

Migration, Refugee and Conflict

Week 9– Trade Unions and their Roles

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May, 2023

Understanding Trade Union

- The workers issues are the priority of trade unions.
- Trade unions involvement is seen in economic, political, social activities.
- The trade unions formed as a part of labour movement in the world was the outcome of the capitalism in the fifteenth and sixteenth centuries.
- Trade union basically are concerned with the protection and promotion of economic well-being and rights of the workers.
- The trade union movement varies from countries to regions to continents. However, it has a solidarity while concerning about workers well-beings, dignity and rights.
- The labour movement or the trade union movement in Nepal also played an integral role in the political movement.

Defining Trade union

-Several differences among the trade unions between countries and trade unions within the country is found. Hence, common definition does not exist as it has distinct features as per the contextual practices.

-Few definitions are as follows:

Trade union is “an association of workers in one or more occupations... an association carried on mainly for the purpose of protecting and advancing the members economic interests in connection with their daily work”(Cole,1962).

Web (1965) defines trade union as the continuous association of wage earners for the purpose of maintaining or improving the conditions of their working lives.

Basically trade union is an association of employees formed to improve the diverse conditions of employment of its members.

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- Voluntary organizations of workers/employees formed.
- It emphasizes in promoting and protecting the interests by collective action.
- It is an association of the workers or employees formed to protect, promote and improve economic, social and professional interests of their members.
- It strengthens their bargaining power and improves their working conditions.
- The collective bargaining methods is used to settle the concerned issues.
- The social dialogue notion also is a necessity approach used for strengthening the trade union movements.

Trade Union Movement in Nepal

- The trade union movement began in 1947 A.D.
- The restoration of multiparty democracy in 1990 A.D. brought more achievements.
- Before restoration of multiparty democracy trade union activities were banned. In addition, the awareness relating to workers right was also limited hence workers were exploited.
- After 1990 Trade Unions strengthened themselves. Their institutional development and capacity was increased.
- The achievements included; training and education relating to workers issues and rights, capacity on policy intervention were developed, organizing workers and considering welfare of those populations, participating in national and international forums, involvement relating to workers issues.

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- Consensus building among social partners and collaborative approaches is witnessed in trade union movements in Nepal.
- Important achievements to consider include the Dhulikhel Declaration of trade unions. This was
 - a. On elimination of child labour
 - b. Consensus on the prioritization of common agenda of three trade union confederations (GEFONT, NTUC, DECONT) General Federations of Nepalese Trade Unions, Nepal Trade Union Congress, Democratic Confederation of Nepalese Trade Unions. DECONT is now merged with NTUC.
 - c. Joint mechanism of gender equality and empowerment
 - d. High level task force to move towards single unionism and
 - e. Bilateral agreement for the timely amendment of labour laws

Achievements of Trade Union Movements

- Liberation of bonded *Kamaiya*
- minimum wage for agricultural workers
- improvement on the minimum wage of organized sector workers
- trade union rights in the informal sectors
- Social security related legal frameworks
- Increasing in membership
- Collective bargaining capacity
- Changing attitude of society towards trade union

SAARC Countries and Trade Unions

- Several common characteristics included
 - a. Low level of union density
 - b. Direct political affiliation
 - c. Fragmented union movement due to political affiliation
 - d. Labor legislation is present and is enacted whereas, implementation part remains weak.

Types of Trade Unions

1. Craft or Occupational Union
2. Company or Enterprise Identity Union
3. Industrial Union
4. General Union
5. Federations
6. National Centre's
7. Global Trade Union Federations
8. International Trade Union Confederations

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-Craft or Occupational Union : This is the oldest type of union. The workers are engaged in particular craft or skill. They were organized into same union despite they had different skills.

-Company or Enterprise Identity Union : The workers working in same company or enterprise organize themselves and form a trade union.

The trade union act of Nepal and labour act of Nepal also has given workers rights regarding collective bargaining. The collective bargaining can be carried out on several issues at workplace.

- Industrial Union: This includes workers in the same industry organized into the same union despite their involvement in diverse skills. Example: Jute industry, Tea estates.

