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# Labor Brokerage and Trafficking of Nepali Migrant Workers



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Quinn Kepes was responsible for drafting the report. Bettina Brunner assisted with background research and writing the report. Debra Hertz provided editing help. Anne Pinkerton managed the design and layout of the report.

## List of Acronyms

AED	United Arab Emirates dirham
AI	Anti-Slavery International
CMW	UN Convention for the Protection of Migrant Workers and Their Families
DoFE	Department of Foreign Employment (Nepal)
DGM	Guatemalan Migration Directorate
EGA	Employment Guarantee Act (Nepal)
EPS	Employment Permit System (Nepal)
FCWs	Foreign contract workers
FEA	Foreign Employment Act (Nepal)
FEPB	Foreign Employment Promotion Board (Nepal)
FLA	Fair Labor Association
GTQ	Guatemalan quetzal
HTTCA	Human Trafficking and Transportation Control Act (Nepal)
ILO	International Labour Organization
IOM	International Organization for Migration
ITUC	International Trade Union Confederation
JITCO	Japan International Training Corporation Organization
LTCIP	Long-Term Care Insurance Program (Israel)
MWCSW	Ministry of Women, Children and Social Welfare
MLTM	Ministry of Labour and Transport Management (Nepal)
MOHR	Ministry of Human Resources (Malaysia)
MPAs	Manpower agency
MRC	Migrant Resource Center (Nepal)
MYR	Malaysian ringgit
NII	National Insurance Institute (Israel)
NPR	Nepali rupees
PEA	Private employment agency
PNCC	Pravasi Nepali Coordination Committee
RA	Recruitment agent
RELA	Reload Rakyat Malaysia, or the People's Volunteer Corps (Malaysia)
TVPA	Trafficking Victims Protection Act (U.S.)
U.A.E.	United Arab Emirates
UNHCR	United Nations High Commissioner for Refugees
UNIFEM	United Nations Development Fund for Women
UNTOC	United Nations Convention on Transnational Organized Crime
USD	U.S. dollars
VDC	Village Development Committee (Nepal)

## Executive Summary

This report describes research conducted on the relationship between labor brokerage and the risk of forced labor among Nepali migrant workers employed abroad. The research examines forced-labor triggers in Nepal and India and receiving-country mechanisms that encourage forced labor in Malaysia, the United Arab Emirates (U.A.E.), and Israel. The role of Guatemala and Mexico as transit countries for Nepali workers traveling illegally to the U.S. is also explored.

### Study Objectives

Verité conducted research to determine the different types of labor-brokerage networks that exploit both documented and undocumented Nepali migrant workers; to find the points in the employment life cycle at which exploitation occurs; to identify the factors that increase migrant workers' vulnerability to exploitation; and to identify viable policy options to reduce Nepali migrant workers' vulnerability to exploitation.

Verité conducted research in Nepal and in receiving countries, including Malaysia and the U.A.E., with case studies on Nepali workers in Israel and Guatemala. Verité researchers reviewed relevant literature, followed by contextual analysis of relevant audit findings, social-institutional mapping, and extensive interviews (one-on-one and group) with workers, NGOs, government officials, labor advocates, and unions in Malaysia, the U.A.E., Guatemala, and Israel.

### Brief Description of Research Locales

#### Nepal

Migration is the major determining factor of the Nepali economy, which has suffered from prolonged conflict, political instability, and unrest. Remittance income makes up nearly 23.6 percent of Nepal's gross domestic product (*Nepal Migration Yearbook 2010*). In the 2010-2011 fiscal year, 354,716 Nepali migrated abroad for work. Malaysia and Persian Gulf countries are major destinations for Nepali migrant workers, many of whom transit through India.

#### Malaysia

Malaysia is one of the largest receiving countries of migrant workers in Southeast Asia, and Nepal sends the second-largest number of migrant workers to Malaysia, after Indonesia.<sup>1</sup> Almost all Nepali workers are employed as unskilled laborers. They belong to diverse ethnic groups from different districts and villages, mostly outside the capital city of Kathmandu.

#### United Arab Emirates

The U.A.E. is composed of seven emirates with a total population of approximately 8 million as of May 2010. The number of Nepali workers in the U.A.E. was estimated at between 126,000 and 150,000 in 2010, at least 45 percent of whom worked in the construction sector.<sup>2</sup>

#### Israel

In April 2009, the Israeli government closed its borders to migrant caregivers from Nepal, based on evidence of illegally high recruitment fees and other fraudulent recruitment practices and growing numbers of unemployed or informally employed migrant caregivers. Following extensive bilateral collaboration between Nepal and Israel, the government of Israel lifted the ban on Nepali migration to Israel in 2011.

### **Guatemala/Mexico/U.S.**

Verité originally planned to study Nepali recipients of U.S. diversity-lottery visas who were exploited in the United States, but found that the exploitation affected a small number of Nepali immigrants. Instead, Verité refocused research on the emerging trend of undocumented Nepali immigrants who were trafficked through Guatemala and Mexico to the United States. Several incidents of trafficking of Nepali migrants were reported in 2011, as part of raids on tractor trailers housing large groups of Asian migrants in Mexico.

### **Research Findings**

Verité found forced labor to be present in various forms in all research locales. Under the brokered migration process, there are risks of Nepali workers being subjected to abusive and exploitative practices at each phase of the employment cycle.

### **Nepal**

Verité research uncovered both formal and informal labor broker networks that exploit Nepali workers. Formal networks center on registered, licensed agencies mostly based in Kathmandu and on individuals in Nepal acting as official agents for employers in sending countries. These agents work with registered and unregistered agents in receiving countries that employ, sponsor, or manage the worker throughout their stay in the receiving country. Informally, individuals act as subagents for labor-brokerage agencies, going village to village to recruit candidates. Most of the documented abuses of Nepali workers are related to recruitment agents in the villages or recruitment agencies in Kathmandu. Nepali workers are commonly deceived by brokers about working conditions in receiving countries. Workers interviewed for this report said that they accepted the situation due to fear of reprisal or of losing their jobs, which would render them unable to repay debt incurred to migrate.

### **Malaysia**

Malaysian brokers usually partner with a local sending-country agent or agency that conducts its own pooling and screening, and the Malaysian broker chooses from the pool of candidates provided by the sending-country agent, following the Malaysian employer's criteria. Some of the largest broker agencies in Malaysia provide service packages to clients ranging from recruitment consultancy to direct management of workers or outsourcing services. About 75 percent of the workers interviewed for this research worked under the outsourcing scheme in Malaysia, whereby the broker, not the company, is the worker's employer. During Verité's research in Malaysia, manufacturing sector workers interviewed reported that the only consistency between what the brokers told them and the actual working conditions was the type of work they ended up doing, and even this basic information was not accurate in some cases.

### **United Arab Emirates**

Under the *Kafala* scheme in the U.A.E., migrant workers seeking employment must be sponsored by a U.A.E. citizen, resident, manpower supply agency, or employer. The process to change sponsors, especially in unskilled work, is so complex and tedious that most workers wait out their contract, regardless of working conditions. Laws in the U.A.E. that offer protection to migrant workers are roundly ignored. It is illegal in the U.A.E. to charge workers recruitment fees, but this rule is also ignored. Furthermore, the grievance system is flawed, since complaints must be typewritten in English or Arabic, and employers can easily fire workers who protest nonpayment of wages or unfair working conditions. In August 2012, Nepal banned women under the age of 30 from working in Persian Gulf nations due to reports of abuse and

exploitation. Women's rights organizations in Nepal and abroad have criticized the ban as leading to increased labor trafficking.<sup>3</sup>

### *Israel*

The Israeli government has placed a cap on recruitment fees subsequent to reopening its borders to Nepali caregivers, but actual fees charged by brokers greatly exceed the government of Nepal's ceiling for recruiting costs. It is too early to judge the effectiveness of the steps taken by the government of Nepal to better protect its migrant workers in Israel. Female Nepali migrant caregivers in Israel continue to migrate via India without regular visas.

### *Guatemala/Mexico/U.S.*

Verité's research indicates that broker networks that traffic Nepali immigrants to the United States via Guatemala and Mexico are fluid and adaptable. When regulations make it harder for migrants to travel to or through countries legally, the networks are forced deeper underground, and migration becomes more dangerous and expensive. However, this does not deter the smuggling networks. In fact, many times it simply makes smuggling more profitable, illicit, and dangerous and increases the risk of human trafficking.

## **Conclusions**

Verité research for this report found that in the case of Nepali workers in Malaysia, the U.A.E., Israel, and Guatemala, all the elements of forced labor and trafficking for forced labor are present: deceit, vitiated consent, movement and transfer, exploitation, restricted movement, and coercion. Verité found that vulnerability to forced labor is greatly heightened for undocumented Nepali workers and those working in the domestic-service and construction industries. Vulnerabilities to forced labor and labor trafficking that are common in all four country case studies presented here include: the ladder of intermediaries, a lack of workers awareness of the migration cycle, problematic policies regarding migrant workers, onerous recruitment fees leading to a cycle of debt, a lack of understanding of the link between forced labor and human trafficking, corruption, and the requirement of too much documentation for migrant workers.

### *The Ladder of Intermediaries*

Migrants pay high service fees because they pass through multiple intermediaries, beginning at the village level in Nepal and continuing in receiving countries.

### *Lack of Worker Awareness of the Migration Cycle*

Nepali workers recruited and hired for work abroad are usually low-skilled and poorly educated and come from villages that are remote from the political and economic centers of Nepal. Awareness of human and labor rights is low among migrant workers.

### *Problematic Policies Regarding Migrant Workers*

In both Nepal and receiving countries, laws that exist to protect migrant workers are often ignored, such as working hours, overtime, deductions, legal limits on agent fees, and grievance mechanisms. With little oversight or monitoring in receiving countries, worker exploitation is inevitable. In addition, workers who leave their employer in receiving countries due to harsh working conditions are more likely to be considered criminals than victims.

### ***Onerous Recruitment Fees and the Cycle of Debt***

While mechanisms are in place in some receiving countries to ensure that workers do not pay the cost of migration — by placing a cap on recruitment fees or legislating an employer pay principle — these mechanisms are routinely violated with no serious consequences. There is no system to check whether recruitment fees are exacted in sourcing countries like Nepal. High recruiting fees force Nepali workers to borrow heavily and remain in forced labor situations in order to repay debts.

### ***Lack of Understanding of the Link Between Forced Labor and Trafficking***

The concept of labor trafficking is fairly new and not yet translated into an actionable policy in Nepal and receiving countries. Victims are routinely processed as illegal migrants in receiving countries and are held in detention until deported. Nepal's policies on labor trafficking are also poorly developed. Recently, the Nepali government prohibited Nepali women under the age of 30 from migrating for work in Persian Gulf nations, due to reports of abuse and exploitation, but the ban may in fact lead to increased trafficking, as more women migrate illegally to this region.<sup>4</sup>

### ***Corruption***

A 2010 World Bank study conservatively estimated that the total cost of corruption in the foreign-employment industry in Nepal is over NPR 17.2 billion per year (USD 194.7 million), with NPR 7.5 billion (USD 84.9 million) from official channels and NPR 9.7 billion (USD 109.8 million) from informal/unofficial channels. The available data reveals that informal channels of migration are more vulnerable to corruption than formal, official ones.<sup>5</sup>

### ***Too Much Documentation***

The paperwork burden for foreign migration is so heavy that it is nearly impossible to complete the process without the services of agents and middlemen. Migrant workers coming from outside Kathmandu cannot afford to stay in Kathmandu to prepare these documents. Their only option is to look for shortcuts like buying documents on the black market.

### ***General Recommendations***

Based on fieldwork and research in Nepal and receiving countries, Verité posits the following insights for the government of Nepal:

#### ***Advocate for a No-Fee Recruitment System***

Nepal can stop the ladder of intermediaries in foreign employment by advocating that the receiving-country employer pay the recruiting agencies, not the migrant workers.<sup>6</sup>

#### ***Focus on the Next-Door Neighbor***

India is the major destination and transit country for Nepali workers, yet Nepal lacks labor-migration policies focused on India. Not only are stronger bilateral relations in order for the two countries, but better record-keeping is sorely needed as well.

#### ***Fix the Policy Gaps and Loopholes***

Verité discovered several large gaps and loopholes in Nepali legislation that need fixing. A ministry or department for combating human trafficking is needed, and the lack of rights for domestic workers abroad must be addressed. Regulation of village agents, the weakest link in the recruitment process, must begin. Stronger enforcement of the Foreign Employment Act (FEA) of 2007 is imperative, including harsh punishments for perpetrators. Recommended revisions to the Act include:

- Section 19 should require all payments be made through banks instead of in cash;
- Section 22, which allows recruitment agencies to use foreign airports, should be removed;
- Section 23, allowing the government of Nepal to specify the minimum remuneration for foreign workers, should be enforced; and
- Section 24, regarding service charges and promotional costs, should be revised.

### *Reach Out to Other Governments*

Nepal has limited relationships with the major receiving countries for Nepali workers, despite the fact that poorly enforced policies in these countries are harming Nepali workers. It is time to fulfill the terms of the FEA by placing labor attaches in all countries with over 5,000 Nepali workers and over 1,000 women workers, and make sure that the attaches are functioning efficiently.

### *Make It Easier to Migrate Legally*

Undocumented workers generally fare worse than legal migrants. By streamlining the recruitment process, controlling government corruption, and limiting the ladder of intermediaries, Nepal can encourage more legal migration, which has a much lower risk for forced labor.

### *Specific Recommendations*

Based on fieldwork and research in Nepal and receiving countries, Verité recommends the following specific actions by stakeholder group:

#### *Government of Nepal*

- Adopt a no-fee recruitment system wherein the employer, not the migrant worker, pays the recruiting agents.
- Ratify the United Nations Convention on Transnational Organized Crime (UNTOC) and its Optional Protocol (Palermo Protocol) and the United Nations Convention for the Protection of Migrant Workers and Their Families (CMW) to curb human smuggling and human trafficking.
- Take steps to ensure that the migration process is better regulated, including better monitoring of recruitment agents and agencies and stronger enforcement measures for wrongdoers. Bringing the village-level agent into legal compliance with migration law is a priority.
- Maintain data on returnees, deportations, and the nature of violation of human rights and labor rights.
- Decrease the "ladder of agents" involved in each migrant worker transaction by making it easier for workers to apply directly for work abroad.
- Establish a task force on government corruption regarding migrant workers.
- Ensure that labor attaches are functional in the recipient countries and provide better training as well as stronger grievance mechanisms.
- Conduct bilateral talks with India to stop illegal migration through India and begin record-keeping of migrant worker flows.
- Stronger enforcement of the FEA, with harsher punishment for violators.
- Negotiate bilateral treaties with additional receiving countries to establish fair employment conditions for Nepali workers.

- Blacklist foreign employers that have a track record of abusing Nepali migrant workers.
- Lobby governments of major destination countries of Nepali workers to establish embassies in Nepal.
- Set up effective repatriation mechanisms for victims of trafficking.
- Enhance capacity of law enforcement agencies and border authorities.
- Increase media sensitivity on trafficking in persons and raise awareness through the media.
- Develop opportunities for skill development, alternative employment, and income generation for potential migrant workers and other vulnerable groups.
- Review/revise minimum wages for foreign employment.
- Decentralize the operation of the Department of Foreign Employment (DoFE) so that migrant workers need not go to Kathmandu for document preparation.
- Encourage ID cards for migrant workers as a countermeasure to passport impounding.

#### *Worker and Civil Society Organizations*

- Advocate for the no-fee recruitment system.
- Increase awareness of migrant workers on key vulnerable areas through better orientation training, publicity campaigns, and use of the media.
- Increase civil-society monitoring of recruitment agents and agencies.
- Conduct advocacy campaigns toward workers to help them: (a) make informed choices with a full understanding of migration terms and conditions, (b) verify the background of recruitment agents before signing contracts, and (c) report agent and government-official bribery.
- Provide legal aid to migrant workers in Nepal and receiving countries.
- Provide stronger rehabilitation mechanisms for migrant worker victims.
- Advocate for a stronger role for employer organizations in Nepali worker migration.

#### *Manpower Agencies*

- Advocate for the no-fee recruitment system.
- Register all affiliated subagents and agents and refuse to work with unregistered agents.
- Implement sanctions for errant agencies and agents.
- Enforce government rules regarding recruitment fees and stop double-dipping (recruiters taking recruitment fees from both workers and employers).
- Advocate for incentives for foreign-employment businesses engaging in good practices.
- Make it mandatory to have employment contracts translated into Nepali.
- Lobby to reduce the cost of remittances.
- Develop a code of conduct for working with Nepali migrant workers.

#### *International Organizations*

- Advocate for the no-fee recruitment system..
- Encourage the government of Nepal to sign more bilateral and regional agreements.
- Support ratification of international conventions related to migrant workers.
- Support NGOs and media working in the field of foreign employment and antitrafficking.
- Encourage international sanctions against labor-exploiting countries.
- Encourage antitrafficking dialogue that goes beyond sex trafficking to include migrant-labor trafficking and forced labor.

- Build the capacity of government officials to redress Nepali-migrant-worker issues.
- Advocate for transparent credit agencies with reasonable rates for migrant workers.
- Advocate for a code of conduct for manpower agencies in Nepal and receiving countries.
- Advocate the criminalization of nonregistered agents in Nepal and receiving countries.
- Advocate for better treatment of migrant women, particularly in caregiving and domestic service.

### *Receiving-Country Governments*

- Enforce the employer's pay principle (no-fee recruitment system).
- Require employers in receiving countries to audit the brokers they work with and require that the latter disclose their counterparts in sending countries.
- Set a minimum wage for migrant workers where none exists, such as in the U.A.E. and in Israel for domestic workers.
- Increase the number of labor inspectors to better monitor labor conditions at company work sites.
- Monitor worker payment of recruitment fees through payroll deductions.
- Outlaw in-kind remunerations (food, housing) that are structured to hide low wage levels.
- Implement and strengthen institutional grievance mechanisms.
- Create an agency dedicated to migrant-worker welfare and issues.

## **Introduction**

The Universal Declaration of Human Rights<sup>7</sup> states that every person has the right to “just and favorable conditions of work,” living conditions that are “worthy of human dignity,” and the opportunity for “rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.”<sup>8</sup> For Nepali workers migrating for employment, sadly, these rights are frequently violated — Verité research for this report found evidence of both forced labor and human trafficking.

*Human trafficking* is defined by the Palermo Protocol of 2000 as the “recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”

*Forced labor* is defined as slavery or practices similar to slavery, servitude, or the removal of organs, and forced labor. Victims of forced labor are forced to work against their own will, under the threat of violence or some other form of punishment; their freedom is restricted; and a degree of ownership is exerted.<sup>9</sup>

Based on the International Labour Organization's (ILO) guidance on “identifying forced labor in practice,” the presence of forced labor can be broken down into indicators for lack of consent and menace of penalty, as shown below.<sup>10</sup> The checked indicators below illustrate the types of forced labor practices that were uncovered in the current research. Although the presence of these indicators signals an increased risk for forced labor, each case must be assessed

individually to determine the interplay of indicators and the context to determine whether or not it rises to the level of forced labor.

<b>Identifying Forced Labor in Practice</b>	
<b>Lack of consent to work (the route into forced labor)</b>	<b>Menace of a penalty (the means of keeping someone in forced labor)</b>
<ul style="list-style-type: none"> <li>Birth/descent into "slave" or bonded status</li> <li>Physical abduction or kidnapping</li> <li>Sale of person into the ownership of another</li> <li>✓ Physical confinement in the work location</li> <li>✓ Psychological compulsion, i.e. an order to work, backed up by a credible threat of a penalty for noncompliance</li> <li>✓ Induced indebtedness (by falsification of accounts, inflated prices, reduced value of goods or services produced, excessive interest charges, etc.)</li> <li>✓ Deception or false promises about types and terms of work</li> <li>✓ Withholding and nonpayment of wages</li> <li>✓ Retention of identity documents or other valuable personal possessions</li> </ul>	<ul style="list-style-type: none"> <li>✓ Physical violence against worker or family or close associates</li> <li>✓ Sexual violence</li> <li>✓ (Threat of) supernatural retaliation</li> <li>✓ Imprisonment or other physical confinement</li> <li>✓ Financial penalties</li> <li>✓ Denunciation to authorities (police, immigration, etc.) and deportation</li> <li>✓ Exclusion from future employment</li> <li>✓ Exclusion from community and social life</li> <li>✓ Removal of rights or privileges</li> <li>✓ Deprivation of food, shelter, or other necessities</li> <li>✓ Shift to even worse working conditions</li> <li>✓ Loss of social status</li> </ul>

Nepal has ratified many of the important international labor conventions, including conventions on the abolition of forced labor, the worst forms of child labor, the right to organize and collectively bargain, and minimum age, as shown below.

