

REPORT ON
SIXTH SOCIALLY RESPONSIBLE
BUSINESS DEVELOPMENT
NETWORK

September 9, 2005

Socially Responsible Business Development Network

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ACKNOWLEDGEMENT

On behalf of ActionAid Nepal and Lotus Opportunities we would like to thank the presenters namely Mr. Tulasi Bhatta, Lawyer, Unity Law Firm, Mr. Umesh Upadhya, Deputy Secretary General, GEFONT and Mr. Pankaj Raj Shrestha, Deputy General Manager, Butwal Power Company Ltd. for their informative presentation on ethical labour proactive. We would also like to thank Mr. Laxman Kumar Upadhya for moderating the forum.

Our thanks goes to all the participants who attended the fourth forum on Socially Responsible Business Development Network, who took time to participate, discuss and share their views, ideas and made this program a success.

EXECUTIVE SUMMARY

The Sixth SRBDN forum took place at Hotel Greenwich Village on September 9, 2005. The theme of sixth forum was “**Ethical Labour Practices and CSR**”.

Mr. Tulasi Bhatta, Lawyer from Unity Law Firm delivered an overview of Labour Act in Nepal. Mr. Umesh Upadhyaya, Deputy Secretary General, GEFONT shared the perspective of trade union in ethical labour practice and CSR and Mr. Pankaj Raj Shrestha, Deputy General Manager, Butwal Power Company Ltd. also shared the value of human resource in the company and their success story. Butwal Power Company is a model company in Nepal, who has been successfully complying Labour Act.

In a nutshell, this forum addressed the necessity of practicing ethical business, implications of labour act and CSR. It encourages and boosts entrepreneurs to value their human resource for organizational benefit. It was acknowledged that the organizations should implement CSR rather than just talking about it.

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ACRONYMS

AAN	ActionAid Nepal
BPC	Butwal Power Company
CSR	Corporate Social Responsibility
ELP	Ethical Labour Practice
ILO	International Labour Organization
INGO	International Non Government Organization
GEFONT	General Federation of Nepalese Trade Unions
LO	Lotus Opportunities
NGO	Non Government Organization
SME	Small Medium Enterprise
SRBDN	Socially Responsible Business Development Network

1. RATIONALE BEHIND THE MEETING

Corporate Social Responsibility (CSR) is part of an international drive towards transparency and accountability of business activities and a way of monitoring how business perform against environmental, ethical and social. A platform to share information, knowledge and experience on CSR was felt. The rationale behind the meeting was to have a well functioning knowledge and information-sharing network on CSR.

Objective of SRBDN

- Facilitate sharing information, experiences and ideas on Corporate Social Responsibility in Nepal.
- Facilitate identification of common interests and development of joint efforts and create synergy among facilitators, providers and donors.
- Awareness raising
- Cooperation between large organization and SME.
- Integrating CSR in education

2. OBJECTIVE OF THE SIXTH FORUM

The objective of the sixth forum on SRBDN was

- To create awareness on the labour acts in Nepal
- To know the Trade Union as well as a Private companies perspective on the labour acts
- To share the best practice experience of a private company on labour acts in Nepal

3. PROCEEDINGS OF THE PROGRAM

3.1 Programme Overview

The sixth Socially Responsible Business Development Network was taken place at Hotel Greenwich Village, Kupondol heights on September 9, 2005. The theme for the forum was **“Ethical Labour Practices and CSR”**.

Ms. Reema Shrestha Coordinator of the forum welcomed the entire guest and commenced the forum with self-introduction round. The forum was handover to the Moderator Mr. Laxman K. Upadhyya, KUSOM. He thanked the organizers for an opportunity to moderate the forum.