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- General Union : This represents workers from all work sectors in one central union. This central union strengthens the voice of workers as per their necessities.
- Federations: The unions that come together to fulfill their objectives. They might be of similar nature or diverse nature.
- National Centres: These are developed by organizing workers and taking certain membership charges from the workers. The national centers conduct elections and has certain institutional mandates. They provide memberships to both formal and informal sectors of diverse kinds.
- Global Trade Union Federation: These federation focuses on similar nature of workers rights and the concerns of their upliftment in the global level. The national level federations get affiliated to them.
- International Trade Union Confederations (ITUC)

ITUC

- It is the global voice of the world's working people.
- Its primary mission is the promotion and defence of worker's rights and interests.
- They accomplish their mission through international cooperation between trade unions and they carry out global campaigning and advocacy within the major global institutions.
- The main areas of activity it includes is ; trade union and human rights, economy, society and the workplace, equality and non- discrimination and international solidarity.
- It adheres to the principles of trade union democracy and independence.
- International Trade Union Confederations Nepal Affiliated Council (ITUC-NAC) consists of three of largest trade unions in Nepal General Federation of Nepal Trade Unions (GEFONT), Nepal Trade Union Congress (NTUC) and All Nepal Trade Union Federation (ANTUF).

Trade Union Act 1992

- The trade union act clearly emphasizes on the management of trade union.

It focuses on the regulating working conditions.

-It has a concern relating to benefits available under labor laws.

In addition, it also focuses on the cordial relationships between employees and workers.

- It clearly distinct between the three-tire system of trade unions in Nepal. They are

a. Enterprise Level Trade Union

b. Trade Union Federation

c. Confederations

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The function duties and powers of trade union association and trade union federation are as follows:

- Carry out acts, proceedings and programmes as required to achieve the objectives of the Trade Union association and Trade Union federation.
- To require their members to participate in the elections of Trade Union association and Trade Union federation.
- To require their members to abide by the decisions of Trade Union association and Trade Union federation.
- To take necessary measures to resolve the labour disputes by entering into negotiations with Government of Nepal, with professional associations and federations of various types, with enterprises.

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- It represents entire workers on policy level .
- To negotiate with the concerned enterprises and managers on behalf of the Trade Union of Enterprise Level.
- To establish and operate various types of funds for the benefit and welfare of workers.
- To make public the facts of oppression committed against a worker and Trade Union and to make the concerned Enterprise of such acts, as required.

Registration and type of membership of Trade Unions

- The trade union act 1992 has identified four criteria's for the registration of the trade union association.

1. At least 50 enterprise level trade unions can form a national Trade Union Association by mutual agreement.
2. 5,000 workers from a similar nature of enterprise can also form a Trade Union.
3. In the case of agriculture 5,000 workers can form a union by mutual agreement but the union must have a representation from at least 20 districts and a minimum of 100 workers representations from one district.
4. If informal sector and self-employed has 500 members working in the same nature of occupation than they can form a union

Peace Building Initiatives by Trade Union In Nepal

- The decade long armed conflict in Nepal (1996-2006) ended by signing of comprehensive peace accord in November 2006.
- The trade unions in Nepal always played a major role in restoring peace and democracy in the country welcomed this accord and declared to be a part of peace building initiatives.
- The Declaration on the Trade Union's Commitment to the Peace Building in Nepal was in support of the restructuring of the state peace building process in Nepal.
- This declaration was signed in December 2,2006 by four trade unions GEFONT,NTUC,DECONT and ANFTU.
- This declaration recalls that universal and lasting peace can only be established if it is based upon social justice, and recognizing and responsibility , fundamental role and full commitment of trade union organizations to the restructuring of the state and peace building process.
- It is also called Lahan Declaration.

Declaration included

- 1.To cooperate amongst ourselves in a constructive manner and in good faith to contribute to the establishment of sustainable peace and transformation of the society
- 2.To promote the ILO's Decent Work Agenda
3. To reduce poverty through investment, both national and foreign in the interest of national economy and employment oriented programmes
4. To promote the worker's rights prescribed by the International Labour Organization and ratification and application of all ILO fundamental Conventions, in particular ILO Convention No.87 on Freedom of Association and Protection of the Right to Organize, 1948.
5. To ensure participation of women in the world of work proportionately and eliminate gender discrimination to support gender equality in the process of building new Nepal.

