

# Alternatively Thinking on Labour Market Flexibility

*Prof. Dinesh P. Chapagain  
Dean, School of Engineering  
Kathmandu University*

The inclusion of “*Hiring and Firing*” provision in labour laws of Nepal is most debated issue in the employment environment these days. Especially, the employers and the employers’ association, the Federation of Nepalese Chambers of Commerce and Industry (FNCCI) which is the apex body of all business communities in the country is propagating this issue very strongly among the policy makers. With the globalization and economic liberalization policies already in action within the business environment in the country, the life long employment policy can not create the competitive environment even for survival. The voice is that if employers need employees they will hire as per the market situation and should be given the right to fire whenever they cannot feed them. If the market declines the employers should have a right to payoff. In the global competitive business environment, the market is very much flexible, so keeping employees should also be flexible.

On the other hand, the responsibility of the Government lies in creating a decent employment opportunities to all population and fulfil its social obligation. For this reason, the Government of Nepal has enacted legal instruments called the Labour Act, 1991 and the Trade Unions Act, 1992 which protect the employees from undue harassment from the employers and create decent work environment to employees. There are mainly four dimensions of decent work<sup>1</sup>. First is creation of jobs and employment, second one is not making discrimination in work by caste, colour, gender, etc., third is providing freedom of association to employees, and the fourth one is making conducive environment for regular social dialogue among the government, employers and employees.

The country’s economic growth is in negative trend, recently. It was never better to absorb all labour force (skilled as well as unskilled) entering every year in the market. This definitely has a direct impact on the employment situation. Every year nearly 300,000 new Nepalese labour forces are entering in search of jobs in the labour market. The employees and the associations of employees, the trade unions are very much worrying on this concern. The regulatory mechanism alone cannot generate more opportunities for employment. The economy should grow. The version of the trade unions in this regard is how the employers can talk about the inclusion of hiring and firing provision in the labour legislation, when there is an acute shortage of job.

The debate is going on among both business players-employers and employees, whether the provision of hiring and firing in the labour laws will create more economic opportunities and more employment opportunities in the liberalized economic environment or it will create more problems to the exiting labour force and newly arriving labour force to have a decent work environment. In many forums it is being discussed. Looking at the

---

<sup>1</sup> For detail refer to “*The Decent Work Agenda*” as advocated by the International Labour Office (ILO), Geneva in its website <http://www.ilo.org> . Also visit <http://www.labournepal.org> and enter into the research paper “*Role of the Ministry of Labour for Decent Work Agenda*” prepared by BISCONS where more elaboration on subject is made related to Nepal. This is a seminar paper prepared by the author for National Symposium, December 2001.

international experience<sup>2</sup>, it shows that there is no direct correlation between the provision of hiring and firing in the country's labour laws to the employment economic growth of that country. The state or the government is not yet sure what should be the right approach to address this issue of developing economic growth of the country as well as creating a decent work environment. From the business point of view, human resources management plays a vital role in addressing this issue rather than regulating through the laws<sup>3</sup>. To make a win-win strategy, a compromising situation should be developed incorporating human resources management principles rather than attacking only with legal provisions of the government.

An alternative thinking is necessary to address this issue. To promulgate policy and legislations is responsibility of the government. However, the business managers or the employers have to be clear on this issue and do advocacy to government for the benefit of both employers and employees. This is a strategic study for the government, but everyone of us has to start thinking.

Igniting the working mass with the phrase like "Hire & Fire" in the labour market arena is certainly a vulnerable proposition in a country like Nepal where creating employment and social security to the people is considered as one of the most arduous task of the Government. Practically, and literally too, "Hire & Fire" cannot be translated to "Labour Market Flexibility". Labour market flexibility is an employment (cross cutting of economic and social component) environment or situation, where as hire and fire is a strategy opined by employers which will be suitable to operate comfortably in the state of products/service demand flexibility in the business environment.

Observed within the ring are two players- employers and employees having their own strategy to bout for their survival and growth. Employers try to use the *mantra* of "Hiring and Firing (H&F)" and employees try to use their weapon of "Joining & Leaving (J&L)" as per their respective interests. "Hiring and Firing" is "Flexibility of Labour" and "Joining and Leaving" is "flexibility for Labour". These two strategies of H&F and J&L are opted by two social partners in extreme situation of employment environment. Thus, it is important to understand different employment environment situation in the country before we debate on labour market flexibility and introduce measures in the policy and legal instruments for the social as well as well economic wellbeing of the countrymen.

