foreign Affairs
3	Gobinda Thapaliya	Nepal Police, Anti Human Trafficking Investigation Bureau
4	Sabita Nakarmi	Ministry of Foreign Affairs
5	Gobinda Prasad Acharya	Foreign Employment Board
6	Hem Kumar Adhikari	Ministry of Labour, Employment and Social Security
7	Bishwash Sunuwar	Special Government Attorney office
8	Biswadip Besra	Office of the Prime Minister and Minister of Council
9	Govind Ghimire	Foreign Employment Tribunal
10	Sarina Regmi	Ministry of Law, Justice and Parliament Affairs
11	Ishwari Prd Dhakal	Commission on Inquiry of Enforced Disappearance
12	Mina Gurung	Commission on Inquiry of Enforced Disappearance
13	Rishi Rajbhandari	Truth and Reconciliation Commission
14	Kuldip Timsina	Nepal Army, Kathmandu
15	Kabita budhathoki	Muslim Commission, Kathmandu

Conference support consultants for NHRC

S. No	Name	Designation
1	Deepak Dhital, Former Ambassador, Permanent Mission, Geneva	Migration Advisor
2	Rameswor Nepal, Researcher, Labour and Migration	Migration Consultant
3	Bijaya Dahal, Assistant Professor	Migration Consultant
4	Ridip Khanal, Information technology and Communication expert	Communication Consultant

Rapporteurs

S. No	Name	Organisation
1	Rajita Dhungana	CESLAM/SSB
2	Shalini Gupta	CESLAM/SSB
3	Vibhav Pradhan	CESLAM/SSB

Interpreters

S. No	Name	Language
1	Ram Saran Bhatta	English-Korean-English
2	Parasmani Ghimire	Spanish-English-Spanish
3	Anjan Chalise	Russian-English- Russian
4	Manoj Karki	Nepali- English- Nepali
5	Jyotshna Shrestha	Nepali- English- Nepali
6	Mushtaque Alam, India	English-Arabic-English
7	Omar Khan, India	English-Arabic-English

Annex 21:

Photographs from the Conference



Hon. Anup Raj Sharma, Chairperson of NHRC Nepal, welcomes the Rt Hon. Vice-President Nanda Bahadur Pun 'Pasang' to the International Conference on Protection of Rights of the Migrant Workers 2019



Guests and speakers get together for a group photo towards the end of the inaugural session



2Dr Carlos Alfonso Negret Mosquera, Chairperson of GANHRI, meets Hon. Mr Pradeep Kumar Gyawali, Minister for Foreign Affairs



Hon. Sudip Pathak, Member of NHRC Nepal, welcomes Bongani Christopher Majola, Chairperson of NHRC South Africa, at the Tribhuvan International Airport



The conference participants attend cultural programme organised by NHRC Nepal



Participants gather for a group photo during the concluding session of the conference



(Left to right) Mr Gauri Pradhan, human rights defender and social activist; Hon. Mohna Ansari, Member of NHRC Nepal; Hon. Anup Raj Sharma, Chairperson of NHRC Nepal; and Hon. Prakash Osti, Member of NHRC Nepal participating



NHRC Nepal office bearers during a press meet organised at the concluding session of the three-day conference



The participants get together for a group photo on the final day of the conference