### Ratified ILO Conventions in Nepal<sup>11</sup>

Convention	Date Ratified	Status
<b>C029</b> Forced Labor Convention, 1930 (No. 29)	January 3, 2002	In force
<b>C098</b> Right to Organize and Collective Bargaining Convention, 1949 (No. 98)	November 11, 1996	In force
<b>C100</b> Equal Remuneration Convention, 1951 (No. 100)	June 10, 1976	In force
<b>C105</b> Abolition of Forced Labor Convention, 1957 (No. 105)	August 30, 2007	In force
<b>C111</b> Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	September 19, 1974	In force
<b>C138</b> Minimum Age Convention, 1973 (No. 138) <i>Minimum age specified: 14 years</i>	May 30, 1997	In force
<b>C182</b> Worst Forms of Child Labor Convention, 1999 (No. 182)	January 3, 2002	In force

However, Nepal has not acceded to the following international instruments related to migrant workers and trafficking in persons:<sup>12</sup>

- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted December 18, 1990, by U.N.G.A. Res. 45/158)
- ILO Convention C143 Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- ILO Convention C181 Private Employment Agencies Convention, 1997 (No. 181)
- ILO Convention C189 Domestic Workers Convention, 2011 (No. 189)
- International Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others<sup>13</sup>

Nepal has a history of internal trafficking and child and bonded labor in domestic work, agriculture, production of carpets and bricks, and service industries such as tea shops. This bonded labor is particularly rampant among socially excluded groups like Dalits and Tharus. The prevalence of bonded labor in Nepal may make it easier for Nepali migrant workers to accept conditions of forced labor in their work abroad.

This study highlights the ways in which Nepali workers seeking employment abroad in Malaysia, the U.A.E., Israel, and the U.S. are highly vulnerable to forced labor and trafficking, beginning with job recruitment in Nepal at the village level and continuing on the job in the receiving country. While worker experiences vary by industry and by country, a common thread is the involvement of labor brokers in recruitment. This involvement is almost inevitable in the context of the Nepali migration industry, due to the geographic isolation of many areas of the country, Nepali distrust of outsiders, and the lack of government capacity to handle migration abroad.

## The Hiring Trap<sup>14</sup>

### Aspirations abroad

- Worker has difficulty finding a decent job in Nepal
- She or he sees peers earn money abroad
- She or he meets a recruiter to find work abroad



### The labor broker enters the picture

- Labor broker charges for placement, travel, and visa
- The fees are exorbitant — some legal and some not
- Worker borrows money, acquiring debt
- Terms of work seem unclear



### Deception on the job

- Worker travels to the foreign workplace
- Deception in tasks, salary, length of contract, benefits
- Deductions, withholdings, and illegally low pay
- Poor grievance system in receiving country
- Loans make worker remain in forced-labor situation

Verité research found that Nepali migrants going abroad for work follow the same path, shown at left, and encounter many of the same broker-related issues documented in Verité's "Help Wanted" report. These issues include passport confiscation, excessive deductions, excessive working hours, and nonpayment or underpayment of wages. Passing through the intricate web of recruiting agents and agencies in Nepal and receiving countries causes workers to

accrue excessive debt, which forces them to remain in poor working conditions in which their rights are routinely violated. With traditions in Nepal of debt bondage and human trafficking, workers may have no reference point for fair working conditions.

This report begins with an overview of Nepali worker migration and the different types of labor-brokerage networks that exploit both documented and undocumented Nepali migrant workers. The points in the employment cycle at which exploitation occurs are then highlighted, followed by an examination of the factors that increase migrant workers' vulnerability to exploitation. Verité's research findings from Malaysia and the U.A.E. highlight the legal gaps and employment experiences of Nepali workers through qualitative analysis and case studies. Case studies of specific Nepali migrant populations in Israel and Guatemala highlight the diversity of migrant-worker issues in other regions of the world. A set of concrete activities and engagements for key stakeholders to promote the fair treatment of Nepali migrant workers is offered at the close of the report. While sex trafficking is not a discrete focus of this project, Verité has discovered that sexual abuse and commercial sexual exploitation often go hand-in-hand with labor trafficking. Verité will note whether and how brokerage for labor and sexual exploitation are linked.

## Rationale and Methodology

Verité conducted a 12-month research project sponsored by Humanity United on the ways in which labor brokers contribute to the exploitation of Nepali migrant workers, both in Nepal and abroad. In-depth desk and field research was carried out in Nepal, India, Malaysia, the U.A.E., Israel, Guatemala, Mexico, and the United States to uncover:

- The different types of labor brokerage networks that exploit both documented and undocumented Nepali migrant workers;

- The points in the employment lifecycle in which triggers for human trafficking and forced labor occur;
- The factors that increase migrant workers' vulnerability to the triggers for trafficking and forced labor; and
- Viable policy options to reduce Nepali migrant workers' vulnerability to exploitation.

The first three months of this project consisted of desk research, mapping of sending and receiving locales and migration routes, and research methodology and tool design. During the next six months, researchers carried out in-depth field research. The final three months consisted of data analysis, the elaboration of policy recommendations, and report writing. Verité partner ASK India carried out research in India and oversaw research activities in Nepal in collaboration with Jeevan Sharma and the Feinstein International Center. Verité, through partners Verité Southeast Asia and others, carried out research in Israel, Malaysia, the United Arab Emirates, Guatemala, Mexico, and the United States.

### ***Sending and Transit Country Research (Nepal and India)***

In Nepal and India, research included desk research; external stakeholder consultations; review of relevant laws regarding migration; and primary-level interviews with migrant workers (both aspiring and returning), manpower agency representatives, their branch office representatives, and village-level agents.

Through review of migration data, Verité identified the main hubs for international migrant workers in Nepal: Janakpur (headquarters of Dhanusha District) and Mahottari regions in the Terai belt and Pokhara (headquarters of Kaski District) in the Hill region. From July 2009 to July 2010, 11,915 people migrated from Dhanusha, 25,197 migrated from Mahottari, and 3,124 migrated from Kaski District (Foreign Employment Department). In these two regions, there was a marked difference in the gender and profile of migrant workers. From Janakpur and Mahottari, more men migrate, mainly for construction jobs in the Gulf. Very few women from this area migrate. In contrast, migrants from Pokhara are mainly women workers engaged in domestic help, caregiving for the elderly, and restaurant and hotel work. The table below shows the number of workers per region of Nepal interviewed for this research. Migrant workers included workers who migrated on an individual basis, workers from recruiting agencies, and migrants from other channels.

**Number of Nepali Workers Interviewed by Region**

	<b>Region</b>	<b>No. of Workers</b>
1	Pokhara and Kathmandu	75
2	Dhanusha and Mahottari	38
3	Delhi	10
<b>TOTAL</b>		<b>124</b>

Of the workers interviewed in Nepal for this study, 63 percent were male and 37 percent were female. Of the women workers, 73 percent were employed as domestic workers, mainly in Gulf countries. Married people comprised 81 percent of all workers interviewed for the study, while the remaining 19 percent were unmarried. Sixty-three percent of workers interviewed were employed in services, 36 percent in manufacturing, and one percent in agriculture.



**Figure 1. Verité team member Monica Ramesh of ASK India interviews Nepal Trade Union Congress Independent (NTUCI) President Ramjee Kunwar, March 2011.**

the government of Nepal, trade unions, NGOs, international organizations, and the Federation of Nepal Employers.

Verité also interviewed village development committees in the two districts in Nepal that source the highest number of migrants and are the closest to India. To understand the broker perspective, Verité reached out to 42 representatives from recruitment agencies, including 20 manpower agencies, four regional agents, four branch offices and 14 village level agents. Verité also engaged with 25 stakeholders from

### *Receiving-Country Research*

Verité conducted a thorough review of relevant literature, including media reports, NGO reports, government reports, and relevant audit reports. Data from Verité interviews conducted with Nepali workers, employers, and brokers during onsite factory audits in Malaysia were also consolidated and analyzed. For each Verité audit in Malaysia, around ten Nepali workers were interviewed. Data from six onsite facility audits involving Nepali workers were also examined for this research.

Researchers also conducted a social-institutional mapping of the areas covered by the research to map:

- All relevant work sites for both the formal and informal sectors
- All relevant institutions — markets, schools, hospitals, etc. — and worker centers present in the area
- Worker living areas in relation to work areas, and worker access to resources, security, and protection
- All stakeholders/key players, the nature and level of their involvement in the industry, and the basis of their interrelationships
- All relevant government institutions
- Financial structures in place

Based on desk research, the Verité team chose to focus on Malaysia and the U.A.E., where most Nepali workers are located. In Malaysia, 56 interviews took place in Johor Bahru, Penang, and Shah Alam, while in the U.A.E. Verité researchers interviewed 15 workers in Abu Dhabi. The total number of workers interviewed in receiving countries was 71.

### Nepali Workers Interviewed by Receiving Country

Location	Number of Workers Interviewed
Malaysia (Johor Bahru, Shah Alam/Kuala Lumpur, Penang)	56
U.A.E. (Abu Dhabi)	15
Total	71

In Malaysia, researchers conducted one-on-one and group interviews in various offsite locations. Researchers also conducted one-on-one and group interviews during onsite factory audits that coincided with the research period. For the onsite interviews conducted inside the facilities during commissioned audits for brand clients, through purposive random sampling, researchers picked seven to ten names from a master list, considering gender, date of hire, job title, and employment status. Names gathered from onsite audits have been changed to protect the identities of the companies and workers.

The Verité team interviewed workers in the top three industries in the U.A.E. where Nepali workers are employed: manufacturing, service, and construction. The team experienced the following limitations:

- Lack of access to workers at work sites and in dormitories
- Lack of access to workers directly managed by brokers
- Limited time to conduct field interviews
- Budget constraints

In the U.A.E., interviews were also severely limited by the lack of civil-society or NGO presence in the areas where most Nepali workers are located. Thus, worker interviews were conducted only in Abu Dhabi, which is also the location of relevant government agencies.

Qualitative, in-depth interview tools rather than survey tools were developed for this research to emphasize the individual experiences of Nepali workers. Researchers used the “snowball” sampling method and worked with Nepali community leaders, NGOs that have contact with Nepali migrants, and workers referrals. Interviews were focused on areas or centers where workers congregate, such as churches, community centers, and recreational areas.

### The Nepali Context

Nepal is among the poorest countries in the world. Agriculture is the foundation of the economy, accounting for around a third of GDP and employing three-fourths of the population.<sup>15</sup> The country has suffered from prolonged conflict and political instability. An estimated 46 percent of working-age Nepali were unemployed in 2008, the most recent figure available.<sup>16</sup> In this context, migration has emerged as an important factor in shaping the economy of the country. Migrants leave Nepal due to a lack of sustainable livelihood options, comparatively low wages, political instability, frequent strikes, and a poor economic outlook.<sup>17</sup>

Overseas employment constitutes the largest and most dynamic sector of Nepal’s economy, with one half of all households having at least one migrant worker or returnee.<sup>18</sup> The World

Bank's *Migration and Remittances Factbook 2011* listed Nepal's remittance income as USD 2.98 billion in 2009, which is roughly 23 percent of Nepal's GDP.<sup>19</sup> Of every 100 people who enter Nepal's workforce each year, at least 75 leave the country to work abroad.<sup>20</sup> According to the *Nepal Migration Yearbook*, in fiscal year 2010-2011, 354,716 Nepali migrated for work, up 73 percent from fiscal year 2006-2007. In the first ten months of fiscal year 2011-2012, the number of outbound workers increased more than 16 percent over the previous year, with approximately 1,400 individuals leaving for foreign employment per day.<sup>21</sup>

India hosts the largest number of Nepali workers anywhere in the world. However, exact figures are not available, since there is no system of visas or work permits between the two countries, and also because of the variety of migration paths to India for seasonal, temporary, and permanent employment. It is estimated there are one to four million Nepali migrants working in India.<sup>22</sup> Relations between the two countries are regulated by the Nepal-India Friendship Treaty of 1950, which states that citizens of each country should be given citizen-like treatment in the other country.<sup>23</sup>

A 2008 ILO study estimated that up to one-third of all recruitment of Nepali male migrant workers and more than two-thirds of female migrant workers is conducted through informal channels in India.<sup>24</sup> Many Nepali migrant workers leave by land through India because it is easier and cheaper than traveling by air, and to avoid legal-migration registration requirements, the scrutiny of the labor migration desk in the Kathmandu airport, and the bribes that some officials reportedly require at the airport to secure migration documents.<sup>25</sup>

There are an estimated 3.2 million Nepali workers in countries besides India, half of whom are undocumented, located mainly in Dubai, Bahrain, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, and the U.A.E..<sup>26</sup> Asian countries such as Malaysia, South Korea, and Japan are also home to large numbers of Nepali migrant workers. Nepali work to some extent in war zones like Afghanistan, Iraq, and Libya. Main destinations in the first ten months of the current fiscal year (FY2012-2013) for Nepali migrant workers were Qatar (91,243), Saudi Arabia (63,867), Malaysia (72,460), the UAEU.A.E. (47,833), and Kuwait (20,145).<sup>27</sup> Malaysia, traditionally a strong market for Nepali workers, hired 18 percent fewer workers in the first ten months of the current fiscal year compared to the same time period during the previous fiscal year, mainly as a result of the 6P undocumented foreign worker amnesty program, discussed below. Malaysia's recent decision to end the ban on hiring Bangladeshi workers could further decrease the demand for Nepali workers there.<sup>28</sup>

Exploitation of Nepali migrant workers has increasingly gained international attention. In 2011, Anti-Slavery International and the International Trade Union Confederation (ITUC) launched a campaign to highlight the forced labor of Nepali migrant workers in Gulf states.<sup>29</sup> Building on this issue, in March 2012, Amnesty International Nepal launched a nationwide campaign to raise awareness on the rights of Nepali migrant workers.<sup>30</sup> The program, called Migrant Workers Caravan, came shortly after Amnesty International released a report on the condition of migrant workers entitled *False Promises: Exploitation and Forced Labor of Nepali Migrant Workers*.<sup>31</sup>

Yet there is very little information available about the factors in Nepal and receiving countries that lead to labor trafficking, particularly specifics of the labor-brokerage networks and the legal and regulatory gaps that contribute to the exploitation of Nepali migrant workers.

### **Lack of Clarity on the Connection Between Migrant Worker Sex Trafficking and Forced Labor**

Nepal has a long history of domestic sex trafficking and bonded labor, and is also a source country for trafficking of men, women, and children to India and the Middle East. Nongovernmental organizations in Nepal estimate that as many as 15,000 Nepali women and girls are trafficked annually to India, while 7,500 are trafficked domestically for commercial sexual exploitation.<sup>32</sup> A 2010 report on trafficking in Nepal noted that the promise of foreign employment was used to lure trafficking victims from several districts in Nepal.<sup>33</sup>

Nepal prohibits most forms of trafficking in persons, including the selling of human beings and forced prostitution, through its Human Trafficking and Transportation Control Act (HTTCA, 2007) and Regulation (2008), with penalties ranging from ten to 20 years of imprisonment. The Bonded Labor (Prohibition) Act (2002) prohibits bonded labor but has no penalties.

According to the Office of the Attorney General, in Nepal's fiscal year 2009-2010, 174 trafficking offenders were convicted in 119 cases tried in court under the HTTCA, with 71 cases resulting in convictions and 47 cases resulting in acquittals.<sup>34</sup> However, government statistics do not include information on punishment and do not disaggregate whether convictions were for sex trafficking, labor trafficking, or non-trafficking offenses.

To date, the discourse on the connection between migration and human trafficking is poorly developed, which has hampered efforts to improve the situation and may have exacerbated the problem. The Asia Foundation and others have found that government anti-trafficking efforts still negatively impact women migrants who are not allowed to migrate to specific countries, such as Gulf countries, and thus resort to illegal channels.<sup>35</sup> While donors' focus on sex trafficking has encouraged new NGOs in the field, the topic of labor trafficking in Nepal is still largely ignored.<sup>36</sup>

In August 2011, the National Committee for Controlling Human Trafficking established a secretariat, and the government of Nepal appointed a coordinator under the oversight of a joint secretary to monitor the 49 District Committees for Controlling Human Trafficking. However, NGOs stated that the majority of these committees do not function well or are inactive.<sup>37</sup> According to in-country labor experts, the Ministry of Women, Children and Social Welfare (MWCSW) recently opened 15 emergency shelters across the country for victims of trafficking and other forms of abuse, run by NGOs.

### **Regulatory Framework in Nepal for Labor Migration**

The fast-growing migration industry in Nepal is experiencing challenges that the government of Nepal is struggling to address. In Nepal, three government agencies and one subsidiary center are involved in migrant worker issues:

- The Ministry of Labor Transportation and Management (MLTM) has a policymaking role in migrant affairs.
- The Department of Foreign Employment (DoFE) implements policies of the MLTM.
- The Foreign Employment Promotion Board (FEPB), chaired by the MLTM, licenses and monitors recruitment agents, processes individual migration applications, and administers the welfare fund. FEPB is responsible for training migrant workers and also conducts research and collects statistics on foreign employment.

- The Migrant Resource Centre (MRC), created in 2010 by the International Organization for Migration (IOM), was handed over to the FEPB in 2011. The MRC has a toll-free number that migrant workers can call for information regarding migration or in case of emergency. The MRC also posts data from the DoFE on public websites.

#### **Nepali Overseas Employment Snapshot<sup>38</sup>**

- Number of countries opened for overseas employment: 108
- Annual outflow of documented migrant workers: 200,000
- Remittances: USD 2.98 billion
- Recruitment agencies: 1,000+
- Estimated number of agents: 25,000-30,000
- Orientation centers: 48
- Approved number of health centers: 15

The government of Nepal has given permission for Nepali workers to work in 108 countries<sup>39</sup>, and there are currently 30 Nepali diplomatic missions abroad.<sup>40</sup> Nepal has signed bilateral agreements regarding migrant workers with the U.A.E., Qatar, Bahrain, South Korea, and Japan. According to the Ministry of Foreign Affairs, memorandums of understanding with Malaysia and Lebanon are "in the pipeline."<sup>41</sup> In November 2011, the government of Nepal appointed six labor attaches in Saudi Arabia, Malaysia, Kuwait, South Korea, Qatar, and the U.A.E., following months of friction between

the Ministry of Foreign Affairs and the MLTM.<sup>42</sup> Plans announced in May 2010 for additional labor attaches in Japan, Hong Kong, Oman, and Israel were canceled, in part due to outcry regarding the lack of qualifications of appointees and the politicized nature of the appointment process.<sup>43</sup>

The Ministry of Labor and Employment's Department of Foreign Employment provides a comprehensive website in Nepali and English with downloads of foreign employment resources (such as the Foreign Employment Act of 2007), approved recruiting agencies, health centers authorized to provide health tests for foreign workers, agents, orientation institutions, and lists of recognized destinations, minimum wages by country, and blacklisted international companies. There is also a hotline to report emergencies and abuse. While the website is an exemplary effort, Internet usage in Nepal doubled to just nine percent in 2010,<sup>44</sup> so rural workers most likely lack access to the website prior to departure.

#### ***Nepali Laws Regarding Migrant Workers***

Since Humanity United commissioned a separate legal and regulatory review of Nepal by the American Bar Association, this report will quickly summarize key legislation and focus on new developments, gaps, and opportunities.