3.2 Labour Laws of Nepal

Mr. Tulasi Bhatta, lawyer, Unity Law Firm was the first presenter of the forum. His presentation mainly focused on the labour laws of Nepal concerning their rights, welfare, facilities and security. Generally there are nine Acts that are directly related to labour laws. According to the Labour Laws of Nepal, it implies in organizations where more than 10 staffs are working but it applies in government office even if only 2 staffs are working. But in case of Nepal only few industries/organizations has complied the labour law. It has also mentioned that in a private organization, advertising before hiring staff is necessary, a staff should be permanent after one year of joining office, a foreign staff can only hired if capable Nepali candidate is not available etc. Due to diminishing market of tourism firing of staff has increased in tourism sector but very few organizations have followed the labour law. The retirement law complies if a person becomes 55 years old. Working hours should be 8 hrs per day and minimum of 30 minutes break should be provided for lunch. If a staff works for overtime, he/she should get overtime salary as per the company rules. From BS 2060/5/1 a revised minimum remuneration was fixed. There are other rules and regulations of Labour Law concerning Behavior & Punishment, labour dispute etc. given in the handout (Annex No 5.3).

Mr. Bhatta also mentioned that there are proposed amendments on issues like hire and fire, change in structure of court etc. now, they are available in market.

Issues:

- Is ILO conventions compatible / relevant in the Nepalese context
- How do we determine and demarcated between the skill categories of labor.

Regarding the query on ILO compatible law in Nepal, Mr. Bhatta replied that there is no such law compatible with ILO conventions in Nepal. Trade unions and enterprises are also not compatible with ILO conventions.

Moderator Mr. Upadhyya added that it is the job of policy makers to facilitate us with the proper law to balance our interest.

3.3. Trade Union Perspective

Mr. Umesh Upadhyya, Deputy Secretary General, GEFONT was the next speaker of the forum. He presented the Trade Union perspective on ethical labour practices. He presented the unfair labour practice, exploitative labour practices and CSR practices. Unfair labour practices and exploitative labour practices are practically there in our lives. People are suffering from unfair labour practices like Harassments - Gender based/sexual, anti-union, general, sadist/inhumane, non payments and discrimination. Trade unions raise the voice against these issues. In other hand, ethical labour practices are also there which trade unions have been supporting. In regards to the Corporate Social Responsibility trade unions have been positive towards it. There are various kinds of gaps in implementation Ethical Labour Practice (ELP) and CSR in Nepal. Monitoring system is weak so labour could not take an opportunity to use the benefit of ELP and CSR. Union should be strong to provide the right of labour. Minimum wage should be maintained in the industry.

3.4. Butwal Power Company and their Labour Practices by

Mr. Pankaj Raj Shrestha, Deputy General Manager, Butwal Power Company was the last speaker of the forum. He shared the best practice of labour acts in Butwal Power Company. The company is known as a model company of Nepal due to its shares structure (multiple share holders). It is privatized in year 2003, then it was suggested to reduce the number of human

resources but they have utilized their human resources in a proper way and now they are generating 56 MW from the existing resources of 306. Employee unions of the company are also registered in HMG. It is registered in ISO 9001:2000 and Mr. Shrestha was proud to inform that they are able to meet all the law of labour act and they have very few staff turnover. The company also has Human resource division, which works only HR related issues. Training need assessment was also done to provide proper training to their staff. They are practicing CSR through social upliftment works like conducting river training to local people, local user group are utilized in rural electrification, opening Jhimruk Industrial Development Center with UMN and so on. They are emphasizing educational sector for local people at the moment. They also have practice of doing Internal Audit by each staff to their subordinates.

Discussion:

Participants queried if BPC's personnel manual has followed Labour Act of government. Mr. Shrestha replied that the personnel manual was made before privatizing BPC and the manual was carried out even after. It was also commented that it is very difficult to fulfill all the requirements of the labour law and at the same time earning profit. Mr. Shrestha added that they have highly emphasized on human resource than other materials and it has taken care of rest of M i.e. money, materials, machine and method. Participants also interested to know how they manage problems that come to BPC. BPC conducts monthly meeting of employees and union and whoever comes with problem they also have positive suggestions too, so the problem is solved at the right time. It was also asked that how do they measure staff satisfaction. Mr. Shrestha said that they assume staff satisfaction through job turnover ratio.

