



Understanding Human Trafficking Risk Factors in Nepal's Foreign Employment Sector

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I was told I would make more money abroad and the job would also be nice. Later, I realized that we were sold for about 1.5 to 1.6 million rupees by agents. We are very gullible and believe whatever is told by the agent in Nepal.

—Domestic Worker

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CONTEXT

This policy brief explores: 1) prevalence of trafficking in persons (TIP) indicators among Nepali workers while participating in international labor migration, and 2) factors that place migrant workers at the risk of trafficking.¹ These are important factors given that hundreds of thousands of Nepali workers participate in foreign employment every year and existing studies/media reports point to a nexus between foreign labor migration and TIP in Nepal.

A host of social, cultural, economic, and political factors compel individuals to migrate under conditions that increase their chances of being trafficked.² As noted by the Special Rapporteur on Violence Against Women, Its Causes and Consequences, after her visit to Nepal in 2019, persons facing

¹ In this study, the terms trafficking, human trafficking, trafficking in persons, and trafficking of human beings refer to the same action, and the terms are interchangeably used in this paper as these terminologies refer to the same phenomenon in different legal instruments that guide this study.

² Maiti Nepal, Kathmandu 2018 Annual Report. <https://maitinepal.org/wp-content/uploads/2019/06/MN-Annual-Report-2018.pdf>.

economic difficulties and wishing to seek alternative work abroad face heightened risks of trafficking.³ As such, Nepalis migrating for foreign employment are subjected to human and labor rights violations at various stages of the migration process. Traffickers use the promise of overseas employment as bait to lure hopeful migrant workers and transport them to countries where they end up being subjected to debt bondage and forced labor.⁴ Migrant workers are often given false contracts and face fraud and deception as recruitment agencies and brokers misrepresent the terms and conditions of prospective jobs in destination countries.⁵ Upon reaching the countries of destination, they are often subjected to various forms of human and labor rights violations—such as squalid and congested living conditions, overwork/long working hours, lack of rest, physical and psychological abuse, and lack of safety and protection when working under hazardous conditions, among others.⁶ In many cases, migrant workers are forced to continue working under exploitative conditions; refusal leaves them with no means of repaying their loans or supporting their families back home, so they are frequently obligated to stay.⁷

METHODOLOGY

This brief is primarily based on the analysis of data from interviews with 31 Nepali migrant workers who returned home after employment in Gulf Cooperation Council (GCC) countries and Malaysia. The study is also informed by data from 15 interviews with individuals and organizations working in the sector of labor migration and anti-trafficking initiatives in Nepal. The experiences of migrant workers were analyzed using International Labor Organization (ILO) Operational Indicators of Trafficking in Human Beings,⁸ which is consistent with the Palermo Protocol.⁹

MAJOR FINDINGS

Indicators of human trafficking for labor exploitation

The study finds multiple indicators of human trafficking (HT) for labor exploitation present among migrant workers during the recruitment process in Nepal and employment abroad. Recruitment in Nepal embodies several indicators of HT—such as deception about the nature of work, wages, and working conditions; lack of information about the contents of the contract; and excessive recruitment fees and debt bondage.

³ Visit to Nepal: Report of the Special Rapporteur on violence against women, its causes and consequences, A/HRC/41/42/Add.2, UNHRC, Geneva, 2019.

⁴ Ministry of Labor, Employment, and Social Security, *Nepal Labor Migration Report, 2022*, Kathmandu: MoLESS, 2022.

⁵ See Amnesty International, *False Promises: Exploitation and Forced Labor of Nepalese Migrant Workers*, 2011; *Turning People into Profits: Abusive Recruitment, Trafficking, and Forced Labor of Nepali Migrant Workers*, 2017.

⁶ Ibid.

⁷ Ministry of Labor, Employment, and Social Security, *Nepal Labor Migration Report, 2022*.

⁸ See “Operational Indicators of Trafficking in Human Beings: Results from a Delphi survey implemented by the ILO and the European Commission,” 2009.

https://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_105023.pdf.

⁹ Protocol to Prevent, Suppress, and Punish Trafficking in Persons—Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000.

In the destination countries, workers generally work for more than eight hours per day, and usually without any overtime payment. Some workers operate in hazardous working environments and some have their wages withheld or are unpaid.

