

Some facts and figures of racial discrimination in Hong Kong (Promulgation of Nepalese Community)

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By FEONA.**

In behalf of Far East Overseas Nepalese Association (FEONA) I would like to greet and thank the Home Affairs Bureau for this opportunity. We believe this discussion will help to consolidate the view of the minority community in Hong Kong. There was a need for a venue to discuss when the minority communities in Hong Kong have been continuously attacked, particularly the Nepalese since the mid of 1998.

The Nepalese community, tenth largest ethnic group in Hong Kong is the combination of Hong Kong permanent residents and hired work force. This big community in Hong Kong observes that the HKSAR has tolerated or even legitimized the systematic attack on the rights of the minorities by law, by the government agencies or by the employers.

The Nepalese has served Hong Kong for more than fifty years as British Gurkha soldiers. The British Nationality Act 1948 has secured the right of British Nationality Overseas (BNO) for the children of those soldiers born in the land of its colony. The British - China joint declaration of 1984 has clearly defined the right of abode for children of Gurkhas who were born in Hong Kong before 1983. The Annex 14 of the joint declaration has stated that "any other persons, who had the right of abode only in Hong Kong before the establishment of the Hong Kong Special Administrative Region" which has followed in the Basic Law of HKSAR. Both the Joint declaration and Basic Law have protected the right of abode of those children of Gurkhas who were born in Hong Kong.

Whatever, the joint declaration and basic law stated the Nepalese community in Hong Kong could not fully benefit from the right of abode due to the citizenship act of the Peoples Republic of China which has a controversy with the Basic Law. After the hand over of Hong Kong to China the Chinese Nationalities automatically got the right to hold Chinese Citizenship and HKSAR passport. However, the other small ethnic groups like Nepalese are restricted. The BNO passport of Nepalese only serves as a travel document and can be used only for one generation. In this case, what will be the future of the next generation? Although, they have the right to obtain the British Overseas Citizenship, it makes them a stateless citizen. Thus, the silence of the Basic Law on this important issue can not discard the origination of thousands of stateless people in the future.

Visitors from most countries can enter Hong Kong without a visa for periods varying from seven days to six months, depending on their nationalities. However, Nepal is the first country to ask the HKSAR for a free visa access to Hong Kong. Later, they limit the period of stay for other South Asians.

The immigration department officially claimed that they changed the policy to limit the population growth and to control the entry of foreign workers. However, when they spoke to the media about the policy changes, according to them, they change the policy because of the recorded 50 cases of forged documents and fictitious claims done by Nepalese. We believe that such pronouncements are basically racist and discriminatory to the Nepalese people living in Hong Kong to our families, relatives and friends.

Hong Kong is the only place the visitors have to wait more than one and half months to obtain two weeks visa to Hong Kong. While his/ her sponsor has to encounter unnecessary questions and document requests from the visa officer in the Hong Kong immigration department. The bank statement to prove his/her

financial ability to accompany and guarantee of his/ her return back to Nepal is useless to the immigration department useless submitting the monthly pay slip and job letter.

Several applications of permanent residency and dependent status are pending for more than one year. Spouses must submit the job letter and monthly pay slip with enough bank balance to sponsor the applicant. But the majority of Nepalese working in construction as daily wage laborers could not submit their job letter and monthly pay.

The new amendment on the labor policy of January 1999 restricted the dependants to work in Hong Kong unless they have the work permit from the labor department. So, the options are either separate husband and wife or die. Recently several applications for the dependent visa of a Nepalese were rejected when they honestly told they will find a job after the approval of their visa. The judge in the court has pronounced the unlawful statement asking the government to deport all Nepalese back to Nepal and stop the visitors from that country. In such a situation how can we expect just from the court.

This policy clearly violates the right of family stated by the basic law in article 37 “the freedom of marriage and right to raise a family”.

The two weeks rule applied to the foreign domestic helpers is unjust and discriminatory. Cases usually takes about a month up to one year and imagine the situations without jobs, shelter and food. This policy can never justify its discriminatory implications.

Not only Nepalese domestic helpers but all foreign domestic helpers in Hong Kong experienced inhuman treatment from employers. Most of the Nepalese domestic helpers are paid less than HK\$2,500.00 while the minimum salary after 5% cut in February 1999 is \$3670.00. Unreasonable and unjust termination, underpayment , sexual and physical abuses are tremendous sacrifices that foreign domestic helpers have to bear. The recruitment agencies and employers forced to the DH to sign in 48 sheets of blank receipts before start to work.

The unemployment rate of Nepalese in Hong Kong is estimated about 22%. The earning is drastically reduced. The Nepalese can not be admitted in the training class conducted by the Labor Department because they are non Chinese and non of the them who are seeking the job through Labor Department are called backed.

In most cases the Nepalese are paid low wages, the contract is on the basis of daily wages and of course are confined by the bonus, insurance and other facilities whereas Chinese are benefited while both of them are working in the same company and same status.

Another problem is the education of Children. First, it is very hard to enroll in the English and subsidized school which forced them to enroll in the private school which has a low quality and expensive. Second, the choice of languages. Both the first and second languages are not their mother language it means they will not secure good mark. Third, the problem of conversion. The children who just arrive from Nepal can not communicate well which will deprive their mentality. Forth, the discrimination on distribution of resources.

The evidences have proven that the attitude of the Hong Kong Immigration Department and customs office towards the Nepalese community at the port of first arrival are discriminatory and racist.

The data of the security bureau of the Hong Kong tourist association mentioned that 1,565 Nepalese out of total 8,785 and 378 Nepalese out of total 460 were forced to submit the personnel search “body search and urine test” during the last 12 months, February 1998 to January 1999. These are big in terms of numbers and percentage (11.3% of total Nepalese travelers) compared with other nationalities.

Authorities admitted that at that period of one year only 3 passengers were found to be in possession of narcotics and none of them were Nepali. So, why do they single out the Nepali? Well, the customs officers

tried to justify it by giving the unjust and false arguments that Nepal is known as a drug source for smuggled cannabis. This is not true. The sad truth is that they claim with prejudice that only Nepalese are involved in drug trafficking even though they have found no evidence among the Nepali passengers.

Well, the security bureau said they have new arrangement at the airport now. What is new? They posted information leaflets about body search and urine test. Can it stop or even reduce discrimination? It seems not. The law and acts are more than that if only the officers will change their vision, attitude and behaviour and treat equally to all nationalities. Remember, the Basic law itself has prohibited the unlawful body search.

The Nepalese has been harassed in their social lives in Hong Kong. No reason is need to be arrested by the police from the street or shopping center or mansion. They are badly treated when reporting some case in police station. Several cases of unreasonable body search will find in the street everyday.

It can easily observed the price difference for Chinese speaking people and others in the market. Several clubs and pubs prohibited the entrance or membership of other nationalities.

With the greed of optimum exploitation of foreign labor the Labor Department excited to propose amendments on the issue of maternity protection that would affect only foreign domestic helpers. This proposal is discriminatory and calculative to divide the local and foreign workers as well as, it will give more power to the employers.

Who will stand to protect the right of the foreign domestic helpers if the law maker themselves purpose discriminatory proposal. Such as the proposal of 20% tax for the FDH was came out from a law maker. The proposal is racist and against the UN declaration of Human Right.

The amendment of ban on driving duties also could not justify the just ground.

Similarly, the employers association is proposing the nationality based wage system. So those who are from rich countries will be paid more and those from the poor countries will be paid less.

It is clear to us that we, Nepali people who are here in Hong Kong must continue to uphold and defend our Rights and dignity as human being and as migrant workers.