Major Kuber Bdr. Shrestha, a participant from a civil society emphasized on CSR implementation by organizations rather than just talking about it e.g. Himalayan Bank spends around 1 crore merely in advertisement and Mr. Shrestha commented that they should at least spend 1% of their profit in community development. If you help local people you will get local support and good relation with community.

To his point, **Moderator Mr. Upadhya** concluded by saying that "Justice is the first version of social organization". Everyone should understand their role and responsibilities towards

community. One should be objectively analyzing problem to solve it. We should be able to judge the social values and contribute possible things from our level. Shareholders of the company also pay a vital role in implementation of CSR in their respective companies.

4. CONCLUSION

CSR can be defined as achieving commercial success while valuing people, communities, and the natural environment. There are many different ways companies can put CSR initiatives into practice. Companies can adopt corporate or sectoral codes of conduct. Codes of conduct typically contain guidelines on workplace issues including child labor, forced labor, wages, benefits, working hours, disciplinary practices, freedom of association, and health and safety.

There are many different ways companies can put CSR initiatives into practice. Ethical labor practice is one of the ways of responsible business.

5. ANNEXURE

5.1 Tentative Program Schedule

Date: 9th September, 2005
Venue: Hotel Greenwich
Kupondole Height, Lalitpur, Phone No. 5521780
Theme: “Ethical Labour Practices and CSR”

2:45 - 3:00	Registration
3:00 - 3:10	Welcome by Ms. Reema Shrestha, SRBDN Coordinator
3:10 - 3:25	Labour Laws of Nepal By Mr. Tulasi Bhatta, Lawyer, Unity Law Firm
3:25 - 3:45	Discussion Round
3:45 - 4:00	Trade Union Perspective By Mr. Umesh Upadhyaya, Deputy Secretary General, GEFONT
4:00 - 4:20	Discussion Round
4:20 - 4:35	Butwal Power Company and their Labour Practices Mr. Pankaj Raj Shrestha, Deputy General Manager Butwal Power Company Ltd.
4:35 - 4:55	Discussion Round
4:55 - 5:00	Moderator’s Wrap up by Mr. Laxman Kumar Upadhyaya
5:00 pm onwards	Networking / Tea Coffee

5.2 List of Participants

I	First Name	Designation	Organization
1	Mr. Ram Dayal Yadav	Senior Program Officer	ActionAid Nepal
2	Mr. Tanuj Pradhan		Agrani Aluminium Pvt. Ltd.
3	Mr. Ashok Pokhrel		Agrani Aluminium Pvt. Ltd.
4	Mr. Sanjeev Pandey		Bounty Himalaya
5	Mr. Pankaj Shrestha	DGM	Butwal Power Company
22	Major Kuber B Shrestha		Civil Society
6	Mr. Ghana Raj Pant	Asst. Director	Cottage & Small Industries Development Board
21	Ms. Mallika Shrestha		Craft Palace
7	Mr. Umesh Upadhyia	Gefont	Deputy Secretary General
27	Ms. Shobhana G Pradhan	Program Officer	F Skill
33	Mr. Bhusan Das Shrestha	Business Development Strategic Advisor	Gandaki Bee Concern
23	Mr. Shambhu Tamrakar	Executive Member	HAN
8	Ms. Jenny Shrestha	Acting Programme Director	Hoste Hainse
9	Ms. Jeegchuan Lama		Hyatt Regency, Ktm
30	Mr. Ram Sharan Pokharel	Student	Ktm School of Law
10	Mr. Mangal Man Bajracharya	Proprietor	Kushal Trade Links
24	Mr. Binod K Shrestha	Professor	KUSOM
32	Mr. Laxman Kumar Upadhyia	Professor	KUSOM
11	Mr. Binod Joshi		Lotus Bizport
12	Mr. Rishi Shah	Director	Lotus Holdings
31	Mr. Poshan KC	Executive Director	Lotus Intellect
25	Ms. Dominique Morel		Lotus Opportunities
13	Mr. Dilli Joshi	Free Lancer	RONAST
14	Mr. Laxmi Pd. Maharjan	Owner	Shree Satya Itta Udhyog
26	Ms. Shalini Tripatti	Director	Tips Winner
15	Mr. Hemraj Bhandari	MA	TriChandra College
16	Mr. Tulasi Bhatta	Lawyer	Unity Law Firm
17	Ms. Usha Maskay Manandhar	Programme Sociologist	VSBK Programme / Nepal
18	Ms. Tamanna Hamal	General Manager	Wean Cooperative
19	Mr. Sukhadev Angani	Individual	
20	Ms. Bina Pradhan	Free Lancer	
28	Mr. Barun	Student	
29	Ms. Shizu Upadhaya	Free Lancer	