Factors contributing to HT for labor exploitation

The study finds several factors (see below) contributing to HT in the guise of labor migration from Nepal.

Push factors of migration

The push factors of migration—such as poverty, unemployment, and need of cash to meet various family needs, coupled with the promise of uninterrupted employment and better wages abroad—create a sense of urgency/desperation among Nepali men and women workers to migrate to improve their families' economic conditions. This puts workers in a vulnerable position, without the ability to weigh all the risk factors and make a rational decision when migrating.

Unregulated labor intermediaries

Informal labor intermediaries—who are commonly referred by migrants as “agents”—play a crucial role in facilitating migration of Nepali workers, connecting them with recruitment agencies and helping them navigate through a complex migration process. However, agents often provide incorrect and misleading information, usually collect hefty recruitment fees, and do not provide the expected support when migrant workers contact them from abroad.

Agents contribute to migration of workers with some indicators of HT present, often recruiting migrant workers through deception. A woman who migrated to Kuwait for domestic work said she was recruited by a local agent who gave incorrect information about the job and working conditions, luring her to go abroad for work. *“I did not pay any fee to go abroad and the agent paid for my passport as well. I was told that I would make more money abroad and the job would also be nice. Later, I realized that we were sold for about 1.5 to 1.6 million rupees by agents. We are very gullible and believe whatever is told by the agent in Nepal.”*

Agents function outside the legal framework and are unregulated. Existing legal instruments in Nepal do not recognize the role of agents in labor recruitment and also ban transportation of workers to third countries via India. This act can be classified as “human transportation” if the motive is the buying/selling of a person, or prostitution and exploitation.¹⁰ Although labor intermediaries may face criminal charges in certain instances,¹¹ it is difficult to hold them accountable for defrauding migrant workers.

Vulnerability associated with employment sectors

Migrant workers in the study sample were employed in “3D” jobs (dirty, difficult, and dangerous).¹² Workers were employed in economic sectors and occupations identified by the ILO as the “most hazardous”—such as construction, agriculture, mining, or sectors with certain risks or informal economy.

¹⁰ Human Trafficking and Transportation (Control) Act, 2007.

¹¹ *The Kathmandu Post*, “Man arrested on charges of trafficking four Nepali women to Kuwait,” January 27, 2023. <https://kathmandupost.com/national/2023/01/27/man-arrested-on-charges-of-trafficking-four-nepali-women>.

¹² International Labor Organization, *Hazardous Work*. <https://www.ilo.org/safework/areasofwork/hazardous-work/lang-en/index.htm>.

Although the lack of variation in job types in the study sample did not allow for a comparison of experiences of employment in most hazardous versus safest sectors, it is safe to say that the migrant workers from Nepal are heavily concentrated in jobs considered “low-skill” and rank lower in terms of wages, safety, and desirability. According to the Nepal Labor Migration Report 2022, less than one percent of Nepali workers are employed in jobs identified as “professional” and “highly skilled.” Most are domestic workers and laborers in the construction and manufacturing sectors.¹³ Health risks for construction and factory workers are due to exposure to dust, chemicals, etc.; health risks for domestic work is associated with dangerous living and working conditions.¹⁴

Domestic workers in the study sample (all of whom were women employed in GCC countries and lived with their employers) had to provide 24-hour services to their employers. The informal nature of work and the employment outside the labor laws of the host countries made the workers even more vulnerable to exploitation and abuse. Even employment in a formal setting does not guarantee that workers will not be forced to work for more than eight hours a day. Workers employed in manufacturing, cleaning, and construction sectors reported that they had to work for longer hours and often without any overtime payment.

Rampant fraud and lack of choice in the labor recruitment market

The similarity in the experiences of Nepali workers in the process of migration to GCC countries and Malaysia indicates the prevalence of rampant fraud in the recruitment sector for migrant workers in Nepal. As previously discussed, some of these include unauthorized collection of excessive recruitment fees, deception about jobs and working conditions, and lack of information on the content of the contract.

Nepal has privatized the labor recruitment sector and there are currently 860 registered private recruitment agencies providing services to potential migrant workers in Nepal.¹⁵ However, the recruitment market in Nepal does not offer any meaningful choices since agencies do not qualitatively differ in terms of their business practices.