The two main policies guiding migrant workers are the Foreign Employment Act of 2007<sup>45</sup> and the Rules (2008). At the time of this report, two additional policies were under development but not yet published: the National Plan of Action on Safe Migration and the Foreign Employment Policy, both of which were drafted by the MLTM.

The Foreign Employment Act (FEA) of 2007 delineates the role of the government in the management of foreign employment through the regulation of recruiting-agency licenses. It also defines the process of recruitment for foreign employment; sets minimum wage, labor contract, and insurance requirements; establishes predeparture orientation skills trainings; sets procedures for filing complaints for compensation; and establishes the Foreign Employment Promotion Board and the Welfare Fund.<sup>46</sup> Details of the FEA are found below.

### **Overview of the Foreign Employment Act of 2007**

The Foreign Employment Act of 2007<sup>47</sup> amends and consolidates previous laws relating to foreign employment, including:

- Establishment of a welfare fund through contributions by migrant workers of NPR 1,000 (USD 11) each
- Establishment of the Foreign Employment Promotion Board (FEPB)
- Appointment of labor attaches in countries where the number of Nepali workers exceeds 5,000
- Establishment of a minimum wage for migrant workers
- Pre-departure training for all migrant workers, which is free for women migrant workers
- Establishment of penalties for fraud, cheating, and other irregularities in overseas employment
  - Penalties of three to seven years of imprisonment and fines of NPR 300,000- 500,000 (USD 3,400-5,660) for conducting foreign recruitment without a license or for sending workers abroad without permission from the government of Nepal
  - Penalties of NPR 100,000 (USD 1,132) for collecting excess visa and service charge fees
  - Requirement that workers be sent abroad within three months of receiving government approval, or receive reimbursement of all fees plus 20 percent per annum to workers within 30 days
- Specification of countries allowed for foreign employment
- Worker protections such as:
  - Recruitment agents/brokers must publish job advertisements in a daily newspaper of national circulation for at least seven days
  - Recruitment agents/brokers must receive approval prior to taking passports abroad
  - Requirement of a contract between workers and foreign employers prior to departure
  - Licensee must procure insurance of at least NPR 500,000 (USD 5,600) for the term of the contract
  - The government of Nepal must establish a labor desk at the Kathmandu international airport to verify worker paperwork prior to departure
- Requirement to use a Nepali airport for foreign migrant workers

The National Human Rights Commission conducted an assessment of government compliance with the provisions of FEA in 2009 and found only a moderate degree of compliance with the law (see table below). The weakest compliance was found in monitoring, investigation, and prosecution of crimes related to foreign employment. The most noteworthy result of the FEA is the creation of institutions and structures related to foreign employment such as the FEPB and the welfare fund.

### Nepal's Compliance with FEA 2007<sup>48</sup>

Provisions in FEA 2007	Compliance Rating <sup>49</sup>
1. Provisions related to establishment and strengthening of structures	Moderate to high
2. Provisions related to regulation of recruitment agencies	Moderate
3. Provisions related to transparency and accountability in the selection of workers	Low to moderate
4. Provisions related to nondiscrimination	Moderate
5. Provisions related to training	Moderate
6. Provisions related to the protection of worker rights	Low to moderate
7. Provisions related to monitoring, investigation, and prosecution	Low

### New Developments

Although they occurred outside of the research window of this report, recent new developments related to Nepali migrant labor include:

- In May 2012, the government of Nepal announced that it was working with receiving-country governments to establish a minimum salary for Nepali migrant workers in Saudi Arabia, Malaysia, the U.A.E., and Qatar, which are the largest employers of Nepali workers.<sup>50</sup>
- In 2011, former Labor Minister Sarita Giri vowed to publicly rate recruitment agencies as below average, average, and above average and to start registering returnee migrant workers in fiscal year 2012-2013.<sup>51</sup> However, in April 2012, Labor Minister Giri was removed by Prime Minister Bhattarai after she fired the new director general of the DoFE. It is unclear how this recent disruption will impact migrant labor policy in Nepal and specifically the recruiting-agency rating program.<sup>52</sup>
- The government of Nepal announced in April 2012 that it would appoint 27 new staff members at the DoFE, including an undersecretary, six section officers, and other staff, increasing the total number of staffers at the department from 59 to 93. The legal department was also set to add seven new staff members to better handle the approximately 15 fraud complaints it receives each day.<sup>53</sup>
- In March 2012, the undersecretary at the FEPB was jailed and charged with misusing NPR 40 million (USD 453,361) from state coffers by providing money to politicians and consumer groups without following government guidelines, and also for embezzling funds.<sup>54</sup>
- In May 2012, Prime Minister Bhattarai's government approved an Employment Guarantee Act (EGA) and sent it to Parliament for endorsement. The EGA, modeled after India's Mahatma Gandhi National Rural Employment Guarantee Act, will guarantee 100 days of employment per year to one adult member of households below the poverty line. The plan is aimed at reducing unemployment and underemployment and could decrease migration and enhance livelihood opportunities in construction and infrastructure within Nepal.<sup>55</sup>
- To decrease fraudulent broker activities, in May 2012 the DoFE made the verification of migrant workers' documents by Nepali missions abroad or by chambers of commerce of concerned countries mandatory before giving final approval.

- The introduction of a calling visa for Malaysia-bound workers is a new initiative that makes it mandatory for hiring companies to seek permission from the Malaysian Home Ministry to provide visas to proposed workers.<sup>56</sup>

### *Gaps and Loopholes in Laws for Migrant Workers*

The Foreign Employment Act of 2007 is exemplary in establishing new policies to govern the migration of Nepali workers abroad. However, there are several gaps in the FEA, including:

1. **India is left out of the FEA.** There is no provision governing the employment of Nepali migrants in India, although it is estimated that 70 percent of Nepali migrants live or work in India.<sup>57</sup>
2. **The DoFE takes no responsibility for the documents it checks.** While the DoFE is responsible for checking all employment documents, it does not guarantee their authenticity. While checking documents is time-consuming and delays migration, the government of Nepal takes no responsibility for the documents it has checked. So, if a problem arises with the documents later on, the recruitment agent or the person who submits the documents is responsible.<sup>58</sup>
3. **Complicated procedures.** Complicated legal provisions for recruitment agencies make it difficult to operate within the law. A 2008 ILO study on recruitment practices in Nepal revealed that “due to some of the legal provisions of the FEA such as high cost of security deposits, and the lengthy, complicated legal approval process, most recruitment agencies routinely operate outside the law.”<sup>59</sup>
4. **Women domestic workers are left out.** There is no legal coverage in the FEA for migrant women working in domestic service.
5. **No provisions for violence against workers.** According to a United Nations Development Fund for Women (UNIFEM) study, the FEA has no explicit provisions on violence against migrant workers, such as rape, sexual abuse, and kidnapping.<sup>60</sup>

In addition to the gaps identified above in the FEA, the following provisions in the FEA are routinely violated, which increases the vulnerability of migrant workers:

1. **No DoFE ID card for recruiting agents and regional agents.** Chapter 10, section 48, of the Foreign Employment Regulation of 2008 requires a recruiting agency to deposit NPR 200,000 (USD 2,264) for an identity card for any recruitment agent affiliated with them, with a validity of one year. None of the agents interviewed in Nepal for this report had an identity card, indicating they operated outside the purview of the DoFE.
2. **Service charges or recruitment fees exceed legal limits.** According to section 24 of the FEA, the government specifies the upper limit of service fees and promotional costs that institutions collect from migrant workers. However, recruitment fees collected by brokers from workers routinely exceed government-set criteria, with no monitoring mechanism to ensure that the law is respected.<sup>61</sup> Since all jobs in Gulf countries are visa-free, brokers should charge workers only airline tickets and a small amount for service fees. However, Verité interviewees indicated a markup of about NPR 40,000 to NPR 50,000 (USD 450-570) for Gulf countries, which is distributed to brokers in Nepal and agents in foreign countries.
3. **No issuance of receipts.** Recruitment agents usually do not issue receipts for payments received by workers, in violation of FEA requirements.
4. **Passports deposited with agents for up to one year.** By law, holding another person's passport in Nepal is a punishable offense. Workers interviewed for this report indicated that recruitment agents routinely keep migrant workers' passports for many months prior to departure abroad, tying workers to a specific broker.

5. **Delay in sending workers abroad for foreign employment.** Section 20 of the FEA states that the licensee should send the migrant worker abroad within a period of three months after receiving payment. If the licensee is unable to send the worker abroad during that time frame, the worker's money must be returned within 30 days with 20 percent interest. Research for this report uncovered routine delays in sending migrant workers abroad that exceeded three months. None of the migrant workers interviewed for this report were aware of this provision.
6. **Orientation training for migrant workers not conducted.** According to Chapter 5 of the FEA, Sections 27 and 28, all workers migrating for foreign employment must attend an orientation training from a government-approved institution. Verité's research uncovered the practice of migrant workers buying orientation certificates on the black market at half the price prescribed by the government. This practice saves migrant workers time and money, provides training institutes with revenue without providing actual worker orientations, and allows DoFE officials to receive bribes from workers submitting fake certificates.<sup>62</sup>
7. **Welfare fund not properly managed.** While the Foreign Employment Promotion Board collects NPR 1,000 (USD 11) from departing registered migrant workers for a welfare fund, most of the funds remain unused.

### **Corruption and Foreign Employment**

A 2010 World Bank study conservatively estimated that corruption in the foreign employment industry in Nepal accounted for over NPR 17.2 billion per year (USD 194.7 million), with NPR 7.5 billion (USD 84.9 million) from official channels and NPR 9.7 billion (USD 109.8 million) from informal/unofficial channels. The available data reveals that informal channels of migration are more vulnerable to corruption than official ones.<sup>63</sup>

The major causes of corruption in the foreign employment industry in Nepal are: (a) lack of awareness among migrant workers of their legal rights, (b) excessive document requirements, (c) unscrupulous recruitment agencies and agents, (d) weak monitoring mechanism, (e) non-enforcement of laws and regulations, and (f) political protection of wrongdoers.

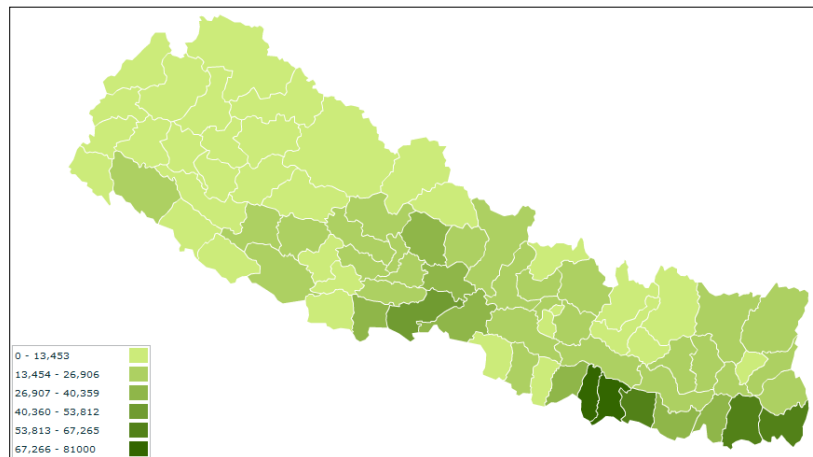
Corruption in foreign employment can range from purely private-sector-driven criminal activities (human trafficking and fraud), to public-private collusion to speed up the migration/recruitment process (forged work permits and bribery), to purely public-sector-driven activities (nepotism and favoritism in the regulation of foreign employment).

As characterized by a recent report, the major problems of the Nepali government agencies involved in foreign worker migration are lack of coordination, severe resource constraints, inefficiency, waste, and corruption.<sup>64</sup> In 2004, a survey commissioned by Transparency International-Nepal on transparency and accountability in government ministries ranked MLTM at the bottom of the list of 12 ministries.<sup>65</sup> A 2010 report commissioned by the World Bank indicated the presence of a *Kafta* system, in which corrupt officials share bribes or "speed money" from the top to the bottom of the administrative hierarchy, with an average bribe rate in the DoFE of NPR 1,000 (USD 11).<sup>66</sup>

## Migrant Worker Profile

Nepali migrant workers are engaged in manufacturing, construction, transportation, services, and domestic service and come from all ethnic backgrounds. While migrant workers come from all 75 districts of Nepal, legal migration is particularly strong in southeastern districts adjacent to India, seen in dark green in the map below. The map shows cumulative legal migration by district from fiscal year 2006-2007 to 2010-2011. The five southeastern districts sending the most workers abroad legally since 2006 are Morang (55,754), Siraha (60,307), Jhapa (66,329), Mahottari (72,840), and Dhanusha (80,721). (Undocumented worker migration estimates are unavailable.)

**Foreign Employment by District in Nepal,  
Cumulative Totals from FY 2006-2007 to FY 2010-2011<sup>67</sup>**



Most Nepali migrant workers are males engaged in unskilled and low-wage jobs. According to a recent estimate, two percent of Nepali migrant workers are skilled, 23 percent are semi-skilled, and 75 percent are unskilled. Eighty percent of Nepali foreign workers come from the 20-30 age group, overwhelmingly from poor, rural areas.<sup>68</sup> While the official number of female Nepali migrant workers has been progressively increasing, it remains far below the number of males, at approximately 15 percent of the total legal migrant-labor force.<sup>69</sup> The largest sending area for female migrant workers is the Pokhara area. Major destinations for Nepali women workers are Malaysia, Saudi Arabia, the U.A.E., Qatar, Kuwait, Bahrain, Hong Kong, South Korea, Japan, Oman, Israel, and Lebanon.<sup>70</sup>

### **Women Migrants: Particularly Susceptible to Forced Labor and Labor Trafficking**

Most Nepali women work abroad as domestic workers, are undocumented, and are not affiliated with labor unions, increasing their risk for labor abuses and trafficking.<sup>71</sup> It is estimated that 80 percent of women migrant workers travel to destination countries through informal channels via India and Bangladesh. Possible reasons for this practice include:

- An August 2012 government ban discouraging female migration under 30 years of age to Gulf countries, due to the increase in physical assaults in those destination countries. This augmented an unofficial ban to Gulf countries and Malaysia for many years.<sup>72</sup>
- Brokers exploiting women migrant workers' lack of knowledge of recently lifted bans to destinations such as Israel to get them to migrate illegally.
- Cheaper airfares to foreign destinations from India.
- Broker hesitation to take women through the legal process, since brokers are financially responsible should anything illegal happen on the job.<sup>73</sup>

Nepali women migrant workers are often not aware of the job location, type of work, or salary before they migrate.<sup>74</sup> Women transiting illegally through India face harassment by both Nepali and Indian officials. Even women who migrate legally face challenges. A 2006 study on Nepali women and foreign labor migration speaks of the Kathmandu airport as a major source of harassment for female migrant workers.<sup>75</sup>

A case study of Nepali women migrants to Israel discusses this issue in more detail below.

#### ***Undocumented Nepali Workers***

Workers in Nepal migrate through institutional and individual channels. Institutional channels include recruiting agencies and the Employment Permit System (EPS) established by the government of Nepal for Japan and Korea, discussed in more detail below. Of workers interviewed in Nepal for this report, 58 percent reported that they used institutional channels, and 42 percent used individual channels. Workers migrating through individual channels rely on labor brokers or personal contacts abroad with relatives or friends. Verité research found that the majority of workers migrating through individual channels are undocumented workers who do not register with the DoFE before migration overseas. Since the government is not informed of undocumented worker migration, it cannot prevent their exploitation in receiving countries.

To send workers abroad legally, recruitment agencies must provide the DoFE with a demand letter from the receiving-country employer, a guarantee letter from the recruitment agency, power of attorney, an employment contract, a service contract between the recruitment agency and the client, and evidence of life insurance. After verifying these documents, the Labor Department stamps each worker's passport. Verité research found that less than ten percent of Nepali workers who departed from Indian airports had a Labor Department seal, while less than a quarter of workers surveyed who departed from the Kathmandu airport had such a seal. This demonstrates that the vast majority of migrant workers are traveling abroad without going through all the proper channels and without all the documents necessary to safeguard them against abuses.

Verité interviews with experts and migrant workers revealed that the profile of documented and undocumented workers is very similar. The recruiting agency or agent's decision to send the migrant worker abroad as undocumented is based on the profit margin for a specific job and the

onerous paperwork required for legal migration. Migrant workers may not even be aware that they are migrating as undocumented workers, since they pay the recruitment fee and expect the process to be conducted legally. Due to the skills and resources required to migrate, migrant workers depend on recruitment agents to facilitate the process. This dependency on agents is the starting point of workers' vulnerability to forced labor.

Out of 33 undocumented migrant returnees interviewed in Nepal (sent by brokers), researchers verified that 88 percent did not have a Labor Department seal on their passport. The remaining 12 percent of workers reported that they did not know whether or not they had the seal.

### *Underage Migrant Workers*

Five percent of the workers interviewed for the study were young migrant returnees who had migrated when they were under 18 years of age. Underage workers were identified in both the Dhanusha and Pokhara regions. Brokers send young workers two ways:

- Photo change, where a young worker is sent on another person's passport by changing the photo in the passport.
- By obtaining a fake age certificate from the Village Development Committee (VDC) office and applying for the passport. In remote villages in Nepal, many people have neither birth certificates nor school records, so they must get an age certificate from a VDC office for official purposes. However, VDC offices often fail to verify information before issuing the certificate. Young workers indicated that their agents had advised them to get falsified certificates from VDC offices.

## **Labor Brokerage**

### *Nepali Labor Brokerage Networks*

One of the contributing factors to forced labor is the use of labor brokers, who go by different terms in different countries. In Nepal they are called manpower agencies (MPAs); in Malaysia they are termed private employment agencies (PEA); and in the U.A.E. they are called recruitment agencies. These labor brokers operate at the village, regional, and national level in Nepal, with ties to receiving-country recruitment agents and employers. They may be registered or illegal agents, offering a variety of services. On one end of the spectrum, they may advertise and recruit as a subagent for a larger manpower organization in Kathmandu. At the other end of the spectrum, employers in receiving countries may completely outsource worker management and supervision to them. While brokers play a legitimate role in migrant-worker recruitment and placement, they can encourage forced labor situations. An understanding of how Nepali migrant workers interact with brokers in Nepal and receiving countries is essential.

According to Dr. Ganesh Gurung, a Nepali migration expert, there are approximately 1,036 manpower or recruitment agencies licensed to operate in Nepal, all based in Kathmandu. Some of these agencies maintain branches in other districts, too, adding 275 recruitment offices.<sup>76</sup> In addition, there are perhaps 25,000 to 30,000 recruitment agents across the country helping to recruit migrant workers. They distribute information on foreign employment opportunities in villages and help pool aspiring migrant workers for recruitment agencies. These agents may also work on their own, helping to send migrant workers through unofficial or informal channels. A recruitment agent may employ several agents and subagents, all operating on an informal basis.

Agents earn commissions based on the number of migrant workers recruited, and they are dubbed *commission agents*, or *dalals* in the local language. The greater the number of aspiring migrant workers recruited, the higher the agent's commission. This incentivizes the *dalals* to recruit as many workers as possible, which can result in the use of deceit.