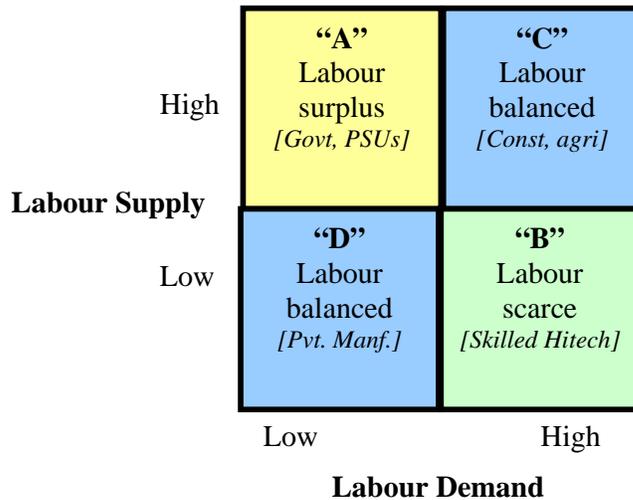
The employment environment of an economic sector depends mainly on the conditions of supply and demand of labour of that particular sector. The following matrix (Fig. 1) shows four quadrants with the mix of low and high labour supply and demand conditions. These four quadrants represent four employment environment positioning of economic sector, namely Position A: Labour Surplus position (high supply and low demand), Position B: Labour Scarce position (low supply and low demand), Position C: Labour Balanced Position (high supply and high demand) and Position D: Labour Balanced position (low supply and low demand). These entire employment environment positioning depends on the growth of the particular economic sector and changes with time. The labour policy should adopt the strategy depending on that particular positioning and so should be different for different positioning.

---

<sup>2</sup> Refer to the ILO publication "*Termination of Employment*", 2000 for detail listing of the employment termination provision in laws of all member states of ILO.

<sup>3</sup> Refer a working paper "*Recruitment and Termination of Employment: A Management Perspective*" presented by the author in a seminar "*Hiring and Firing*" jointly organized by the Nepal Employment Council (NEC) and the Nepal Bar Association, 2001. This is published in "*Nyayadoot*" published by NBA as well as can be visited in the official webpage of NEC- <http://www.rojgar.org/>

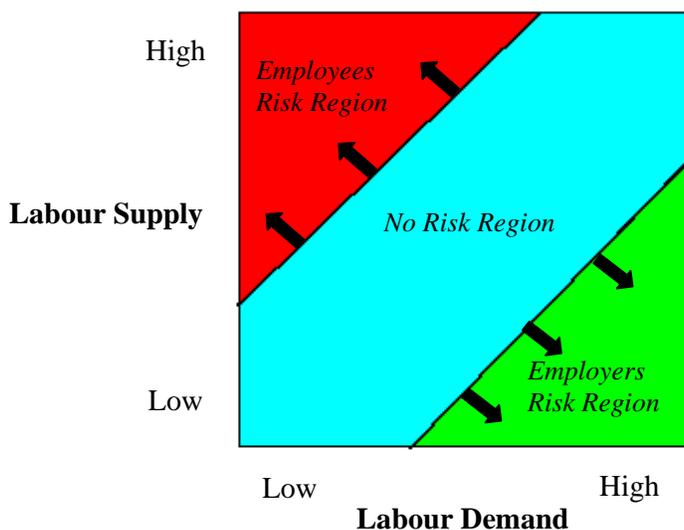
**Fig. 1: Employment Environment Positioning**



In Nepal, crudely we can interpret with limited informational background that Labour surplus position “A” is generally found in government offices and public limited companies situated in urban centres. Labour scarce position “B” is observed in skilled high tech industries and institutions. Labour balanced position “C” is found in construction and agriculture and position “D” in private sector manufacturing industries.

After identifying the positioning of different economic sector in particular time frame, we can clearly understand the arguments placed and practices done by employers and employees. If the employment environment positioning is A: Labour surplus then employers will ask for H&F policy and employees will oppose it. It is an employers market or can be said as employee’s risk. On the other hand, if the employment environment positioning is B: Labour scarce then employees will ask for J&L policy and employers will oppose it. It is an employees market or can be said as employer’s risk. Both situations may prevail at one time in any country for different economic sector. Thus, in my opinion, a differential strategic policy should be adopted depending on the employment environment positioning, so that minimum risk will be observed by both social partners. Figure 2 depicts exactly how the strategic policy and legal instruments should be differentiated for different employment environment positioning.

**Fig. 2: Empl. Environment and Strategic Policy**



The purpose of strategic policy of the government should be to enlarge the No-risk region so that the region of risk of employer’s as well as employees will be minimum. The employment environment of market flexibility and the strategy of H&F and L&J will work smoothly only to the economic sector which falls within no risk region or there is almost equal risk to both social partners-employers and employees. There should be different strategic policy and legal instruments for the sector which falls in employees risk region, employers risk region and no-risk region.

The Government's human resources development policy and labour policy should, therefore, address the proper strategies for different economic sectors depending on which employment environment region these sectors are operating with a purpose of enlarging the No-risk region and diminish the employers as well as employees risk region. This will establish a framework for incorporating the incoming market economy in the country, flexibility as well as the protection of labour rights.