Other studies also point out that the migration costs of Nepali workers have significantly increased over the years.¹⁶ The Nepal government has been unable to curb recruitment fees even with the adoption of “employer-pays” (or “free visa, free ticket”) modality in labor recruitment. Nepali recruitment agencies cite various reasons for the high costs in labor migration from Nepal, including costs associated with demands from employer companies abroad and payments to several layers of intermediaries involved in labor recruitment in Nepal.¹⁷

¹³ Ministry of Labor, Employment, and Social Security, *Nepal Labor Migration Report, 2022*.

¹⁴ International Labor Organization, *Hazardous Work*.

¹⁵ Ministry of Labor, Employment, and Social Security, *Nepal Labor Migration Report, 2022*.

¹⁶ Arjun Kharel, Sadikshya Bhattarai, Dogendra Tumsa, Shalini Gupta, and Pawan Sen, *Province 1 of Nepal: Migration Profile*, Kathmandu: SDC and CESLAM, 2022.

¹⁷ Arjun Kharel, Sudhir Shrestha, Sadikshya Bhattarai, Pauline Oosterhoff, and Karen Snyder, *Assessment of Outreach and Engagement with Prospective Migrants by the Agencies Recruiting Laborers for Foreign Employment*, Institute of Development Studies, 2022.

A potential factor constraining the regulation of recruitment agencies is their connection with the ruling class. In fact, recruitment agencies have formed associations along party lines, with these associations corresponding to major political parties in Nepal that have been ruling the country since the early 1990s. While cases of fraud in the recruitment sector are well recorded and regulatory bodies are also aware of it,¹⁸ most recruitment agencies are not penalized for their crimes. The umbrella organization of recruitment agencies (Nepal Association of Foreign Employment Agency) has been vocal about the business interests of the recruitment agencies but they rarely speak about the rights and welfare of migrant workers. Recruitment agencies and their associations tend to blame migrant workers themselves for their plight abroad rather than acknowledging the grave issues in labor recruitment in Nepal and making any solid efforts in addressing them.¹⁹

Weak implementation of the existing policies in destinations

Migrant workers' harsh workplace experiences in destination countries, with whom Nepal has signed labor agreements, suggest poor implementation of existing policies in labor-receiving countries. Migrant workers' rights are not guaranteed when there is weak or non-implementation of agreements and universal human rights by governments and employer companies. Differential treatment between native labor versus migrant labor, lack of trade unions, or

lack of working for the welfare of migrant workers systematizes discriminatory practices and poor working/living conditions for migrant workers. A high rate of Nepali migrant workers' deaths in major destination countries emphasizes inattention to workers' lives in destination countries.

The lack of functional mechanisms for complaint filing and redressal in destination countries prevents workers from gaining justice. Workers are subjected to a coercive working environment when they cannot exit the countries to return home, even when they are ready to bear any financial loss of their unsuccessful migration.

Counterproductive "protectionist" policies

During the past 40 years, the Government of Nepal has frequently enforced travel bans on potential women migrant workers to "protect" them from abuses and exploitations in the destination countries.²⁰ The types of travel bans range from age-based bans, bans on migration for domestic work, and comprehensive bans on migration for women.²¹ Currently, Nepali migrant workers, both women and men, are banned from migrating for domestic work in any country until the host country government signs a bilateral labor agreement (BLA) or memorandum of understanding (MOU). This disproportionately affects women since domestic work is mainly pursued by women migrant workers for different reasons—including low or no cost for migration and a high demand of women as caregivers.

¹⁸ Ministry of Labor, Employment, and Social Security, *Nepal Labor Migration Report, 2020*.

¹⁹ Arjun Kharel, et al., *Assessment of Outreach and Engagement with Prospective Migrants*.

²⁰ Arjun Kharel, "Female Labor Migration and the Restructuring of Migration Discourse: A Study of Female Workers from Chitwan, Nepa," PhD dissertation, Kansas State University, 2016.

²¹ Mark McCarthy, "A Comprehensive Analysis of Policies and Frameworks Governing Foreign Employment for Nepali Women Migrant Workers and Migrant Domestic Workers," Kathmandu: ILO, 2021.