Declaration

6. To work towards the establishment of a nationally sound industrial relations system and the promotion of social dialogue at all levels.
7. To foster the adoption of a social protection policy for all through social justice.
8. To continue social dialogue with other legitimate unions for the achievement of the goals set out above.
9. To promote one union concept integrating all the trade unions those are part of the fully fledged democracy and peace in the nation.
10. To formulate and agree on “Common Agenda” based on fundamental principles and rights at work among all trade unions in the change political context of the country.

JTUCC in Nepal

- Joint Trade Union Coordination Centre is the common platform of Nepalese Trade Unions in Nepal.
- It adheres to the principle of unity in diversity.
- The ten recognized national trade union centres are affiliated to JTUCC.
- The realization of the necessity to mutual co-existence and strengthen the voice of the workers JTUCC was formed.
- The commitment to freedom, equality and social justice led to the implementation of unity in diversity.
- The Signing of Comprehensive peace accord and Lahan declaration were two major events that founded JTUCC in December 1,2007.

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- The objective was to identify the worker's genuine issues, develop policies, make coordination among trade unions and form a joint voices to address their issues.
- The First National Trade Union Conference that was held in October 26-27, 2008 formalized it and the code of conduct was adopted.
- JTUCC is the outcome of unity in trade union movement in Nepal.
- Despite differences in political ideology and political affiliation trade unions have come together as one for workers.

Objectives of JTUCC

- Preparing workers common minimum agenda and providing necessary suggestions to the Government for formulating labour policy
- Ensuring workers' representation in legislature-parliament along with other bodies of the state where employers are representing.
- Promoting cooperation among all trade unions and preparing appropriate ground for joint trade union movement for expanding trade unions access in policy making.
- Engaging in social dialogue with concerned parties of world of work by being actively engaged to build and develop fair labour relation, emphasize on dialogue and agreements to resolve problems and in addition conduct actions if needed.
- To end unfair labour practice and to promote rights and interest of the workers by establishing relations with national and international organizations and cooperating
- To uphold dignity of trade union movement and to promote interest of working class by carrying out activities based on set values and principles.

Roles of JTUCC

- Focus to form a free, dynamic, pluralistic and democratic Trade Union.
- Staying away from traditional practice of one-party union
- Working jointly with the political parties as partners on national issues.
- Include all trade unions , which agree with commonly adopted policies and programmes
- Support and raise voice for and against political parties on the basis of their merits and demerits
- Ensure individual rights to have ideological freedom and rights to choose a political party.
- Play a responsive role as a supreme body to form and implement policies and programmes

Labour Act 2017

- Right related to trade union is mentioned in Labour Act 2017. It states that;
 1. Every labour shall, subject to this Act and other laws, have a right to form and operate a trade union, acquire the membership of, or get affiliated with, such union or involve in other activities relating to trade union.
 2. While exercising the right relating to labour pursuant to this Act and other laws, the labour shall be dutiful and responsible towards the employer.

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- Collective agreement means an agreement entered in between the employer or employer's association and the trade union or collective bargaining committee on remuneration, conditions of service, benefits of the labours or matters of common concern to the employer and the labours.
- Chapter 19 of labour law focuses on settlement of collective disputes.
- The major role of trade union includes the settlement of collective disputes via diverse engagements.
- Collective bargaining signifies the means of cooperation.
- The act focuses on the settlement of issues via negotiation approaches and in certain circumstances settlement of dispute through arbitration.

Collective Bargaining

- It is done to establish sound industrial relations and cooperation.
- The collective bargaining practices in Nepal started only from 1947 A.D. when workers started to unionize themselves.
- The history mentions about the first strike than in the industrial scenario.
- Earlier, at that time no legal framework were developed to regulate labour and trade union.
- The collective bargaining practices were not within the legal frameworks.

Factory to Factory Workers Act came into existence in 1959 A.D.

- Later in 1992 the legal frameworks included collective bargaining and prioritized it as the push factor for sound industrial relationships.