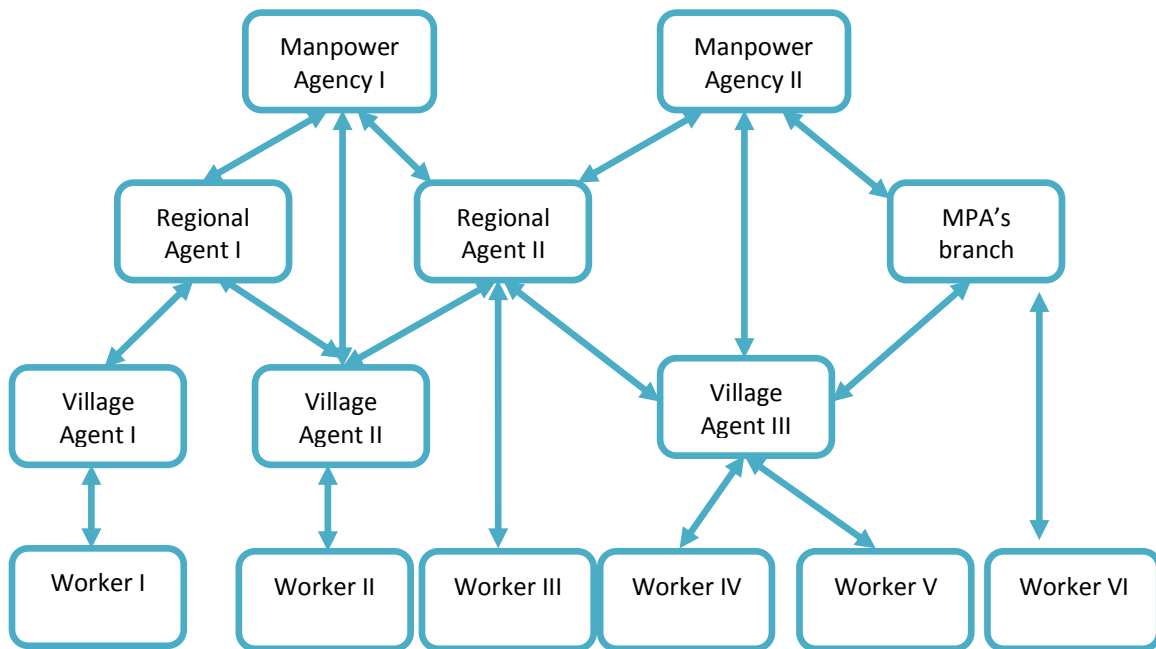
Per FEA regulations, for an individual to become an authorized agent for a specific recruitment agency, the agency must deposit NPR 200,000 (USD 2,264) with the DoFE. However, this rule has never been enforced. To date, only 12 agents have registered with the DoFE, indicating that most recruitment is conducted on an informal basis at the village level. It is common practice for an agent to work for more than one agency, since agents earn commissions based on the number of migrant workers recruited.<sup>77</sup>

According to the Foreign Employment Act of 2007, Chapter 3, Section 10, any institution can become a registered recruitment agency by applying for a license to the DoFE and depositing NPR 3,000,000 (USD 34,002) in cash or NPR 700,000 (USD 793) in cash and a bank guarantee for the rest. FEA Regulation 2008, Section 48, indicates that a registered recruitment agency can appoint an agent in a country where it has sent workers for a cash deposit of NPR 200,000 (USD 2,269).<sup>78</sup>

A "typical" institutional recruitment path for migrant workers in Nepal is for manpower agencies located in Kathmandu that are legally registered with the DoFE to use district or regional agents, who in turn work with unregistered subagents at the village level. In Pokhara and Bharatpur, most recruiting agencies have branch offices, while in Dhanusha and Janakpur, agencies recruit workers through regional-level agents. Unregistered village or local agents, who are usually migrant worker returnees, cover three to five adjacent villages and serve as the main contact point and face of the migration industry for workers. Village-level agents work through well-established networks, conducting home visits in five to seven villages at regular intervals, publicizing job opportunities, recruiting workers for jobs, and collecting passports for handoff to regional agents or recruitment-agency branch offices. Village agents may also have a well-developed network with agencies in Delhi and Mumbai and in receiving countries with human resource managers, general managers, and supervisors.

It is this ladder of agents and subagents that increases the vulnerability of migrant workers by increasing the transaction cost of migration. The relationship among different agents is depicted in the following flow chart, with village agents referring workers to regional agents, who in turn send the workers to manpower agencies in Kathmandu. As each agent earns a fee, migrant workers must pay more money for each agent that they go to, increasing their debt.

**Chart 1: A “Typical” Institutional Recruitment Path in Nepal**



Based on Verité research, the recruitment path a worker takes from a village agent to manpower agency appears to follow three different models:

#### *Dhanusha and Janakpur Model*

In Dhanusha and Janakpur, manpower agencies (MPAs) operate through regional agents and have no branch office, since local workers do not trust MPAs outside of their region and prefer to deal with locals from the same caste. Two MPAs that opened offices in Dhanusha and Janakpur encountered these constraints, closed their offices, and now depend on regional agents. In this model, after collecting worker passports, the village agent goes to the regional agent and negotiates a fee, depending on the number of passports collected. Since village agents can pick from many regional agents, the regional agent tries to keep village agents happy through relatively fair payment for each passport. Village agents receive NPR 5,000-7,000 (USD 57-79) per passport, which the regional agent pays up front. Once the regional agent has enough passports, he negotiates with MPAs in Kathmandu. The amount received by the regional agent depends on the number of passports and the level of urgency for workers for a particular company abroad.

#### *Pokhara Model*

In Pokhara, almost all MPAs have branch offices and do not operate through regional agents. Village agents in this region are directly connected to the branch offices. Decisions regarding payment and commission for village agents take place at the main office in Kathmandu.

#### *Kathmandu Model*

Besides working through regional agents and branch offices, MPAs in Kathmandu also work directly with village agents/local agents who bring passports directly to MPA offices.

Regardless of the location or model, each village agent works with three to five regional agents or recruitment agencies/manpower agencies. On the flip side, one regional agent or recruitment agency/manpower agency has contacts with perhaps ten village-level agents. Relationships are

governed by demand and the ability to supply workers. Thus, a legal recruitment agency relies entirely on unregistered village agents for recruitment.

For this study, Verité interviewed 12 recruitment agencies/manpower agencies, four regional agents, and 14 village-level agents. All the manpower agencies were registered with the Ministry of Labor and Transportation Management, but none of the regional or village-level agents were, as shown below. Recruitment agencies/manpower agencies have no interest in registering village-level agents, who often work for competitors, many of which are illegal.

**Legal Identity of Recruiting Agents and Agencies Interviewed**

Agents	Registered/Licensed	Unregistered
Manpower agency	100 percent (12)	0 percent (0)
Regional agents	0 percent (0)	100 percent (4)
Village-level agents	0 percent (0)	100 percent (14)

On average, each manpower agency sends 50-60 migrant workers abroad every month, receiving NPR 15,000-20,000 of profit per worker. Regional agents send 35-45 workers per month and earn approximately NPR 10,000-15,000 (USD 113-170) per worker. For village agents, the number of workers sent and the profit per worker varies from region to region. A village-level agent in Dhanusha sends about ten workers per month and earns NPR 5,000 (USD 57) per worker, while an agent in Kathmandu or Pokhara sends around 20 workers a month and earns around NPR 10,000-15,000 (USD 113-170) per worker, as shown below. The involvement of regional agents in Dhanusha reduces the profit margin for village-level agents in the region.

**Business Volume and Monthly Turnover**

Agents	Average Migrant Workers Sent Per Month	Average Earning Per Worker
Manpower agency	50-60 workers	NPR 15,000-20,000 (USD 170-225)
Regional agents	35-45 workers	NPR 10,000-15,000 (USD 113-170)
Village-level agents	10-20 workers	NPR 5,000- 15,000 (USD 57-170)

The introduction of machine-readable passports in Nepal has negatively impacted agents at all levels, because these new passports require a minimum of 45 days to process instead of a week, and thus brokers cannot send as many workers abroad as they could before. The new passports have also impacted migrant workers, who must remain in Kathmandu longer and be without their passport for a longer period of time.

**Case Study: Ethical Recruitment**

Asha, aged 45, runs a manpower agency in Kathmandu that specializes in placing female migrant workers in domestic jobs in Saudi Arabia and Dubai. At the time of this research, she had placed 500-600 female workers abroad and proudly stated that she had not encountered any issues. She works with a few reliable subagents and does not allow them to charge workers directly for recruitment fees. If a worker indicates that they paid a subagent, she ceases using the subagent.

Asha set up a training facility in Kathmandu to teach domestic skills, basic spoken English, and receiving-country culture. The training facility also serves as a counseling center for female returnees. The training facility is managed by a corporate social responsibility fund that Asha created from company profits. Training and accommodations are free for workers. Asha also works directly with employers to avoid exploitation through middlemen. At the time of research, she was working to set up the Asha Foundation in Dubai with a similar training and counseling facility.

According to the Foreign Employment Act, after receiving approval by the Labor Department, recruitment agencies must publish job openings in a local newspaper in Nepali. The ad must list the skills required and the application format and must allow prospective workers seven days to apply. However, 40 percent of manpower agencies in Nepal interviewed for this study indicated that many MPAs exaggerate the number of openings in the advertisements and/or include companies not currently hiring, which misleads workers. All MPAs interviewed for the study said that since newspaper advertisements do not reach the majority of the population in rural areas, MPAs rely on the agent/subagent system to recruit workers. In fact, many times jobs are posted in the newspaper as a formality after those positions have been filled.

The Nepali government lists maximum allowable service charges to migrant workers by country, but unofficial rates are much higher, as shown in the table below. Unofficial rates to Japan and Israel are the highest. Service charges are listed even for Gulf countries and Japan, for which migrant workers are not required to pay service charges. One possible reason is to stem the flow of people seeking foreign employment for certain destinations. For example, in 2008 the government's call for 5,000 workers for South Korea received 31,525 applicants, and in June 2010, a call for 4,000 workers received 42,000 applicants.<sup>79</sup>

### Foreign Employment: Quoted Service Charge vs. Market Rate

	Destination Countries	Maximum Allowable Service Charge	Unofficial Market Rate
1	Malaysia	NPR 80,000 (USD 900)	NPR 160,000 (USD 1,784)
2	Gulf countries (Kuwait, Qatar, U.A.E., Saudi Arabia)	NPR 70,000 (USD 790)	NPR 75,000-80,000 (USD 850-900)
3	Libya	NPR 90,000 (USD 1,015)	N/A
4	Mauritius	NPR 19,900 (USD 225)	NPR 90,000 (USD 1,015)
5	Russia	NPR 80,000 (USD 900)	NPR 82,000 (USD 925)
6	South Korea, Israel (non-agricultural), U.S., U.K., Hong Kong, Afghanistan	Maximum of six months of salary	NPR 200,000-500,000 (USD 2,250-5,650)
7	Israel (agricultural sector)	(NPR 80,900 (USD 915) airfare	NPR 750,000 (USD 8,480)
8	JITCO-Japan	NPR 50,000 (USD 565)	NPR 500,000 (USD 5,650)
9	EPS-South Korea*	NPR 86,950 (USD 970)	N/A
10	Algeria	NPR 118,000 (USD 1,335) (skilled workers) NPR 123,000 (USD 1,390) (staff and indirect)	N/A
11	Poland	NPR 72,000 (USD 815), plus visa fee	N/A

\* The cost of travelling to South Korea under EPS is fixed at USD970, composed of: (a) language test USD 17, (b) medical test USD 55.64, (c) application charge USD 5, (d) passport USD 79.49, (e) visa USD 63.59, (f) pre-training USD 70, (g) airfare USD 550, (h) airport tax USD 18, (i) insurance USD 55.64, (j) welfare fund USD 9.75, and (k) administrative charges USD 46.20

A quarter of all legal manpower agencies have been deregistered or blacklisted by the Nepali government. Manpower companies may be deregistered for valid reasons, such as nonrenewal of license, business closure, or inability to provide the deposit. However, a 2010 World Bank report indicated that a significant portion of deregistrations are due to foreign-employment fraud. It is commonplace for a Nepali recruitment agency to register more than one company, so that in the event that a company's license is deregistered or canceled, the recruitment agency can continue business under a different name.<sup>80</sup>

### Receiving Country Labor Brokerage Networks

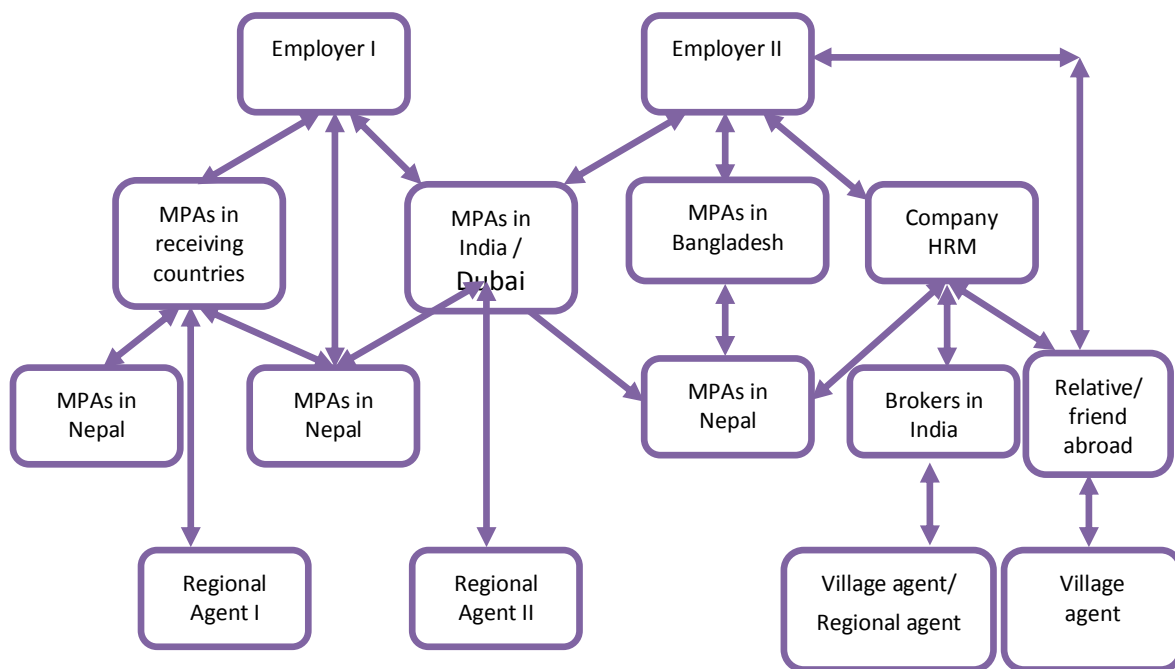
The role of foreign agents in Nepali worker migration is unclear, because little research has been conducted on how these agents operate or the role they play with Nepali migrant workers. According to recruitment agents interviewed, foreign agents play a large role in Nepali worker

migration and are one of the reasons for the high cost of labor migration. Since most Nepali recruitment agencies have no direct contact with employers in receiving countries, they rely on foreign agents who are mainly of Indian, Bangladeshi, Pakistani, or Sri Lankan origin. (In the case of Malaysia, most foreign agents are of Chinese origin.)

As Nepal does not have a policy to certify foreign companies or agents sending demand letters, there are many cases of false demand letters sent by nonregistered agents and/or fake companies. A 2010 study on recruitment of migrant labor in Nepal found that only 20 percent of demand letters submitted to the DoFE are verified by Nepali embassies.<sup>81</sup>

The following diagram shows the relationship possibilities between employers in receiving countries and recruiting agents and agencies in Nepal. Institutional recruitment can involve recruitment agencies in receiving countries, India, and Nepal, while individual channels may involve a worker's friends and relatives who have direct ties to a company's human resource manager (HRM).

**Agent Ties with Employers and Local Agencies in Receiving Countries**



### ***Patterns of Labor Brokerage in Major Destination Countries***

Workers from Nepal travel to receiving countries through different routes and networks, depending on the region and the type of agent chosen. For example, employers in Malaysia and Saudi Arabia prefer to outsource job openings to recruitment agencies in their own countries, and agencies in turn distribute these openings to agents in other countries. Some Nepali manpower agencies work directly with employers or MPAs in the receiving country, but most use middlemen. While each case of migration is unique, during interviews with experts, brokers, and migrant workers, Verité researchers uncovered specific broker patterns for each country or region, as shown below.

### Involvement of Labor Brokers in Recruitment of Nepali Workers by Receiving Country

<b>South Korea and Japan</b>	Minimal involvement of labor brokers. For worker migration to South Korea and Japan, the government of Nepal established an Employment Permit System (EPS), and the Japan International Training Corporation Organization (JITCO), respectively. Labor brokers cannot recruit workers directly for Japan unless they are approved by the government of Nepal. Currently, only 171 labor brokers have approval for Japan. For South Korea, only the government (DoFE) can send workers through the EPS channel. No other agencies are authorized. Individual or informal migration is restricted to a large extent, but workers not eligible through the EPS or JITCO systems may travel on tourist visas. After finding a job in the receiving country, workers convert the tourist visas into a work visa. The process is aided by relatives or local recruitment agents in the destination country. To circumvent this trend, recently both countries began screening applicants from Nepal before issuing tourist visas. As a result, Nepali recruitment agencies now send workers to Hong Kong first, and from there workers apply for a tourist visa to enter these two countries.
<b>Afghanistan and Iraq</b>	Although the government of Nepal lifted the ban on working in Iraq and Afghanistan in 2011, the ban is effectively still in place, because the governments of these two countries cannot provide the required documentation to the government of Nepal. Nonetheless, there are about 30,000 Nepali workers in Iraq. Nepali labor brokers work with Indian labor brokers to get workers tourist visas until they get a job. In Verité interviews, returnees indicated that there were hundreds of Nepali workers staying in Afghanistan for months on end without finding a job.
<b>Gulf countries (except Saudi Arabia)</b>	Involvement of labor brokers in Gulf countries is very high for both institutional and individual channels. Labor brokers are heavily dependent on the recruitment agents. Almost all the agents are migrant returnees, and many have strong ties to recruitment agents in India. Undocumented workers, particularly women, transit through India to Gulf countries with the help of recruitment agents. Manpower agencies in Nepal use multiple methods to send workers to the Gulf. Eighty percent of the Nepali MPAs interviewed for this study had direct contact with employers in Gulf countries where they sent workers. Ninety-two percent of the interviewed MPAs reported that they had relationships with MPAs in India for sending workers to Gulf countries. Manpower agencies in India were mostly located in Delhi and Mumbai. Thirty-two percent of MPAs reported that they had friends in managerial positions in companies in Gulf countries who supplied them with information about employer job opportunities. Twenty percent reported that they had contacts with MPAs in Dubai, and 4 percent said they had ties with MPAs in Bangladesh.
<b>Saudi Arabia</b>	Employers in Saudi Arabia use MPAs in their own country, followed by MPAs in India (especially Mumbai and Delhi) or in Bangladesh. MPAs in Nepal receive job openings either from Indian agencies or from Bangladeshi agencies in Dubai. In rare cases, MPAs in Nepal have direct contact with employers in Saudi Arabia.
<b>Malaysia</b>	Employers in Malaysia outsource job openings to MPAs exclusively in Malaysia. These MPAs work with MPAs in a number of countries, including Nepal, Bangladesh, and India.

## Major Elements of Exploitation

### The Contract Auction Process

Employers in receiving countries have two different methods of recruiting workers: (1) recruiting internally through company managers, supervisors, and existing workers who recruit through their contact networks, and (2) auctioning contracts to recruitment agencies. This second method is more widespread. Employers auction the contracts to the agencies that can supply the cheapest labor.

This auction process adversely impacts workers' salaries, because MPAs try to outbid each other to provide the largest amount of workers at the lowest cost to employers. Nepali law establishes that workers from Nepal cannot be sent abroad for jobs paying below the minimum wage set by the Nepali government. MPAs in Nepal adopt the following practices to circumvent this requirement:

- Bribing Labor Department officials to approve the applications of workers who will be earning less than the legal minimum wage.
- Preparing two different contracts for workers. One is shown to the Labor Department for approval and at the airport for immigration clearance. Once workers clear immigration, they are instructed by MPAs to destroy these documents. Upon arrival in the destination country, workers must sign a different contract and are told that the Nepali contract is not valid.
- Showing workers bait-and-switch contracts just before departure. Agreements are signed a few hours before departure, and workers are not given time to read the contract to note that the salary mentioned in the agreement is less than what was originally promised.

If providing workers with duplicate or false contracts is not a viable strategy, workers may be sent abroad via India, where there are no minimum-wage procedures.

### Excessive and Illegal Recruitment Fees

For worker recruitment through Nepali recruitment agencies, workers pay recruitment fees either directly to the manpower agencies on the day of departure or to the regional agent upon receipt of the visa.