The travel bans, however, have not stopped Nepali women migrant workers from migrating to (mainly) GCC countries for domestic work. They travel via India and use unauthorized channels to reach their destinations. Although the intention behind the travel bans is to protect women from migrating to an informal employment sector prone to abuses and exploitation, the instances of physical abuses against domestic workers are real. However, travel restrictions have contributed to the emergence of informal channels and have increased unauthorized migration at an even higher rate.²²

Employers' use of tourist visa for labor recruitment—lax of existing policies

Employers in countries like United Arab Emirates (UAE) are recruiting workers who come into their country via a tourist visa. This method of recruitment relieves employer companies from the responsibility of bearing recruitment costs and going through a lengthy process of recruiting workers from overseas.²³ This kind of migration, however, is often facilitated by the recruitment agencies based in Nepal, as in the case of a male migrant worker in the study sample who traveled to UAE on a tourist visa, paying NPR300,000. He found a job, but the working conditions were harsh and the salary was unsatisfactory; he made the decision to return to Nepal after only two months.

There is no guarantee of jobs while migrating for work on a tourist visa and the migration cost is very high. Since workers are not directly associated with employer companies

and recruitment agencies, they are left stranded at destinations when jobs are unavailable to them.²⁴

RECOMMENDATIONS

Following recommendations are for policy makers and stakeholders working in the sectors of labor migration and counter-trafficking in persons (CTIP) Nepal for making migration safe.

- **Reduce urgency/desperation for migration** by investing in socio-economic development programs—such as self-employment generation programs, improvement in public education, health services, and better connectivity in rural areas. These initiatives can make labor migration voluntary and workers less vulnerable since migration would become a choice, rather than a necessity, and workers would be able to assess the risks of participating in labor migration.
- Nepal has adopted an employer-pays modality in labor recruitment to curb recruitment fees. However, this policy has not been implemented and migration costs are still very high for workers, who rely on high interest loans to pay for their migration. The Nepal government needs to **implement existing policies** to reduce migration costs and facilitate debt-free labor migration from Nepal. **Employer companies and destination countries should take full responsibility of recruitment costs and can play a more active role in controlling recruitment frauds.** They need to set up mechanisms to control labor recruitment frauds since

²² Arjun Kharel, “Female Labor Migration and the Restructuring of Migration Discourse.”

²³ Arjun Kharel, et al., *Assessment of Outreach and Engagement with Prospective Migrants*.

²⁴ Narayan Bhurtel, “22 Nepali Workers Stranded in UAE since Two Months,” *MyRepublica*, October 1, 2017. <https://myrepublica.nagariknetwork.com/news/22-nepali-workers-stranded-in-uae-since-two-months/>.

they have more resources than labor-sending countries; for example, the initiatives of South Korea have been successfully recruiting workers from various countries as per the terms of a worker/receiving-country contract.

- The labor recruitment sector in Nepal is full of frauds—including deception about the nature of work, dual contracts, and false information about wages/working conditions. The recruitment agencies and agents' blatant engagement in labor recruitment frauds indicate the impunity that recruitment agencies enjoy and the protections they receive due to their linkages with the ruling class. It is important to ensure that **governing bodies function independently and anyone involved in labor recruitment frauds and malpractices is punished to the full extent of the law**. This would also deter those thinking of engaging in such activities in the future.
- **Employer companies and labor-receiving nations should guarantee decent living/working conditions while abroad.** All concerned stakeholders—including governments of labor-sending countries, international agencies, news media, trade unions, and non-government organizations—should keep pressuring destination countries to protect workers' rights and ensure good working conditions.
- **Better mechanisms to file complaints and redressal are necessary in destination countries and Nepal.** Workers generally have nowhere to go even when they know that their contract terms are not respected by their employers. In the absence of functional mechanisms for case filing and assurance

of justice to migrant workers, access to justice will remain implausible.

- The study finds **limited relevance of awareness-raising, pre-departure information programs targeted at (potential) migrant workers in reducing HT indicators** in labor migration from Nepal. Migrant workers familiar with the migration process and even with past migration experience also experienced one or more indicators of HT during migration, showing that an awareness of the migration process by itself is insufficient for safe migration. While awareness programs can provide valuable information to potential migrant workers, such programs cannot make a positive impact unless the labor migration system works as explained in the information package provided to migrant workers, i.e., the beneficiary of awareness-raising programs. Otherwise, the information provided to migrant workers will be far from reality, and thus of no practical use.

RESEARCH TEAM

Arjun Kharel, principal researcher; Sudeshna Thapa and Leela Khatri, researchers

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