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- There is a provision of formation of collective bargaining committee if there are 10 or more than 10 employees.
- In addition, the committee should be formed by an authorized trade union or by all trade union.
- The committee should be formed by an authorized trade union or by all trade unions in absence of an authorized trade union or by the signature of 60 (sixty) per cent workers in absence of any trade union.
- The collective bargaining agreement includes several issues relating to labor rights.
- The provision of establishment of labor court and its jurisdiction is defined.
- Furthermore, the dissatisfied party regarding the decision of labor court can appeal to Supreme court within 35 days from the date of announcement of such decision.
- Act also has emphasized on labor department, labor office and labor court.

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- The act has provision for the sectorial/Industrial/ Federation level collective bargaining
- The act has provision on collective bargaining at Trade Union Sectorial/Industrial Level
- The act also has provisions for collective bargaining at different level

The different structures and mechanisms for collective bargaining at different level.

- There is the existence of The Central Labor Advisory Council (CLAC)
- Nepal has Minimum Wage Fixation Committee
- There is also the existence of Labor Relation Committee

The Central Labor Advisory Council (CLAC)

-It is formed in the national level.

-It has representation of the three stakeholders ; government, employer and workers

-It is formed to provide advice to the government on the issues related to labour such as

labor policy, improvement in labor related laws, regarding implementation and ratifications of international labour conventions, recommending government on the conditions at work including occupational safety and health, recommend government for fail labour practices, focus on collective bargaining.

Minimum Wage Fixation Committee

- The minimum wage fixation committee is a tripartite permanent structure with the representation from government, trade unions and employers association.
- It recommends the wages for all sectors, enterprises.
- Basically, the specific minimum wage is determined.
- The Article 106 of the Labor Act 2017 clearly states that the minimum wage has to be revised every two years on the recommendation of the minimum wage fixation committee.
- In addition, if the minimum wage fixation committee cannot develop consensus and recommend minimum wages than the ministry can fix the minimum wages.

Labor Relation Committee

- The committee discusses on the work structure and productivity increment.
- It is established to solve the grievances through discussions with concerned parties.
- It focuses on the improving the work environment.
- Also has a special concern on the occupational health and safety. It functions as a occupational health and safety committee until the formation of committee at workplace.

Collective Bargaining related Conventions

1. Right to Organize and Collective Bargaining Convention, 1949 (NO.98)

- It addresses anti-union discrimination and collective bargaining between workers and employer organizations to regulate employment.
- The convention is among eight fundamental ILO conventions to protect labour rights. The Convention NO.98 ensures workers protection from discrimination for their membership or engagement in union related activities.
- This convention clearly focuses on the principles of collective bargaining between workers and employers organizations to regulate employment.

2. Collective Bargaining Convention, 1981 (NO.154)

This convention states that the bargaining can be done as per the country's law and practices. It clearly emphasizes that the collective bargaining can be based on the legitimacy and values based principles between the trade union associations and employers associations. Nepal has not ratified it.

Decent Work

“Only decent work for all- that is work carried out in conditions of freedom, equity, security and human dignity can provide the social foundations for the global economy. This is the concept of decent work”.

-Juan Somavia, former director general of International Labour Organization (ILO);

Decent Work

- The practice of decent work clearly is an indication to overcome the labor violations at any workplace.

- The strategic pillars of Decent Work includes;

Full and productive employment

Rights at work

Social Protection and

The promotion of Social Dialogue

- The ten ILO Framework Work indicators is interlinked to strategic pillars of Decent Work. They are ;

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1. Employment opportunities
2. Adequate earning and productive work
3. Decent working time
4. Combining work, family and personal life
5. Work that should be abolished
6. Stability and security of work
7. Equal opportunity and treatment in employment
8. Safe work environment
9. Social security
10. Social dialogue, employer's and worker's representation

Social Dialogue

- Social dialogue includes all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy.
- It exists in both tripartite and bipartite forms.
- Tripartite includes; trade unions, employer's organization and government
- Bipartite includes trade unions and employer's organization
- Common forms of social dialogue are collective bargaining at company, industry, enterprises levels. ,workplace cooperation and tripartite consultation process
- Social dialogue varies according to contexts.
- It is an effective instrument to ensure labour justice

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