5.3 Presentation

Labor Law in Nepal by Mr. Tulasi Bhatta

सामान्यतः श्रमसंग सम्बन्धित ऐन कानूनहरु निम्न लिखित रहेका छन :

१. कर्मैया श्रम (निषेध गर्ने) सम्बन्धी ऐन, २०५८
Bondage Labour (Prohibition) Act, 2002
२. ट्रेड युनियन ऐन, २०४९
Trade Union Act, 1992
३. ट्रेड युनियन नियमावली, २०५०
Trade Union Rules, 1993
४. बालश्रम (निषेध र नियमित गर्ने) ऐन, २९५६
Child Labour (Prohibition and Regulation) Act, 2000
५. बोनस ऐन, २०३०
Bonus Act, 1974
६. बोनस नियमावली, २०३९
Bonus Rules, 1982
७. श्रम ऐन, २०४८
Labour Act, 1991
८. श्रम नियमावली, २०५०
Labour Rules, 1993
९. श्रम अदालत (कार्यविधि) नियमावली, २०५२
Labour Court (Procedures) Rules, 1996

श्रम ऐन

श्रमलाई सम्पत्तीको श्रोतको रूपमा हेरिन्छ
Labour is source of wealth

उद्देश्य

कामदार तथा कर्मचारीको हक, हित, सुविधा र सुरक्षाको व्यवस्था गर्न,
श्रम सम्बन्धमा समयोचित व्यवस्था गर्न

कहा लागू हुन्छ

कानून बमोजिम स्थापित उद्योग, व्यवसाय, सेवा संचालन गर्ने संघ/सस्था/फर्म/कम्पनी, जहाँ १० जना भन्दा बढी कामदार कर्मचारी कार्यरत छन् ।

तर श्री ५ को सरकारद्वारा स्थापित औद्योगिक क्षेत्रमा अवस्थित कम्पनीको हकमा १० जना भन्दा कम कामदार कर्मचारी कार्यरत रहेतापनि श्रम ऐन लागू हुन्छ ।

पदको बर्गीकरण र रजिगटड

कामदार र कर्मचारीको छुट्टा छुट्टै रजिष्टर्ड खडा गर्नु पर्दछ ।
कामदारलाई निम्न चार वर्गमा वर्गीकरण गर्नु पर्दछ ।

- क) उच्च दक्ष
- ख) दक्ष
- ग) अर्ध दक्ष
- घ) अदक्ष

नियुक्ति

विज्ञापन गरी छनौट गर्नु पर्दछ ।

१ वर्ष अविछिन्न सेवा (२४० दिन) गरेपछि स्थायी गर्नु पर्दछ ।

विदेशीलाई काममा लगाउन नपाईने

तर दक्ष नेपाली नागरीक उपलब्ध नभएमा स्विकृती लिई विदेशीलाई काममा लगाउन पाईन्छ ।

केटाकेटीलाई काममा लगाउन प्रतिबन्ध

नावालिंग र महिलालाई काममा लगाउदा सामानयतः विहान ६ बजेदेसि वेलुका ६ बजे सम्ममात्र काममा लगाउन पाईन्छ ।

करार

उत्पादन वा सेवामा बृद्धि गर्नु परेमा निश्चित काम र निश्चित समयकोलागि करारमा काममा लगाउन पाईन्छ