In the first option, district-level agents cover the expense of the new passport. Regional agents bargain with MPAs in Kathmandu and finalize the rate for each passport, which is usually NPR 15,000-25,000 (USD 170-282) per passport. Upon finalizing the amount, the regional agent hands over the passport to the MPA. In turn, the MPA begins negotiating with the employers or MPAs in the destination country for the position. After finalizing the position, the MPA decides on the recruitment fee to be collected from the worker.

In the second option, upon receipt of the visa, MPAs in Kathmandu already know the job and the worker-recruitment fee. They inform the village agent, who communicates the required amount to workers and collects the passports. After getting the visas, the agent collects the recruitment fees from workers and gives them to MPAs. In this model, the village agent adds an additional NPR 15,000-20,000 (USD 170-282) to the MPA's recruitment fees for his services, with or without the knowledge of MPAs.

Recruitment fees for each worker are fixed by adding together the amount given to the regional agent, the commission for the village agent who brings workers to the MPA, and commissions to people in the receiving country who negotiate the job (MPAs, human resources managers, general managers, agents in India).

### Exploitative Credit Rates

Recruitment fees are excessively high due to the commissions paid to middlemen at each level of the ladder. Workers are forced to bear this cost and have no choice but to obtain a loan from moneylenders who charge excessive interest rates. Seventy percent of the workers interviewed for the study reported that they took out a loan to pay recruitment fees.

The government of Nepal's Ninth Plan (1997-2002) and Tenth Plan (2002-2007) advocated for loans of NPR 100,000 (USD 1,130) to poor migrant workers. The loan program was launched in 2001 but was problematic because recruitment agents were required to cosign on the loan, which had to be guaranteed by the Saving, Credit and Loan Security Corporation. MLTM was responsible for monitoring the loan program, which was later increased to five times the original amount. Unfortunately, loan awards became political, and due to nonpayment of the loans, the program was discontinued.<sup>82</sup>

### Withholding of Passports and Photo Change

After taking passports from workers, village agents hand them over to regional agents or directly to recruiting agencies/manpower agencies in Kathmandu, which use the passports to obtain visas and other required documents. Eighty-two percent of the workers interviewed for the study were not aware of the duration of the visa approval process. Sometimes, after getting the visa, a worker is unable to pay the required recruitment fees immediately. In this situation, instead of the passport holder going to the receiving country, another worker may go in his or her place by changing the photos in the passport.

Agents may keep workers' passports for a long time (six months to two years) and still not get them a visa. If workers ask for the passport, the village agent may tell the workers that the regional agent is processing the passport. During this time, workers cannot approach other agents to go abroad, since they don't have their passports.

There have been significant concerns regarding the DoFE's capacity to handle fraud complaints because of a severe lack of staff. It is too early to tell whether the recent addition of new employees will improve the handling of migrant-worker complaints.<sup>83</sup>

## The Employment Cycle: Points That Trigger Forced Labor

During the employment cycle, certain factors are triggers for forced labor. In this section we describe where in the employment cycle migrant workers become vulnerable to human trafficking and forced labor.

### Pre-Recruitment and Recruitment Phase

The first triggers take place early in the initial pooling and recruitment process, since this phase of the cycle is poorly regulated, tends to be informal, and is beyond the scope of oversight mechanisms imposed by governments and employers. These activities happen in workers' communities of origin, which are generally remote villages. Many workers incur debt at this stage, since they do not have money for copies of their personal government-issued documents.

Most of the workers interviewed said that before they met the village agent, they did not know much about how to become foreign contract workers or about labor brokerage. They reported that the little information they did have about working abroad came from family or community members who had worked overseas. Based on worker interviews, in many cases, the agents were recommended by a family member or were from the same village.

Some workers reported that they did not give much thought to the selection of their broker and simply chose the first broker who approached them. Most of the workers also reported that it was hard for them to verify whether the agents or brokers were legitimate, or if they had a good track record. Only one worker reported that he made the decision to apply at his recruitment agency after reading about it in a newspaper.

### Selection and Hiring Phase

The next trigger takes place during selection and hiring, when workers are asked to pay onerous fees and to sign falsified documents. At this stage, contract substitution, contract amendments, supplemental agreements, and the absence of formal agreements and contracts are common. This is the stage at which most workers take out substantial loans, as the payment of fees is a critical requirement in securing employment abroad. Most of the employers in Qatar, Saudi Arabia, Kuwait, and other countries receiving domestic workers provide free visas to agencies for recruiting workers. However, the agent or the MPA charges money for these free visas. Only after they reach their destination do workers learn that the visa was supposed to be free of charge, but by then it is too late to recoup the money.

Seventy percent of the workers interviewed reported that they took out a loan for the payment of recruitment fees. In both the Terai and Hills regions, the interest rate charged by moneylenders was 36 percent annually among interviewees for this report. To receive the loan, workers had to sign an agreement stating that moneylenders could take the worker's house, residential or agriculture land, or any other property equivalent to the amount lent if the worker failed to pay back the loan. Workers interviewed who were unable to cope with working conditions abroad returned home and had to turn their property over to the moneylenders. This is one of the main factors that increases worker vulnerability and forces them to accept exploitative working conditions abroad. Workers cannot afford to lose their job, as they have to pay back their high-interest loans. Once abroad, the first order of business is paying back the moneylender. According to workers interviewed for this report, Nepali workers, particularly in Qatar and Saudi Arabia, pool their salaries to repay one or two workers' loans per month.

Eighteen out of the 124 respondents interviewed in Nepal were not aware of their destination country prior to departure. Sixty-two were not aware of their employer, and 82 did not know the location of their work. Thirty-eight workers were not given information on the type of work that they would be carrying out, 39 workers were not given information on the wages that they would receive, and 65 were not aware of stipulations regarding overtime payments and the provision of food. Few workers interviewed were given information on social security benefits, annual holidays, or duration of visas prior to departure.

Workers interviewed offsite reported broker deception and misinformation in Nepal. They were all promised high wages, or more than NPR 20,000 (USD 226), although they were not told the exact amount. When they reached Kathmandu, after the initial screening and just before contract signing, some brokers provided the workers with more detailed information. They were told that the length of their contract, which was generally three years. Many were also provided with the names of their prospective employers, the type of work they were being hired for, the expected number of regular and overtime hours, and information on mandatory overtime, deductions, and accommodations. Most workers were told that they would get double pay for overtime work and that accommodations would be provided for free. Some of the workers reported that they were informed about deductions, while others said that they were not informed.

### **Medical Checkups**

Workers undergo medical checkups twice, once prior to departure and once upon arrival in the destination country. Of the 45 women workers interviewed for the study, 82 percent underwent a pregnancy test during the medical checkups, 16 percent did not, and the remaining two percent did not know whether they took a pregnancy test.

#### **Case Study: Medical Checkup**

“I cried to save my child, but no one heard me,” said Dilmaya (30 years old), a woman from a remote village in the Pokhara district of Nepal who had recently returned from Saudi Arabia. Like many women, Dilmaya supported her family financially by going abroad as a domestic worker. She was approached by a female village broker and agreed to migrate to a Gulf country via India. She was taken to Mumbai, India, and was provided with no information about how many days she would stay in Mumbai or about her final destination. After three days, she was asked to undergo a medical checkup, in which she was found to be two months pregnant. The broker forced her to abort the baby, even though Dilmaya pleaded to be sent back home. After the abortion, Dilmaya was not given the proper medical attention and bled continuously for many days. She was sent to Saudi Arabia, where instead of carrying out domestic work, she had to work outside on a farm in the summer. When she fell ill due to the abortion, her employer refused to provide her with medicine, so she returned to Nepal at her own expense.

### **Transport Phase**

The next triggers of forced labor occur at the transport/transfer and receiving stage. During the transportation phase, workers who transit through India are most vulnerable, because the India-Nepal border is porous, and there is lack of monitoring by both countries.

Of the 70 returned workers interviewed in Nepal that were sent by MPAs, 27 percent were sent via India, and the remaining 73 percent were sent from Kathmandu International Airport. According to Nepali law, the Labor Department should conduct a final interview with the candidates selected by MPAs prior to departure, but MPAs bribe officials to approve the candidates sight unseen. For each worker, MPAs generally pay approximately NPR 100 (USD 1) to Labor Department officials.

Workers who traveled via India were mostly unregistered and undocumented workers. By sending workers through India, MPAs avoid complying with requirements on insurance coverage and the Labor Department departure seal. The insurance provides NPR 700,000 (USD 7,920) to migrant-worker families in the case of workplace fatality.

Sending workers through India is illegal, since the Nepal Foreign Employment Act (2007) requires workers to use a Nepali airport. If this is not possible due to nonavailability of tickets, the broker/agency must obtain prior approval from the Labor Department to use an airport in another country.

Of the 33 returned migrant workers sent by agents and subagents who were interviewed for this study in Nepal, 55 percent were sent via India to their destination countries. The remaining 45 percent departed from Kathmandu. The workers who went through India used the Sonali, Gorakpur, and Nepalkanji border crossings to enter India. Most of the time they were sent in groups and were received by agents in India. They stayed in Delhi, Mumbai, and Kolkata until they got their visas and tickets, which took from one week to a few months. Brokers have links with hotels and restaurants in India. Workers must stay in these hotels and are asked to eat only in a particular restaurant where the brokers have contacts. During their stay, no one was allowed to visit these workers, and the workers were not allowed to go outside, except to eat in a specified restaurant. During their entire stay, workers were monitored by the hotel owners who regularly updated the brokers. Workers had no idea when they would be sent to their destination countries.

### **Reception and Job-Assignment Phase**

During this phase, the most important triggers for forced labor are delays in receiving workers, withholding of passports, and multiple contracts with differences in terms and conditions, as mentioned above.

#### ***Delays in Receiving Workers***

Often upon reaching their destination, workers are not picked up on time by the receiving agent or company representative, resulting in workers having to wait at the airport for a period of a few hours to a few days. Often workers run out of money to buy food and are unable to eat while at the airport. Receiving delays occur in Malaysia more than in any other country. The main reasons for receiving delays are:

- Factories/companies are located far from airports, and employers are not willing to send a vehicle for a small group of workers. Instead they wait for a large batch of workers to arrive in Malaysia and pick all of them up together.
- Sometimes the receiving-country MPAs are not paid the commission owed to them by the MPAs in Nepal on time, so they delay receiving the workers until payments are made.
- Poor communication between the MPAs in the Nepal with the MPAs or employers in the destination country.

#### ***Withholding of Passports and Visas***

Worker passports and visas are often confiscated by the employer at the airport upon the workers' arrival, and workers are denied access to their passports and visas until they have completed their contracts. Employers are supposed to provide a labor card to workers to use as proof of identify. However, no domestic workers interviewed for the study were given labor cards.

According to workers interviewed for this report, passport and visa withholding frequently occurred in Dubai, Kuwait, Malaysia, Qatar, and Saudi Arabia. Many times, even after experiencing harassment and abuse, workers were unable to change their place of employment

or return to Nepal, because their passports were retained by their employers. Even in the case of critical family problems or the death of a close relative, workers needed a fax or letter from the broker or MPA through whom they had migrated in order to return to Nepal.

In many of factories in Malaysia, Verité found that workers are made to sign, against their will, pro forma letters indicating that they voluntarily gave their passports to their brokers or employers for safekeeping.

Workers interviewed reported that they did not mind that their passports were withheld by their brokers or employers, as long as they were provided with photocopies and their conditions of work were fair and decent. They reported that it became problematic when the workers wanted to change their place of employment because of abusive or exploitative situations. Additionally, when there was a raid by Malaysian authorities and migrant workers were found without their passports, they were immediately brought to detention camps or were sent home.

#### *Multiple Contracts with Different Terms and Conditions*

Of the respondents interviewed for this study, 43 percent signed a different contract upon arrival in their destination country, 21 percent did not sign a contract after reaching the country, and 36 percent did not sign a contract either before or after departure. Eighty-six percent of the workers who signed two different contracts reported that the terms and conditions mentioned by employers were not the same as the terms and conditions mentioned by the MPAs or brokers. Twenty-seven percent of the workers interviewed experienced a different salary, 18 percent experienced a different type of work, and 52 percent experienced a difference in overtime and overtime payments from what MPAs or agents had promised. Of the 33 migrant returnees in Nepal sent by brokers, 91 percent did not sign a contract prior to departure. Because terms of employment and working conditions were provided orally by brokers, workers did not have any proof of the original agreement.

#### *On the Job*

During this phase, forced labor triggers include terms of employment different from those promised, passport retention, a failure to pay workers legal minimum regular and overtime wages, restrictions on freedom of association, a lack of a grievance mechanisms, and verbal, psychological, and sexual harassment and abuse.

#### *Changes in Terms of Employment*

Fifty-two percent of the workers interviewed in Nepal were not given overtime as promised, and 27 percent of the workers had a salary lower than the salary promised by the village agent (usually 30-40 percent lower). Eighteen percent of the workers reported that they were not given the same type of job promised by the village agent prior to departure.

#### *Sexual Harassment and Physical Abuse*

Of the 32 domestic workers interviewed for the study, 66 percent reported that women in domestic work are more vulnerable to sexual harassment than men. Five of the interviewed domestic workers reported that they had been sexually harassed by their employers or the employer's family members in the employer's house. Of the 32 domestic workers, nine reported that they had been beaten by their employer and four reported that they had been burnt by their employer with an iron box for not working properly.

### **Labor Laws Do Not Apply to Domestic Workers**

In domestic work, there are no limits on working hours. Domestic workers usually start work at 5 a.m. and end work at 11 p.m. or 12 a.m., with no holidays. Their movements are restricted; they are not allowed to go outside the home without the owner or a family member. Few have contracts. Of 32 domestic workers in Nepal interviewed for the study, 94 percent said they had not been provided with a signed agreement with the employer or agents.

### **Nonpayment of Wages**

Eighty-five percent of respondents interviewed for this study reported that they were not paid the legal minimum wage due. In Saudi Arabia and Malaysia, employers withhold one month of the worker's salary or bonus to ensure that workers return from Nepal on vacation. This usually happens when one contract period ends and the contract has been renewed by the employer with the consent of the worker. In Japan and South Korea, the first two months of workers' salaries are withheld and returned upon completing the contract period. Workers who leave during the contract period forfeit this money.

### **Workers Forced to Pay for Their Own Return Travel**

In case of voluntary or involuntary termination, workers have to pay for their own return travel. In Malaysia, in addition to the return ticket, workers are required to pay the government tax for the remaining contract period. Usually it is MYR 125 (USD 40) per month, and workers have to pay this amount for all remaining months on their contracts. It's a burden for workers to pay such a huge amount, and workers are not allowed to leave without paying it.

### **Lack of Grievance Mechanisms**

Withholding of passports, coupled with inadequate or poor grievance mechanisms in destination countries, contributes to the highly vulnerable state of Nepali migrant workers.

As of June 2010, a total of 807 complaints were pending at the DoFE. Of these, 297 (49 percent) were individual complaints made against recruitment agents and/or subagents, and 310 (51 percent) were organizational complaints made against recruiting agencies. Nearly two-thirds of the claims were individual complaints, implying that corruption and irregularities are more pronounced in informal channels. The total compensation claimed runs to over NPR 310 million (USD 3.5 million).<sup>84</sup> The following table shows complaints lodged at the DoFE since fiscal year 2004-2005 by amount claimed and amount awarded. As can be seen, the amount awarded is significantly less than the amount claimed.

**Complaints Lodged at the DoFE, 2004-2005 to 2008-2009<sup>85</sup>**

Year	Complaints Lodged (Number)			Amount Claimed (NPR in Millions)		Amount Awarded (NPR in Millions)	
	Ind.	Org.	Total	Ind.	Org.	Ind.	Org.
2004-05	359	500	859	159.69	65.07	14.40	23.85
2005-06	493	364	857	157.83	52.07	20.22	23.85
2006-07	419	278	697	369.60	56.20	14.40	22.40
2007-08	495	333	828	297.67	61.16	48.59	30.09
2008-09	449	451	900	314.82	206.90	34.40	35.55

Source: *Nepal Migration Yearbooks 2006-2009, NIDS*

Note: Ind. (Individual migration), Org. (Organizational migration)

All 124 workers interviewed in Nepal reported that there were no venues for worker organization in their destination countries and that grievance mechanisms were ineffective. No interviewee workplaces had worker committees, trade unions, or NGO forums for workers to report grievances. Ninety-two percent of workers interviewed in Nepal for this study reported that there were no grievance mechanisms available in their destination countries (outside of the factories). An additional three percent of workers reported that they were not aware of any grievance mechanisms, while another three percent of workers reported that they knew they could report grievances to the Labor attache at the Nepali consulate. Only two percent of the workers interviewed reported that they were aware that their grievances could be reported to their embassy.

Besides unskilled workers' lack of knowledge of grievance mechanisms, a 2010 study by the World Bank found that most cases of fraud and cheating are not pursued through official channels because:

- The cost is prohibitive for a worker to travel to Kathmandu and remain there to pursue the case, which could take months.
- Agents may threaten migrant workers with physical harm for lodging complaints, and workers may thus decide against pursuing their claim.
- The procedures are so long and cumbersome that many workers simply give up on lodging complaints.

#### **Case Study: Menace of Penalty for Filing Complaints**

A female worker employed by a major glove maker in Kuala Lumpur reported that although contract violations regarding working hours, wages, and days off were common at her workplace, not a single one of the thousands of migrant workers employed there had ever complained. She explained, "There is no one to help us make the complaint with the proper office; we are not part of the workers' association; and we cannot talk to management." She had planned on filing a complaint at the Nepali Embassy but was afraid that the company would send her back home once they found out about her complaint. Also, she was told by fellow workers that if she complained, the agent would lock her up in a room and harm her physically, as agents had done to other workers. She also reported that despite the poor working conditions, she had no plan to leave the company, since she still had unpaid debts at home and in Malaysia. She said that management was good to the workers, but that they were afraid of the agent, who could transfer them to another workplace with worse conditions.<sup>86</sup>

### **Return and Reintegration**

Government services to help with reintegration are poorly organized. Two NGOs in Nepal help migrant workers: Pouraki Nepal was initiated by women migrant workers, while Pravasi Nepali Coordination Committee (PNCC) advocates for the rights of male migrants. More migrant worker NGOs are needed to support and advocate for migrant-worker issues.

## **Government of Nepal's Activities to Combat Exploitation**

The effectiveness of the government of Nepal's efforts to combat the exploitation of Nepali workers abroad was summed up by Dr. Ganesh Gurung, who said that while there was *niti* (law and written policies), there was no *niyat* (intention or commitment). The main areas in which

government effectiveness needs to improve to combat exploitation of Nepali migrant workers are:

- **Increase DoFE capacity and effectiveness.** With the passage of the FEA of 2007, the DoFE became the main entity responsible for all the matters pertaining to foreign employment. However, there are serious questions about the capacity and effectiveness of this department. According to the *Study of Issues on the Recruitment of Migrant Labour in Nepal* (Manandhar & Adhikari, 2010) the capacity of the DoFE is extremely low. Though the department is expected to regulate foreign employment, due to overcentralization, it has become a breeding ground for corruption. This corruption and inefficiency in the department has pushed many migrant workers to opt for unofficial channels into foreign employment.<sup>87</sup>
- **Inter-Ministerial coordination.** In interviews, key stakeholders in Nepal highlighted the need for greater coordination among the Ministry of Foreign Affairs, Ministry of Labor, and Ministry of Home Needs.
- **Greater focus on fighting corruption.** During his visit to Qatar in early 2012, the new prime minister of Nepal met with key stakeholders and migrant workers. Upon his return, he set up a Foreign Employment Management Committee. This committee found that corruption was one of the main issues complicating foreign migration and developed a 30-point program to address the issue. Some of the committee's recommendations have already been implemented, such as installing CCTVs in all of the areas of the DoFE where financial transactions take place, and instituting a policy of no cash transactions. This agenda should remain the focus of the government to address corruption systematically.
- **Increased protections for Nepali workers in agreements with receiving countries.** The government of Nepal needs to improve its bargaining power with respect to bilateral agreements with receiving countries. Nepal currently has agreements with Bahrain, Qatar, and the U.A.E. A memorandum of understanding with Malaysia and Lebanon are in the pipeline, according to a government official. There are three important issues with respect to bilateral agreements:
  - Ensuring that ILO decent work provisions are embedded in bilateral agreements
  - Monitoring the implementation of bilateral agreements
  - Addressing migration issues with the government of India to ensure that Nepali migrants working in and transiting through India are protected
- **Improved law enforcement.** Ineffective law enforcement is one of the main weaknesses that leads to exploitation of migrant workers. The government must take steps to improve the capacity of law enforcement agencies to protect the rights of migrant workers and to capture and punish individuals who are exploiting workers.
- **Revision of the Foreign Employment Act of 2007.** Several sections of the act are either not being properly enforced or need amending. For example, Section 19, which discusses payment by workers to recruitment agencies, should be amended to require that all payments be made through banks instead of in cash to facilitate better tracking of payments and to ensure that there are transaction records. Similarly, Section 22 states that workers can use foreign airports if the Nepali airport has no tickets available. Since Nepal now has air connection to all receiving countries, this section should be removed, and recruitment agencies should be required to use the Nepali airport. Section 24, regarding service charges and promotional costs, also needs amending, since the government fixed a limit of NPR 70,000 (USD 793) for all countries, even though some receiving-country employers provide free visas and tickets while others do not. This allows recruitment agencies to exploit migrant workers.

## Receiving-Country Research: Malaysia

### Factors That Increase Migrant Worker Vulnerability in Malaysia

Malaysia is one of the largest receiving countries of migrant workers in Southeast Asia. According to a study published by the Fair Labor Association (FLA), Malaysia has experienced close to zero unemployment since 1990, and population growth in Malaysia is relatively low. Many Malaysians are no longer willing to perform jobs that they consider the “three Ds” (dirty, difficult, and dangerous), creating demand for migrants in sectors such as agriculture, construction, manufacturing, and some service sectors. There were 2.1 million documented migrant workers in the country in 2008, meaning roughly 25-30 percent of the workforce was composed of documented migrant workers. Observers from NGOs, migrant support organizations, and the Malaysian Trades Union Congress (MTUC) estimated that there were also one-two million undocumented migrant workers, meaning that one-third of Malaysia’s workers were migrants.<sup>88</sup>

Malaysia formally recognized Nepal as a source country for foreign workers in 2001, although reports revealed that Nepali contract workers have been employed in Malaysia since the 1990s. Nepali workers constitute the second-largest population of foreign workers in Malaysia after Indonesians.<sup>89</sup>

According to the DoFE, Malaysia legally employed 672,543 Nepali from fiscal year 1997-1998 to fiscal year 2011-2012.<sup>90</sup> After Qatar, Malaysia is the top destination for Nepali migrant workers. Labor migration in Malaysia decreased in 2011, mainly due to the recent implementation of Malaysia’s legalization and amnesty scheme, which started in August 2011 and is discussed below. However, Malaysia remains a popular destination for Nepali workers seeking employment abroad. Workers interviewed reported that although they would prefer to go to the Middle East, where the pay is perceived to be higher, they are discouraged by the cost of securing a job there, which can be double to the cost of going to Malaysia.

Many Nepali workers in Malaysia face exploitive working and living conditions and are subjected to forced labor. The most common issues faced by Nepali workers in Malaysia are nonpayment, delayed payment, or incomplete payment of wages and other benefits; excessive working hours; nonpayment of overtime; unauthorized deductions; a lack of medical benefits; unsafe working conditions; substandard accommodations; and vulnerability to abuse by the police, employers, and brokers.

Verité audits revealed that it is common for Nepali workers (and other foreign workers) to be paid a considerably lower wage rate than local workers (as little as half), and to be subjected to more stringent discipline procedures that hamper their freedom of movement and make them vulnerable to harassment and abuse. Another widespread practice is withholding workers’ passports, which effectively ties workers to their employers and their jobs, despite exploitive conditions. The retention of passports by brokers and employers render Nepali workers vulnerable to being denounced to the authorities and becoming undocumented foreign workers. These exploitive practices faced by Nepali workers in Malaysia, coupled with the onerous recruitment fees for which they incur debts at high interest rates in Nepal, lead Nepali workers into situations constituting labor trafficking and/or forced labor.

## Malaysian Legal Framework

### *Laws on Guest Workers in Malaysia*

To date, there is no comprehensive law governing and protecting the rights of foreign workers in Malaysia. Instead, several pieces of legislation cover the rights, conditions of work, and status of foreign workers in Malaysia.

The Employment Act 1955 (Act 265),<sup>91</sup> Industrial Relations Act 1969, Trade Relations Act 1959, Workmen's Compensation Act 1952, and Occupational Safety and Health Act 1994 provide the legal framework for both Malaysian and documented migrant workers. The Private Employment Agents Act regulates the activities of labor brokers in Malaysia. The Immigration Act 1959/63 (Act 155) regulates the entry into and departure from Malaysia and the process of obtaining work visas.

Key features of the laws above regarding conditions of work are:

- The maximum number of hours of work is set at eight hours per day, including 30-minute breaks after five consecutive hours of work. The maximum workweek is set at 48 hours per week.
- Overtime work is limited to 104 hours per month.<sup>92</sup> Workers have the right to a 50 percent premium for overtime work on a regular workday, with higher premiums for overtime work on Sundays and holidays.
- Workers are entitled to a weekly day of rest,<sup>93</sup> paid holidays,<sup>94</sup> and severance pay.<sup>95</sup>
- Workers who have been employed with the same employer for less than two years are legally entitled to an annual leave of eight days for every 12 months of continuous service, with an increase of four days per year for each additional year of service.
- Workers have the legal right to join, participate in, and organize trade unions.
- A written contract between employers and workers is legally required and should include provisions on termination,<sup>96</sup> wages (since there is no minimum wage requirement in Malaysia),<sup>97</sup> days of rest,<sup>98</sup> overtime,<sup>99</sup> leave benefits,<sup>100</sup> and shifts.<sup>101</sup>
- Notice must be given before termination of the employment contract, except in cases of willful breach of contract by either party.
- Employers must provide a safe workplace, including the provision of safety training to workers and the establishment of joint management-employee safety committees in companies with more than 40 workers.

In 2011, the Employment (Amendment) Act was enacted, introducing a new definition of labor contractors as people who contract with a principal, contractor, or subcontractor to supply the labor required for the execution of the whole or any part of any work. The law imposes a new duty on the labor contractor who intends to supply any employee: The contractor must register with the Director General 14 days before supplying the employee. The law also requires labor contractors to maintain information on the employees they supply in a register, which should be made available for inspection. Violations of these requirements are offenses under Act 265. The act also requires payment of wages into bank accounts and institutes procedures for termination and sexual harassment complaints.

### *Regulatory Environment for Guest Workers in Malaysia*

A number of agencies are involved in regulating the hiring of foreign contract workers (FCWs) in Malaysia. The Ministry of Home Affairs (Immigration Department) regulates the entry and exit of FCWs through the issuance of work visas/permits. It also caps the amount of recruitment fees

for Malaysian employers. The workers' levy, which is supposedly charged to and paid by the employer, is paid to the Ministry of Home Affairs, which then remits the money to the Finance Ministry. The Ministry of Home Affairs is also in charge of the licensing and monitoring of outsourcing companies.

The Ministry of Human Resources (MOHR) oversees the implementation of labor laws in Malaysia. It has a foreign workers' division that is responsible for employment issues among FCWs. The MOHR reviews and approves labor contracts and is in charge of licensing and monitoring Malaysian private employment agencies. The MOHR is involved in reviewing the performance of outsourcing companies, but the final decision to renew or revoke a license is held by the Ministry of Home Affairs.

These two agencies, together with the Ministry of Trade and Industry, comprise what is known as the "one-stop center," which is the closest thing to a coordinating body that Malaysia has. Except for the MOHR foreign workers' division, there is no agency dedicated to FCWs. Verité's interview with the MOHR revealed that there is no active government engagement with foreign workers, especially regarding their problems with brokers.

Unskilled or semiskilled Nepali workers, like other migrant workers in Malaysia, are typically employed in manufacturing facilities or in service sectors for positions that do not require significant education or skill and that pay less than MYR 2,500 (USD 791) per month. The law provides that these workers be issued only temporary work permits or work passes, which are renewable annually. The possession of a valid work pass secures a migrant worker's legal status in Malaysia.

Based on government-issued policies and procedures, an employer intending to hire unskilled or semiskilled foreign contract workers must first fill out an application form with the Ministry of Home Affairs, seeking authorization to hire foreign workers. The applicant (employer) should provide information on the business, including proof of registration at the nearest labor office and previous approval from the Labor Department allowing the business to hire FCWs. The employer then registers online and submits a hard copy of the application to the Labor Department. It usually takes about two months for the Ministry of Home Affairs to approve an application. Once the application is approved, the permit to hire FCWs will be issued in the name of the employer, which is solely responsible for all payments of deposits, visas, and foreign-worker levy passes.

Having procured the approval letter from the Ministry of Home Affairs, and after payment of the levy, the employer can either go to source countries and hire workers directly or work with Malaysian recruiting agencies.

**Foreign Contract Worker Requirements**

Foreign contract workers are required to have work permits issued by the MOHA that allow them to reside and work in Malaysia. FCWs must also have a legal and valid passport from their home country. FCWs arrive in Malaysia on a visa and are then brought to government-registered clinics or health centers for a medical examination to ensure that they are medically fit to work. They may obtain a temporary employment sticker at the State Immigration Office after the employer or representative presents the original approval letter from the MOHA, original receipts showing payments, and workers' passports.

FCWs are granted work permits valid for one year, which can be renewed annually for a maximum of three years. Skilled workers can extend their length of stay for another two years. Each year, before the permit renewal, the worker must undergo medical screening for a list of diseases in a government-approved clinic.

In August 2005, a regulation was issued requiring companies intending to hire fewer than 50 foreign workers to use the services of labor brokers (labor outsourcing company), while firms recruiting more than 50 migrant workers have the option of recruiting workers directly.<sup>102</sup> In a labor outsourcing arrangement, the employment relationship is between the labor broker and the worker. Since 2010, the outsourcing company is allowed to transfer migrant workers from one company to another within the same sector or from one work site to another without their consent, as long as the broker remains the worker's employer on paper.

Under the Employment Amendment Act of 2011, Section 60k of Act 265 is amended by inserting Subsection (3), requiring that employers inform the Director General of Labor of the termination of service of their foreign worker if the employment of a foreign worker is terminated (a) by the employer; (b) by the foreign worker; (c) upon the expiration of the employment pass issued by the Immigration Department of Malaysia to the foreign employee; or (d) by the repatriation or deportation of the foreign worker. The employer is required to notify the Director General within 30 days of termination of service.<sup>103</sup>

***Laws on Undocumented Workers in Malaysia***

As described above, for a foreign worker to acquire legal status, Malaysia requires that the worker be legally registered with a valid work pass. Acquiring a valid work pass requires a worker to have a legitimate and authorized employer, to pay the application fee, and to be physically fit to work. The work pass is renewable on a yearly basis. The worker's legal status in Malaysia is secured by the work pass, and is consequently tied to the worker's employment, as well as to the employer, who is accountable for the worker while he or she is in Malaysia.

A foreign contract worker whose name is not in the government registry and who does not have a valid work permit is considered an undocumented worker. The classification of "illegal worker" is generally applied to foreign workers who have violated the terms and conditions of their contract.<sup>104</sup> However, foreign workers in Malaysia can also be classified as "undocumented" and can fall out of status when they are found by authorities to be without valid identification or passports. Workers can also become "undocumented" when they terminate their contracts early or are forced to transfer to different employment. This happens in many cases to workers who overstay their work permits because they have not yet earned enough money to return home and settle their debts there.

In Malaysia, it is common for foreign workers to be routinely inspected or to have their dwellings raided. If they are found to be without proper identification or passports, they can be

automatically processed as illegal, “undocumented” workers and are apprehended, detained, fined, penalized, or deported. Many FCWs fall into “undocumented” status because they are not allowed to hold their own passports.

Another category of “undocumented workers” are irregular migrants who entered Malaysia through backdoor routes, or those born in Malaysia to “undocumented” parents. This occurs more commonly in Sabah and Sarawak than in peninsular Malaysia. None of the Nepali workers interviewed for this report fell into this category. All the Nepali workers interviewed for this research entered Malaysia through legal channels, following regular migration processes with valid work permits.

In 2011, through the Cabinet Committee on Foreign Workers and Illegal Aliens (JKKPA-Immigrants), Malaysia introduced what is known as the 6P amnesty program (Foreign Workers Total Solutions Program).<sup>105</sup> The 6P includes illegal worker registration, legalization, amnesty, monitoring, enforcement, and/or expulsion. This program seeks to register undocumented immigrants, decrease crime, and address worker shortages in certain sectors by regularizing undocumented workers’ legal status.<sup>106</sup>

Under the 6P program, foreigners are required to register if they entered Malaysia illegally, if their official work permit expired, if they violated conditions of their work permit, or if they hold U.N. High Commissioner for Refugees (UNHCR) refugee cards. In July 2011, registration of all illegal immigrations began. Once the government decides how many workers are needed for each sector, it grants temporary work permits (legalization) or repatriates workers (“amnesty”) as appropriate. There is an ongoing process of monitoring, enforcement operations, and expulsion.<sup>107</sup> In addition to deportation, there are other stiff penalties for undocumented workers who do not register in the program, including imprisonment and/or fines of up to MYR 3,000 (USD 825).

As of December 2011, 33,000 illegal Nepali workers had registered under the 6P program, of which 27,000 remained in Malaysia and 6,000 returned to Nepal.<sup>108</sup> Reports indicate that there are still 15,000-20,000 illegal Nepali workers in Malaysia who have not registered.<sup>109</sup>

The 6P program has experienced many problems. There were numerous complaints from workers about exploitation by bogus agents and management companies overcharging fees.<sup>110</sup> Allegations of abuse committed by recruitment agents demanding exorbitant fees to register undocumented workers began to surface. It had been announced earlier that the maximum rate for registration was MYR 35 (USD 11) and the maximum service charge for legalization was MYR 300 (USD 95). However, this does not include fees for work permits, levies and bonds, temporary worker passes, or insurance. There have been reports that, in practice, the fees for the 6P registration range from MYR 3,600-4,000 (USD 1,200-1,340) and that many employers refused to cover registration costs, forcing workers to pay the fees themselves.<sup>111</sup>

The inclusion of refugees holding valid UNHCR documents in the 6P program became a source of controversy from civil society groups. A Burmese refugee registering under the 6P program reported that when she went to the Immigration Office in Putrajaya to register, she saw the Malaysian police<sup>112</sup> beat some of the refugees, including children, mothers, and the elderly.<sup>113</sup> The interviewee also said that she received papers marked “Return to Home Country,” which is not permissible for refugees. Tenaganita, a local NGO, called for a halt to registration of refugees under the 6P program, arguing that their status required that they be treated under a different framework.<sup>114</sup>

There are a number of problems with the legal framework of the 6P program. There should be complementary legislation that expressly states that labor standards and other protections contained in the Employment Act apply to workers registered under the 6P program. Sanctions and stiff penalties should be levied on people, especially brokers, who abuse the 6P process. The government should provide an effective and accessible complaint mechanism whereby individuals victimized by unscrupulous brokers abusing the process can seek remedy without fear of reprisal.

While not initially freely disclosed, foreign workers legalized under the 6P program may be sent back to their home country after two years. “People have to realize that after this legalization, it is not going to be a permanent change of government policy. It is temporary. At the end of the two years, many won’t be given continuity (to work),” said Human Resources Minister Subramaniam.<sup>115</sup>

#### **People’s Volunteer Corps (RELA)**

Foreign workers in Malaysia are monitored in part by the People’s Volunteer Corps (RELA), a “volunteer” organization that had approximately 682,742 members in 2009, citizens empowered to conduct warrantless raids and detain suspected illegal immigrants. RELA “volunteers” receive a bounty of MYR 80 (USD 24) for each person they detain, in addition to a monthly stipend. As of 2008, RELA had apprehended 73,938 “illegal immigrants.” Human Rights Watch reported that RELA has been found to abuse detainees in immigrant detention centers, where the organization is responsible for security. The reported abuse included intimidation, physical assault, extortion, theft, destruction of identity documents, and sexual abuse.<sup>116</sup> In April 2012, the Malaysia Volunteer Corps Bill passed in Parliament, aimed at preventing abuse of power by setting the RELA membership limit at five years and denying RELA members the power to detain, arrest, or carry firearms.<sup>117</sup>

#### **Grievance Mechanisms**

Article 69 of the Employment Act authorizes the Director General to inquire into and decide on any dispute relating to wages and the liability of employers, contractors, and subcontractors for failure to pay wages and indemnity claims for termination of contracts without notice. However, the power to inquire into complaints with respect to wages is only granted when the dispute involves an employee whose wages are between MYR 2,000-5,000 (USD 633-1,581).<sup>118</sup> Since Nepali foreign contract workers are not generally within this wage bracket, they are outside the scope of this law.

Foreign contract workers have been fired by employers for filing complaints with government officials or with advocacy groups such as NGOs and trade unions. Termination of employment results in the termination of work permits, and thus a worker’s right to live and work in Malaysia. Thus, in practice, filing a complaint often makes FCWs subject to immediate deportation.<sup>119</sup>

During the review period of a claim, a terminated worker may apply for a Special Pass, issued at the discretion of the Immigration Department and renewable each month at a fee of MYR 100 (USD 13). The Fair Labor Association argued for the need to reform the Special Pass system, stating that “the conditions of the Special Pass prohibit the worker from seeking employment, making it difficult for him or her to afford the monthly renewal fee.”<sup>120</sup>

### *Legal Gaps That Create Increased Vulnerability to Human Trafficking and Forced Labor*

Development of policy in Malaysia regarding migrant workers generally occurs in response to problems as they arise. A major gap is the lack of a comprehensive policy to address migrant worker issues in Malaysia. A foreign workers' act, for instance, should enable the articulation of rights of migrant workers from recruitment to their eventual return to their home countries. As discussed above, the management, administration, and oversight of migrant workers is divided among different agencies. The section in the Ministry of Human Resources that handles migrant-worker issues appears too small considering the large number of migrant workers in Malaysia. The division only accepts and responds to complaints of migrant workers against their brokers or employers whenever they are filed, but it does not inspect work sites.

Another gap is created by the new rule allowing labor brokers to be registered as employers of migrant workers. Under this framework, the essential worker protection and employer accountability factors inherent in an employer-employee relationship are removed, increasing the vulnerability of both local and migrant workers. This new arrangement establishes sanctions for an employer's failure to maintain a registry of, and to report on, migrant worker termination, but it has not strengthened punitive measures for violations of human and labor rights and access to grievance mechanisms. Despite reports about egregious abuses suffered by migrant workers at the hands of labor brokers, the government has legitimized practices that render workers increasingly vulnerable to abuse and exploitation.

A third gap is the lack of employment security. There are no provisions that expressly state that workers' employment is secure for the duration of their contracts. Work permits are automatically revoked when workers change employers. Since in Malaysia work permits are not automatically valid for the duration of a contract, workers can also lose their migrant status when employers fail to renew their work permits. Employers and brokers are not legally prevented from canceling FCWs' work permits for bringing grievances. Since work permits are tied to employment with brokers or employers, FCWs remain silent due to fear of being rendered illegal.

Indemnities for employer contract termination may not be enough for workers to recoup what they have paid to obtain work in Malaysia. As mentioned above, they rarely have the time or resources to pursue a claim in case they are not indemnified. Although securing workers' tenure may not provide direct recourse and resolution for issues that beset workers, this prevents employers and brokers from using their temporary status as a means to keep workers in a vulnerable and subservient state.

Fourth, although there are a number of laws to protect the rights and interests of migrant workers, enforcement is very weak. There is no workplace monitoring to speak of, and egregious employer and labor brokerage practices are condoned, including the confiscation of passports, which violates the Passport Act of 1955.<sup>121</sup>

Lastly, the grievance mechanisms available to migrant workers are physically, financially, and socially inaccessible, particularly to undocumented workers. The government does not have a system to assist migrant workers who seek remedy for work-related claims. While a Special Pass is available to terminated foreign workers, allowing them to temporarily remain in Malaysia while they pursue their claim against their employers or brokers, the issuance of this pass is contingent on the approval of the Immigration Department, and it comes with a monthly fee, which an unemployed migrant worker cannot afford.