तर स्थायी प्रकृतिको काममा करारमा काममा लगाउन पाईदैन ।

स्वामित्व परिवर्तनबाट कामदार कर्मचारीको हकहितमा कुनैपनि असर पुऱ्याउदैन

कटौती

३ महिना भन्दा बढि उत्पादन/सेवा कटौति गर्नु परेमा
प्रतिष्ठानको आंशिक वा पुरा भाग बन्द भएमा
विषेश परिस्थितिमा (मेशिनरी विग्रिएमा वा क्षेति भएमा, इन्धनको अभाव, दैविप्रकोप परेमा, कच्चा
पर्दार्थको आभाव, स्टक बढेमा)

कटौतीको क्रम

पछि नियुक्ति हुनेको क्रमानुसार

१ महिनाको सूचना दिनु पर्ने

क्षेतिपूर्ति

प्रत्यक १ वर्षको लागि प्रति वर्ष १ महिनाको पारिश्रमिक बराबरको रकम दिनु पर्ने

अनिवार्य अवकास

५५ वर्ष

काम गर्ने समय

दैनिक ८ घण्टा

साप्ताहिक ४८ घण्टा

हप्ताको १ दिन साप्ताहिक विदा र दैनिक आधा घण्टा खाजा र आरामको सुविधा दिनु पर्छ ।

बढि काम गरे गराएमा डेडि तलव सहितको थप सुविधा दिनु पर्दछ ।

हाल कायम न्यूनतम पारिश्रमिक (२०६०।५।१ देखि)

क) उच्च दक्ष	२०५०।- + ८६०।-
ख) दक्ष	१८६०।- + ८६०।-
ग) अर्ध दक्ष	१७५०।- + ८६०।-
घ) अदक्ष	१७००।- + ८६०।-
ड) नावालिंग	१३८४।- + ६४५।-

स्वास्थ्य र सुरक्षाको व्यवस्था मिलाउनु पर्ने

कल्याणकारी व्यवस्था

कल्याणकारी कोष

क्षेतिपूर्ति

उपदान, संचयकोष, औषधि उपचार

विदा

वासस्थान (कूल मुनाफाको कम्तिमा ५ प्रतिशत)

विश्राम कोठा (५० जना भन्दा बढी कामदार भएमा)

चमेना गृह (५० जना भन्दा बढी कामदार भएमा)

विशोष प्रतिष्ठान (अतिरिक्त व्यवस्था)

चिया वगान

निर्माण व्यवशाय

यातायात व्यवशाय

पर्यटन व्यवशाय (महिलालाई राती पनि काममा लगाउन सकिने)

आचरण र सजाय

सजाय

नसिहत

बार्षिक तलव बृद्धि रोकका

निलम्बन

सेवाबाट हटाउने

कार्यविधि

७ दिनको स्पष्टिकरण

२ महिना भित्र

पुनरावेदन

श्री ५ को सरकार वा श्रम विभागले शुरु कारबाही गरेको उपर पुनरावेदन अदालतमा

श्रम अदालतले शुरु कारबाही गरेको उपर पुनरावेदन अदालतमा

व्यवस्थापक, कार्यालयले शुरु कारबाही गरेको उपर श्रम अदालतमा

श्रम विवाद

व्यक्तिगत दावी

सामूहिक विवाद (दावी)

हडताल र तालाबन्दी

सूचना दिनु पर्ने

हस्तक्षेप

श्री ५ को सरकार

विनियम

श्रम कार्यलयमा पठाउनु पर्ने

प्रचलित कानून बमोजिम हुने

प्रस्तावित संशोधन

हायर एण्ड फायर

सामूहिक सौद्धावाजिमा सरकारी हस्तक्षेप

करार श्रम प्रथाको प्रवेश

विदा तोक्न सक्ने

अदालतको अधिकार क्षेत्रमा केहि कटौती

अदालतको संरचनामा परिवर्तन (तीन सदस्यिय)