## Profile of Nepali Workers in Malaysia

While the Nepali Embassy in Malaysia did not have an updated list of the number of Nepali workers in Malaysia at the time of the current research, media and NGO reports estimated the number of Nepali workers in Malaysia at 400,000 in 2011. Almost all these workers were employed as unskilled general workers and belonged to diverse Nepali ethnic groups from different districts and villages, mostly outside the capital city of Kathmandu.<sup>122</sup>

Nepali workers interviewed in Malaysia for this study came from all over Nepal, mainly from remote farming villages and rural districts such as Sankhuwasabha, Udaya Pur, Dolkha, and Khotang, which are over five hours from Kathmandu. Some of the workers reported that they had to walk for days from their home in Khalikot to get to Kathmandu and process their applications for overseas work. Other places of origin interviewees mentioned included:

- Sanne, Dhankuta, east Nepal
- Okhaldunga, east Nepal
- Dhamali, Bhojpur, east Nepal
- Dhaulakot, Darchula, far west Nepal
- Gothati, Palpa, west Nepal
- Sindha Panchok, Bagmati Zone
- Chitwan, Valley area
- Kanchanpur, far west Nepal, near the Indian border

Workers interviewed in Malaysia were aged 18-43, with most falling in the 20-35 range. Ninety percent of the workers interviewed were male. Community workers assisting Nepali workers in Malaysia say it is usually more difficult for a Nepali woman in a traditional farming community to leave home for work abroad than it is for men. Another reason may be that there are more stringent requirements for the hiring of Nepali women.

Most of the workers interviewed had three to five years of formal education; some had finished high school; a few had some college education; and at least three workers interviewed had bachelor's degrees and had previously worked professionally as teachers or office workers in Nepal. Three workers also reported that they had no formal education at all but were able to read and write.

Workers cited poverty and a lack of viable livelihoods in Nepal as the main reasons for migrating to Malaysia. Most of the workers came from farming communities and reported that in the last couple of years, farming had not yielded enough for their families to live on. Some workers also cited the political unrest in or near their communities. One of the workers who cited the political unrest in areas around Khalikot, midwestern Nepal, said that these areas were controlled by Maoist forces and that many people had left their homes because of the situation. Workers also reported that some people had left their homes to avoid being forcibly recruited by Maoist forces.

### **Case Study: Bait and Switch**

Raju (not his real name), 24, married and a father of two children, related that he returned to work in Malaysia for the second time because there were simply no jobs for him in Nepal. Raju has a high school diploma. The first time he went to Malaysia was in 2008, for a two-year contract in an electronics factory in Penang. He said that his contract was not extended because the factory downsized, so he had no choice but to return to Nepal. In Nepal, he was not able to find a good-paying job, and he had a growing family to feed. He said that although it was very difficult for him to be away from his wife and two very young children, there was no viable alternative to working abroad. He shared that he and his wife planned to save up enough money so that his wife could go back to school, earn a degree, and secure a stable job in Nepal, and then Raju would no longer have to be away from his family. For his second contract in Malaysia, Raju applied for work in a supermarket, having been told that supermarket clerks earned more and were paid overtime premiums. Upon arrival in Malaysia, however, Raju was assigned by his broker/employer to a cleaning job in an apartment building, with wages significantly lower than what he had expected to earn as a supermarket clerk. Raju said that he was paid only MYR 550 (USD 70) per month as a cleaner, so he had to take on another job as a parking attendant to pay off debts incurred at home and monthly fees to his broker/employer while in Malaysia. He said that he barely had any money left to send to his family in Nepal, and that he had to scrimp on food and share a small room with five other migrant workers to save money for his family.

### ***Sectors Employing Nepali Migrant Workers in Malaysia***

Foreign workers in Malaysia are allowed to work only in selected sectors in which local labor is not available or which are considered undesirable.<sup>123</sup>

Related research indicates that in Malaysia, the palm oil, construction, and electronics sectors are the largest employers of low-skilled migrant workers. These sectors are also considered Malaysia's main drivers of economic growth, and the hiring of foreign workers for these sectors is generally encouraged to boost competitiveness and growth. Studies indicate that the top employer of foreign workers is the manufacturing sector (29.9 percent), followed the agricultural sector (19.8 percent), domestic service (17.1 percent), and construction (14.5 percent).<sup>124</sup>

Nepali workers in Malaysia are allowed to work in the following sectors: production/manufacturing, construction, agriculture, and services. Recently, as part of the 6P program noted above, the Malaysian government opened up 21 additional sectors and professions for the employment of previously undocumented migrant workers, including: mining and quarrying, mangrove logging, croupier, grass cutting, newspaper vending, house and vehicle cleaning, car repair, scrap metal recycling, golf caddying, laundry, goldsmithing, wholesale and retail sales, textile manufacturing, cargo handling, catering and working in restaurants, welfare homes, spas, hotels, and barber shops.<sup>125</sup> Employment in these new sectors is available only to migrant workers participating in the 6P amnesty program.<sup>126</sup>

According to information supplied by the Nepali Embassy in Malaysia, most Nepali workers in Malaysia were employed in the manufacturing, construction, and service sectors. NGOs interviewed in Penang reported that a few Nepali workers were also employed in palm plantations in Malaysia. These workers are more likely to be undocumented or vulnerable to becoming undocumented, as this sector is remote and not well regulated or monitored.<sup>127</sup> Interviewees reported that when Nepali workers become "undocumented," their only recourse is to work in the informal sector or in remote areas.<sup>128</sup>

Verité found that among the sectors where Nepali workers are employed, only the manufacturing/electronics sector is closely and regularly monitored through third-party audits and inspections. These monitoring activities are conducted in electronics companies by brands, especially big global brands with strong codes of conduct and auditing regimes. Most codes of conduct, against which the supplier company is audited, require compliance with legal and social standards and have specific requirements regarding the recruitment, hiring, and management of FCWs. Some buyers also require supplier companies to conduct due diligence and have oversight mechanisms for all their labor suppliers.

Verité found that compared to the Nepali workers in the service sector, workers in the electronics sectors were generally higher paid, had better working and living conditions, were properly documented, and were hired or managed by broker agencies that were duly registered, were better established and organized, and had more experience in managing foreign workers. However, similar broker practices in recruitment, selection, hiring, and management — i.e., passport retention, charging of fees, and contract substitution — were observed across all sectors.

### Labor Brokerage in Malaysia

Labor brokers play a critical role in each phase of the migration cycle that Nepali workers in Malaysia undergo. Brokers may be independent individual agents facilitating an initial step in the migration process, or they may be a manpower or recruitment agency duly authorized by the sending (Nepal) and receiving (Malaysia) countries to assume full responsibility for the entire labor migration cycle of the worker, from pooling to repatriation. Whether they're individual agents or agencies, brokers are almost always present in a Nepali migrant worker's life.

Verité found that most of the Nepali workers interviewed in Malaysia went through manpower agencies in Nepal, but initial steps in the recruitment process were made through the facilitation of an individual known to the worker. Verité found two main categories of labor brokerage systems in the migration of Nepali workers to Malaysia: formal/regular and informal/irregular, with recruitment through personal contacts.

The typical Malaysian broker or private employment agency (PEA) acts as a human resources consultant and service provider specializing in the recruitment and management of foreign workers. Some PEAs focus on supplying workers for a specific sector, such as electronics, while others work across sectors. From various social audits conducted in Malaysia, Verité found that the PEAs supplying workers to the electronics sector tended to be more professional and have more formal and systematic procedures and better record-keeping and documentation systems than companies in the service sector. This is perhaps due to greater scrutiny of the electronics industry in general. Some Malaysian PEAs specialize in recruiting and employing workers from a particular sending country, while others source workers from various countries.

The Malaysian PEA usually partners with a local sending-country agent or agency that conducts its own pooling and screening. The Malaysian PEA chooses from the pool of candidates provided by the sending-country agent, according to the Malaysian employer's criteria. All Nepali workers interviewed in Malaysia reported going through individual agents first before applying at the recruiting agency's office in Kathmandu. They also reported being initially managed by a broker in Malaysia.

Verité found in many social audits conducted in Malaysia that the Malaysian PEA is generally registered and accredited by the proper authorities and normally goes through the legal process, which involves securing approval from the Nepali Embassy. However, there is no oversight over whether the local agent in Nepal engages with unlicensed, unauthorized individual agents. In addition, few employers inquire into the background of sending-country agents.

Some of the biggest PEAs in Malaysia have been in business for 15 or more years and provide various service packages to clients, ranging from recruitment consultancy to direct management of workers or outsourcing services. In general, PEAs provide three types of services to clients:<sup>129</sup>

- Recruit, supply, employ, and manage (outsourcing): The PEA is the employer, and the client company is relieved of all legal responsibility as an employer under the law. A service contract is signed between the company and the PEA, and the worker assigned to the client (company) may be replaced with others, as required by the client. Workers' wages and benefits are provided directly by the PEA, which also directly manages the workers' performance and is responsible for their welfare. The PEA may discipline, terminate, or transfer workers to other work sites.
- Recruit, supply, and manage (total management): The PEA is contractually responsible only for recruiting and managing the workers on behalf of the client company. In this case, workers legally work for a specific company and receive wages, benefits, and other entitlements directly from the company. Worker supervision, evaluation, and discipline may be shared between the company and the PEA.
- Recruit and supply (recruitment consultancy): The client company is the employer of the workers, but the PEA carries out the recruitment and hiring process. This arrangement is rarely used when unskilled workers are involved.

About 75 percent of the Nepali workers interviewed for this report who worked in Malaysia had worked under the outsourcing scheme. Even workers directly employed by the company or business owner are managed in many ways by the broker, who receives the workers, facilitates the documentation process, assists in training and supervision, and arranges for deportation or repatriation. The outsourcing system of labor brokerage has been cited in many reports as the root cause of problems concerning migrant workers in Malaysia.

Beginning in August 2006, companies hiring fewer than 50 foreign workers must use labor outsourcing companies approved and regulated by the Ministry of Home Affairs. Thus, responsibility for labor management was transferred from the employer to the outsourcing company. Many migrant rights advocates have noted the Ministry of Home Affairs' lack of oversight over these companies and have called for doing away with the outsourcing system.<sup>130</sup>

During field research, Verité found that some Nepali workers initially recruited and employed by Malaysian PEAs were transferred not just from company to company, but also from broker to broker, such that the workers were no longer aware of who had responsibility or control over them, or who had control over (and possession of) their passports and other important documents. Some workers reported that they were met by one person at the airport, but after a few days were transferred to another place and to the management of another person, and they had no means of knowing if this person was directly connected to the first one or not.

One of the workers interviewed reported that he was recruited in Nepal to work in a supermarket for a particular agency, based on his travel documents and the contract he signed

in Nepal. He was received in Kuala Lumpur and then taken to Penang, where he was received by another person, who assigned him accommodations and custodial work in a condominium complex. When he tried to complain, his Penang broker told him that the arrangement he had made with the original broker no longer counted, as he was now employed by a new broker. The worker was not sure where his original passport was or who had control over it.

### ***Worker Relationship to the Broker/Recruitment Agency***

Based on interviews with workers, in many cases the broker/recruitment agency is recommended by a family member or is from the worker's village. Most of these agents are not official representatives of PEAs in Kathmandu. Workers reported that they had little choice but to trust the PEAs their agents recommended. According to volunteers and community organizers assisting Nepali workers in Malaysia, most of the workers “have probably never been to the capital city and don’t really know what questions to ask.”<sup>131</sup>

The following table shows how the 50 workers interviewed in Malaysia for this study first learned about work opportunities in Malaysia. The majority learned through a local agent or recruiter.

**How Nepali Workers First Learned About the Job Opportunity in Malaysia**

How Learned About Job	No. of Workers	Responses (Details)
Through a friend/family member	11	Uncle, sister, husband, and/or friend working in Malaysia encouraged them to apply.
Through job ads/notices — applied directly to the agency	2	One worker saw recruitment notices; one saw a newspaper ad.
Through a broker — directly approached by an agent/recruiter	37	Approached by people working for an employment agency. Subagent is usually from the same village as the workers, and these subagents bring them to employment agencies in Kathmandu.

Most of the workers interviewed reported that they gave some of the required documents to the broker-agent who recruited them in their villages, while a few said that they formally applied for the work in Malaysia through an employment agency. All said that processing of application documents was done by the main agency. All workers interviewed stayed in Kathmandu at their own cost while document processing took place, either in a rented room or with family. About 60 percent of the workers said that they had to borrow money from friends and moneylenders while applications were being processed.

### ***Exploitation of Nepali Workers in Malaysia***

#### ***Deception Regarding Terms of Employment***

Most of the documented abuses of Nepali workers in Malaysia are related to recruitment agents in the villages or Kathmandu and brokers in Malaysia. Nepali workers are commonly deceived about conditions of work in Malaysia. They are promised hundreds of dollars a month in salary, with additional benefits, and a limit on work hours, and usually learn of the real conditions only after they arrive in Malaysia. In most cases, FCWs earn less than half the amount promised, are not provided the benefits and provisions that they are entitled to, and have to work at least 12 hours per day, with no days off. Workers interviewed reported that they usually accepted the situation for fear of reprisal, or of losing their jobs, especially because losing one’s job also

means losing one's legal status, as termination of employment means the cancellation of work permits and then deportation.

All workers interviewed reported that they signed a document pertaining to their employment in Malaysia prior to deployment. The workers employed in formal manufacturing facilities (electronics and garments) said that they were provided with a copy of the contracts, while only a few workers in the service sector reported they were provided with contracts. Workers who were provided with contracts reported that they were given copies upon arrival in Malaysia or at their jobs. All contracts were written in English. Workers said that, from what they understood, the written agreement they received or viewed covered most of the terms and conditions of work, but only a few workers read and understood the contracts, because they were in English. All workers reported that neither the broker nor the employer made any effort to explain the written terms of their contracts.

Nepali workers interviewed reported that the terms and conditions of the contract they agreed to in Nepal are often ignored, substituted, or amended once the workers arrive in Malaysia. But workers fear falling out of status with the authorities, so they stay with their employers. At least three workers reported that they had at some point fallen out of status, became "undocumented," or were transferred from one broker to another. One worker reported that he had run away from his first employer because the work situation was no longer tenable, and he was abused and underpaid. He was eventually assisted by a new Malaysian employer to enter the amnesty program and to secure proper documentation. The other two workers said that they were currently "undocumented," as they had been without their passports for many months and were unsure who held their passports. They said that they feared being denounced by their broker/employer to the authorities as undocumented.

During Verité's research in Johor Bahru, all 17 manufacturing-sector workers interviewed reported that the only consistency between what the brokers told them and the actual working conditions was the type of work they ended up doing. In Penang, almost half the workers interviewed reported that they were misinformed about the type of work as well as the location of the work. One of the workers said that he had signed up to work in a hotel but ended up working as a waiter in a small restaurant in Penang. One worker said that he had been promised a job in Kuala Lumpur but ended up working in Penang. Another worker said that he was supposed to work in Kuala Lumpur as a security guard but was now working in Kedah. Other workers knew they were going to be working in Penang but were not told about the specific type of work they would be asked to perform. In Kuala Lumpur and Shah Alam, workers interviewed said that they were correctly informed about the type and location of work but that all other terms were not consistent with actual working conditions.

All workers interviewed indicated that actual hours, wages, benefits, and deductions did not match the ones described to them originally. Almost all workers interviewed reported that they were not given a day off per week. The table below shows wages promised to workers versus the actual amount workers received. In certain sectors, the actual amount was only half of what was originally promised.

### Examples of Disparity in Wage Promised and Wage Provided

Position	Wage Promised	Actual Wage Provided
Security guard	USD 1,250, plus OT	USD 546, plus OT
Factory operator	USD 900	USD 546, plus OT
Janitor	USD 1,000	USD 546, including OT pay
Restaurant worker	USD 850 as basic, plus OT	USD 546, plus OT = 850

### *Excessive Fees, Debt, and Deductions*

All workers interviewed reported paying fees and other expenses to secure employment in Malaysia. Workers interviewed reported that they incurred debts as early as the pooling and screening phase. Some workers reported paying only the employment agency in Nepal, while others paid the broker in Nepal and the broker in Malaysia, both up front and through deductions.

Early in the recruitment process, to obtain documents required for applications, most workers began incurring debt. They borrowed money from family, friends, or money lenders to travel to towns or cities to secure these documents. None of the workers reported borrowing money from the broker. Based on workers' reports, the amount loaned ranged from NPR 50,000-200,000 (USD 565-2,262), often at 36-60 percent interest, even when the money lender was a relative or neighbor. In a few cases, collateral was also given in the form of land titles or crops. Workers reported that it took them five to ten months to repay the loans. Some workers, however, said that their loan payments were made through the Malaysian brokers, who deducted MYR 200-300 (USD 63-95) from their monthly wages. The deductions were recorded in their pay slips. Workers said that if they did not consent to this deduction each month, they had to pay extra on top of the interest the next month. Other workers said that they settled their debts directly with their lender on their own, either through remittances or upon completion of their contract.

Some workers interviewed reported that they were not sure of what their deductions covered. Other workers said that they covered airfare, Nepali government fees, the agents' fees, the visa, and insurance. None of the workers were provided with any written agreement or receipt regarding the fees. Workers employed in the formal manufacturing sector tended to be more knowledgeable about the terms of their employment, including the breakdown of payments.

The cap on fees for employment in Malaysia, according to the Ministry of Labor and Transport Management, is fixed at NPR 80,000 (USD 905). However, based on worker interviews, in practice Malaysian outsourcing agencies charge workers an average of NPR 100,000 (USD 1,131) for their services (three times the average annual income in Nepal). The lack of receipts frustrates government agencies' ability to take action.

### *Delayed Receipt of Workers*

In Malaysia, arriving migrant workers must remain at the airport until the Malaysian broker or employer comes to receive them. Some Nepali workers interviewed by Verité reported staying over a day at the airport, being unable to buy food, and not having broker or employer contact information in Malaysia. One worker reported being detained at the airport for five days due to broker delays. Most workers also reported that it was their first airplane trip and that they were not informed about airport departure and arrival procedures.

### *Passport Confiscation and Retention*

Almost all the Nepali workers interviewed for this research were not in possession of their passports, and most said their passports were held by their broker/employer. According to some of the employers, many workers choose to have their passports kept by their broker or employer because of passport theft, which the employers say is quite common among foreign workers. Other brokers interviewed said that this practice was used to ensure that the workers do not run away, and that workers were required to surrender their passports to brokers/employers upon arrival in Malaysia and must pay a deposit or finish their contract in order to retrieve their passports.

In almost all Verité's social audits in Malaysia, passport retention emerged as a major issue and the root cause of other problems. All workers interviewed reported that their passports were taken by their broker/employer upon arrival in Malaysia. Workers in factories subject to audits that strictly prohibit the practice of passport retention by brokers/employers had a higher chance of being able to retrieve their passports. Still, in many of the factories audited by Verité, it was found that workers were made to sign, against their will, letters indicating that the worker voluntarily gave his/her passport to the broker/employer for safekeeping.

Workers interviewed reported that they did not mind that their passports were withheld by their broker/employers, if they received photocopies of their documents and if working conditions were fair and decent. It became a problem for workers when they wanted to change employment because of abusive or exploitative situations at work, or if their workplace was raided by Malaysian authorities, since migrant workers without passports may be immediately brought to detention camps or sent home.

#### **Case Study: Undocumented Nepali Immigrant in Malaysia**

One worker interviewed in Johor Bahru reported that he had been in Malaysia for many years and had lived in different parts of Malaysia before ending up in Johor Bahru. Rajan said that he did not remember when he arrived in Malaysia exactly, and that his passport was taken from him by his first broker/employer, who abandoned him and left him without a job and without his personal identification documents. He shared that he had been an undocumented worker for a long time, which was why he had to move from one place to another, seeking employment where he could. He said that he needed to keep working to pay off debts he incurred back home, from when he processed his papers for Malaysia. After hearing about the 6P amnesty program, he said that he was encouraged by his current employer to apply in order to be regularized and to get a new passport and work visa. At the time of the interview, he was employed by an outsourcing agency and was assigned to work in a facility manufacturing machine parts.<sup>132</sup>

### *Worker Deaths*

A rising concern is the number of deaths of Nepali workers in Malaysia, which, according to information sourced from the Nepali Embassy in Kuala Lumpur, have significantly increased since 2010. Of the 1,357 documented deaths of Nepali migrant workers abroad in 2011, the highest incidence took place in Malaysia. The Foreign Employment Board reported that the deaths in Malaysia resulted from workplace accidents, traffic accidents, suicides, and murders. The report also states that a significant number of deaths could have been avoided if the migrant workers had been given an orientation on workplace safety and traffic safety. In 2011, 441 migrant Nepali workers died in Malaysia, 350 in Saudi Arabia, 306 in Qatar, 125 in the U.A.E., and 73 died in other countries.<sup>133</sup>

In August 2010, the death of a Nepali worker sparked protests and riots by some 5,000 foreign workers at an electronics factory in the Tebrau Industrial area in Johor Bahru, Malaysia. Reports indicate that the protest resulted in a seven-hour standoff near the workers' housing and included workers from Nepal, India, Myanmar, and Bangladesh.<sup>134</sup>

Another report citing the labor attache to Malaysia states that “at least five Nepali migrant workers die in Malaysia every week. ... Most of the deaths take place when the migrant workers are asleep, or due to unidentified illnesses. Another chief cause of their death is road accidents.”<sup>135</sup>

### ***Forced Labor and Human Trafficking***

Verité found that, under the brokered migration process, Nepali workers in Malaysia are subjected to abusive and exploitative practices and conditions at each or all phases in the employment cycle, from recruitment to repatriation, that taken together constitute trafficking and forced labor. Researchers found the following key factors that contribute to Nepali worker vulnerability to forced labor in Malaysia:

- The law allows employers to be shielded from accountability, and all responsibility is passed on to brokers who act as employers and who can transfer workers to various work locations with varying work conditions, and sometimes to other brokers, often without the workers' consent.
- The withholding of passports is prohibited by law but is widely practiced by brokers and employers across different sectors, with impunity.
- Protections are generally weak or nonexistent for Nepali migrant workers, especially low-skilled workers. Migrant workers who fall out of status or whose passports are withheld are often prosecuted as criminals, rather than being treated as victims.
- Almost all Nepali workers arrive in Malaysia already in debt, and brokers/employers in Malaysia add to this burden by charging workers excessive and illegal fees.

Elements of forced labor and trafficking present in Malaysia are deception, vitiated consent, movement and transfer, exploitation, restricted freedom of movement, and coercion.

## Receiving-Country Research: The U.A.E.

### Background Information

The United Arab Emirates (U.A.E.) is composed of seven emirates — Dubai, Abu Dhabi, Ajman, Fujairah, Ras al-Khaimah, Sharjah, and Umm al-Quwain — with a population of approximately 8 million as of May 2010. It is in the unique situation of having a greater number of noncitizens than citizens. The U.S. Department of State estimates that 80 percent of the U.A.E.'s residents are noncitizens originating primarily from the Indian subcontinent.<sup>136</sup>

The U.A.E.'s labor force consisted of about 3.8 million workers in 2010. Migrant workers, who make up 90 percent of the U.A.E.'s private-sector workforce, hail mostly from India, Pakistan, Bangladesh, Nepal, Sri Lanka, Indonesia, Ethiopia, Eritrea, China, Thailand, Korea, Afghanistan, Iran, and the Philippines.<sup>137</sup> Human Rights Watch estimates that roughly 900,000 migrant construction workers lived in the U.A.E. in 2009.<sup>138</sup>

In August 2012, Nepal banned women under the age of 30 from working in Persian Gulf nations, due to reports of abuse and exploitation. Women's rights organizations in Nepal and abroad have criticized the ban, since it could lead to more labor trafficking, as many women will likely continue to migrate to these countries illegally, outside of the purview of government controls.<sup>139</sup>

### Legal Framework Regarding Migrant Workers

In the U.A.E., there are several laws that govern migrant workers. Article 18 of Federal Law No. 8 prohibits a licensed agent from receiving money from any worker before or after recruitment beyond that which is approved by the Ministry of Labor and Social Affairs. This law also states that migrant workers will be considered employees and are entitled to all rights enjoyed by employees of the establishment in which they are employed. The law states: "The relations between such employees and the employer shall be direct and without any interference from the labor agent whose task and relation with them shall cease to exist as soon as they are introduced to and employed by the employer."<sup>140</sup>

Ministerial Resolution No. 233 (1998) lays out the rules of licensing employment and expatriate manpower supply agencies. Under the law, only U.A.E. nationals or a U.A.E. company can apply for a license to practice labor brokerage or to supply foreign manpower. Applicants must submit a form to the Ministry of Labor and Social Affairs pledging not to take any commission or fees from workers in return for employing them within the U.A.E. or bringing them from abroad. The license is valid for one year and may be renewed, unless the manpower agency received money in return for employment within the U.A.E. or the applicant's information is false. In such cases, the manpower agent may be subject to imprisonment not to exceed six months and/or a fine of AED 3,000-10,000 (USD 817-2,723).<sup>141</sup>

Article 4 prohibits employers from entering into a contract with unlicensed manpower agencies and mandates a written contract between the employer and the licensee in Arabic, as well as in English if necessary, detailing the occupation, the nature of the work, wages, and commission.

Migrant workers seeking employment in the U.A.E. must be sponsored by a U.A.E. citizen, resident, manpower supply agency, or an employer/company. The worker must stay with the sponsor until the employment contract expires, regardless of conditions at the workplace.

In January 2011, Ministerial Resolution No. 1186, or what is known as the Free Transfer Law, came into effect, with rules for granting new work permits following the expiration of workers' employment relationship. With this new law, migrant workers may now change employers without a certificate from the government if the worker has worked for at least two continuous years with his/her previous employer and the employment contract has been terminated by mutual consent. Exceptions to this rule include nonpayment of wages to employees and arbitrary dismissal or early dismissal, in which case the court may award the employee compensation of at least two months' salary.

This is a welcome development, considering the restrictive sponsorship laws for foreign workers, which render workers vulnerable to abuse. However, it remains to be seen how this new law will be applied in practice and whether the relaxation of this policy will improve the living and working conditions of migrant workers in the U.A.E. Workers are able to present claims against the employer, for example, for noncompliance with statutory or contractual obligations, arbitrary dismissal, or illegal termination. However, for claims to work, access to effective grievance mechanisms should be guaranteed by law.

Migrant workers in the U.A.E. are required to obtain one of two types of work permit: a temporary work permit to work six months or less<sup>142</sup> or a regular work permit, which requires the following steps:

- A company in the U.A.E. applies to the Work Permit Department of the Ministry of Labor and Social Affairs for work permits for foreign workers it seeks to employ. The company must finalize the application within six months.
- During this time, the company approaches the Immigration and Residency Department of the Ministry of Interior, which, seeing the company has applied for a work permit, will issue the company an employment visa that allows each sponsored worker to enter the U.A.E. for a period of 30 days.
- The company then transfers that visa to a labor agency, either in the U.A.E. or in a sending country that the company has contracted to supply the required number and types of workers.
- Once a worker arrives in the U.A.E. on a work visa, the company, as the sponsor, takes the worker's passport and work permit to the Ministry of Interior's Immigration Department. The Ministry stamps the worker's passport with a residency visa that includes the visa's date of issuance and validity period (up to three years) and the worker's picture, profession, and employer.<sup>143</sup>

Copies of an employment contract, in Arabic and in any foreign language if necessary, are given to the employee and employer.

U.A.E. laws state that deductions from worker wages are not allowed except to repay advances (not to exceed ten percent of the worker's pay), social security, insurance, savings, debt repayment, or loss or destruction of tools or equipment if due to employee error. However, the law does not specify how such deductions are to be authorized and how workers may rebut employer accusations of damage to equipment or tools. The law also requires that employers visibly post the schedule of penalties in the workplace — ranging from warnings to fines, suspension, forfeiture of promotion, and dismissal — and that the employer must notify workers in writing of the offense and the action taken. For both penalties and deductions, the law does not provide for any appeal of the employer's decision, which renders the process vulnerable to abuse and weakens due process.

In 2010, the Ministry of Labor and Social Affairs implemented a wage-protection system whereby U.A.E.-based companies transfer the wages of their workers using banks, money-transfer companies, and other service providers rather than making cash payments. Companies with more than 100 workers must adhere to the wage-protection system guidelines, while small to medium-sized enterprises (where abuses tend to occur) are excluded.<sup>144</sup> In principle, workers have sole access to accounts opened in their names.

The maximum normal working hours are set at 8 hours per day or 48 hours a week, which may be increased or decreased depending on the type of industry. For example, working hours for security guards and employees of commercial establishments, hotels, and restaurants may be increased to 9 hours per day.<sup>145</sup> Workers are entitled by law to breaks for rest, food, or prayer after 5 consecutive hours of work.<sup>146</sup>

Migrant workers are entitled to a 25 percent premium for overtime work on normal working days. If the overtime work is carried out between 9 p.m. and 4 a.m., the worker is entitled by law to a 50 percent premium. The law does not state whether overtime must be voluntary. Workers are legally entitled to annual leave during each year of service, depending on the length of service, of not less than 2 days per month worked and 30 days per year for workers who have worked more than one year. If the employee is terminated, she or he is entitled to an annual leave for the corresponding fraction of the last year of service. Workers also have a right to 10 days of holiday leave with full pay, or cash in lieu of annual leave for days not taken.<sup>147</sup> By law, workers may receive up to 90 days of sick leave: the first 15 days with full pay, the next 30 days at half pay, and the remaining days without pay.

According to Article 101, if the work site is far from the worker's residence or is inaccessible, the employer is required to provide adequate transport, accommodations, drinking water, food, medical aid, and entertainment and sports amenities. With the exception of food, all services must be provided at the expense of the employer.

Under Article 120, employers may dismiss workers without notice if workers submit forged documents or certificates, commit an error causing substantial material loss to the employer (if the employer advises the Labor Department of the incident within 48 hours), violate safety instructions, fail to perform basic duties, divulge company secrets, are under the influence of alcohol or drugs at the workplace, or are absent for more than seven successive days.

A worker may leave without notice if the employer does not fulfill its legal obligations or if the employer assaults the worker. However, if the migrant worker leaves work without lawful reason prior to the end of the contract, the worker is banned from taking employment elsewhere, even with the consent of the previous employer, for one year from the date when he or she left work.

### ***Grievance Mechanisms***

Workers who wish to file a grievance against their company are required to go through an amicable settlement procedure. Workers wishing to file a complaint against their employer must submit a written complaint in either Arabic or English — languages that Nepali workers do not speak or write — to the Ministry of Labor and to their employer. Workers have encountered challenges at the Ministry of Labor. For example, Gulf News reports that 38 South Asians were prevented from lodging a complaint because they could not afford an AED 20 (USD 5) typing charge, and the Ministry of Labor rejected the handwritten complaint the men brought.<sup>148</sup> The

maximum financial penalty of AED 12,000 (USD 3,267) for employers found to be violating labor rights is too low to be dissuasive.<sup>149</sup>

The U.A.E. Ministry of Labor has established ten departments and divisions, consisting of 100 legal and administrative staff, to look into the complaints of workers across the country. These divisions receive complaints from workers and attempt to settle disputes within a period of two weeks. If the settlement is rejected by the worker or the employer, it is referred to a court of law, which issues a summary verdict without charging the worker any fees, irrespective of the nature of the litigation or damage involved in the complaint.<sup>150</sup>

Another available worker mechanism is a telephone hotline through which workers can lodge complaints over unpaid salary or illegal deductions. Workers can also air their grievances online, through the ministry's portal, if their wage payments are delayed. Complaints reportedly may be received in 12 languages and are kept in confidence by labor inspectors.<sup>151</sup>

### *Legal Gaps*

In the U.A.E. there is no comprehensive labor-migration policy. While U.A.E. Federal Law No. 8 is comparable to labor law in many other countries, critics have reported that it is "designed to circumvent accountability by providing a veneer of regulation to a system that is wholly weighted in favor of the employer."<sup>152</sup> Migration-related gaps include: an absence of a minimum wage that would ensure that workers receive a living wage, a lack of clarity regarding allowable deductions and the need for written consent for these deductions, and a lack of an explicit recognition of the right to due process with regard to imposition of disciplinary penalties. The knowledge that workers can be dismissed at the whim of the employer or sponsor effectively stifles grievances, since workers not only stand to lose their jobs but also are in danger of being deported.<sup>153</sup>

The U.A.E. has increased the number of industries excluded from Federal Law No. 8, including security workers, domestic workers employed in private households, farming and livestock workers, and public workers. In addition, businesses in free-trade zones are exempt from labor statutes. The Ministry of Labor does not regulate free-trade zones; instead, each zone maintains its own labor department. This is an emerging issue of concern, as more and more areas are being declared free-trade zones.

The Kafala system, whereby migrant workers must have a U.A.E. sponsor, is a clear source of increased worker vulnerability to forced labor. The sponsorship system requires the employer or sponsor to effectively control their workers during their stay in the U.A.E.. The process to change sponsors, especially in unskilled or low-skilled work, is so complex and tedious that most workers wait out their contract, regardless of how they are treated. While Kuwait announced plans to scrap its Kafala system, the U.A.E.'s labor minister said that the U.A.E. would not follow suit.<sup>154</sup>

The U.S. Department of State reported in 2010 that the U.A.E.'s labor laws did not permit workers to form or join unions, and thus no unions existed. The law did not prohibit strikes by private-sector workers and allow employers to suspend workers for striking. In general, the government does not punish workers for nonviolent protests in response to nonpayment of wages and hazardous or abusive working conditions.<sup>155</sup>

### ***Gaps in Enforcement***

It is widely perceived that while there is an express prohibition of abusive practices and there are established penalties for violations, enforcement remains weak. In the U.A.E. there is no specialized government agency dedicated to migrant-worker issues with oversight and regulatory power over recruitment agencies or brokers. While the law expressly forbids charging workers recruitment fees, the government does not monitor whether recruitment fees are actually paid by workers. Although there is overwhelming evidence that workers migrating to the U.A.E. pay exorbitant fees, there is a lack of effort to check whether fees were charged by U.A.E. manpower agencies or brokers or were sent to agencies in the U.A.E. by sending-country agencies.

### ***Profile of Nepali Workers in the U.A.E.***

Although the exact number of Nepali in the U.A.E. cannot be determined due to the difficulty of counting undocumented immigrants, the number of Nepali workers in the U.A.E. was estimated at 126,000-150,000 in 2010. At least 45 percent worked in the construction sector. In 2009-2010, about 33,000 Nepali workers left for the U.A.E., and most of them ended up in construction and domestic work.<sup>156</sup>

A 2010 study that looked at migration patterns over a six-year period (2003-2009) identified the Terai region as the largest sending region of migrant workers. Dhanusha, Jhapa, Siraha, and Morang were the top four sending districts.<sup>157</sup>

Five of the Nepali workers Verité interviewed in Abu Dhabi for this project came from Lamjung, about four hours by bus from Kathmandu, and the rest hailed from Probot province (12 hours by bus), Chitwan (five hours by bus), Udaypur (overnight by bus), Gorkha, Sankhuwasabha, and Kathmandu. One worker from Khotang province walked for two days to get to the nearest bus stop to take an overnight bus to Kathmandu.

All interviewees were men between the ages of 23 and 42. Before migrating for work, seven of the informants were farmers, two were former foreign contract workers in Malaysia and Iraq, and six had worked in other occupations in Nepal. Twelve interviewees had some formal education, two had some security and military training, two had vocational training, and one had no formal education.

### ***Sectors Employing Nepali Migrant Workers in the U.A.E.***

According to media reports, most Nepali who migrate for work in the U.A.E. are unskilled. More than 45 percent of Nepali migrant workers are employed in the construction sector, 25 percent in the manufacturing sector, ten percent in security services, ten percent in hospitality, and ten percent in various other sectors.<sup>158</sup>

Of the respondents interviewed in Abu Dhabi for this report, six were construction workers, two were security guards, two were janitors, one was a domestic worker at the Nepal Embassy in Abu Dhabi, one was a helper, one was a cook, one was a taxi driver, and one worked at a tire company. All reported that they migrated to work in the U.A.E. in order to earn more money than they were able to earn in Nepal. The workers arrived in Abu Dhabi between 2003 and August 2011, with 10 of the 15 workers being in the country for less than two years.

While the manufacturing sector is generally regularly monitored, either through customer/buyer audits or government inspections, the service sectors where many Nepali migrant workers are

employed (construction, security, and hospitality, among others) are informal and poorly unregulated. These sectors are often difficult for the government to monitor, as workers are housed in labor camps, and their movements are restricted by employers.

Upon arrival in the U.A.E., many migrant construction workers live in dormitory-style dwellings on the outskirts of urban areas (commonly known as labor camps), and employers usually provide their workers with food or food subsidies.<sup>159</sup> This arrangement creates absolute dependency on employers and contributes to migrant workers' vulnerability to forced labor. Migrant workers who attempt to change employers without the consent of their current employer therefore run the risk of losing shelter, access to health care, and the means to feed themselves, and also lose their legal status. In-kind remuneration structured to hide low wage levels promotes dependency. Cash payments would allow workers to make basic life choices on housing and food. Lastly, most Nepali migrant workers to the U.A.E., including those interviewed for this study, do not know Arabic and rely on translators or supervisors hired by the employers to communicate with their employers.

### **Labor Brokerage in the U.A.E.**

Human Rights Watch reported that there are four types of labor-brokerage systems in the U.A.E.:

- Recruitment agencies in sourcing countries that work on behalf of U.A.E.-based companies to enlist workers for jobs
- Company representatives directly sourcing workers in sending countries with the help of local recruitment agencies
- U.A.E.-based companies contracting with U.A.E.-based recruitment companies that act as intermediaries between U.A.E. employers and recruitment agencies in sending countries
- Manpower agencies subcontracting workers to U.A.E.-based employers for long- or short-term employment<sup>160</sup>

It is not clear from field data that Nepali migrant workers use all four systems. Although 12 of 15 informants reported working with individual labor brokers and/or recruitment agencies in Nepal, it was not clear whether the Nepali recruitment agencies had U.A.E. counterparts to which the migrant workers were turned over before being delivered to employers or whether these Nepali agencies worked directly with the employers. When asked during interviews, workers were unable to adequately respond, which indicates a lack of understanding of the migration process.

### **Recruitment for Employment in the U.A.E.**

Verité's research indicates that construction workers in the U.A.E. worked with an individual broker in Nepal to facilitate their migration, and the broker then turned them over to a recruitment agency based in Kathmandu. A worker who was employed in Abu Dhabi as a supermarket janitor was referred by his relative to an individual broker who had previously helped this relative get a job in the U.A.E.. In the case of the security guards, the job was linked to a particular recruitment agency in Kathmandu, which contacted this agency directly in the U.A.E. without going through a subagent or individual broker.

Six of the interviewees reported that they saw a job advertisement in the newspapers and approached the recruitment agencies in Kathmandu directly, six were recruited by subagents/individual brokers in their village, and three were recruited by relatives already

working in Abu Dhabi. The table below shows how interviewees were recruited, how much they were paid, and the types of work that they carried out. Nine of the 15 interviewees did not go through any kind of pre-departure training, while six attended a government pre-departure training that included information about the country of destination, the embassy, and cautionary tales about AIDS.

Interviewee Recruitment Method, Fees, and Type of Work		
Recruitment Method	Fees Paid (in USD)	Type of Work
Recruited by subagents (6 workers)	\$1,730	Supermarket
	\$1,640	Construction
	\$1,079	Helper
Newspaper advertisement placed by Kathmandu-based recruitment agencies (6 workers)	\$1,200	Kitchen helper
	\$1,397	Taxi driver
	\$480	Tire factory
	\$1,014	Mason
	\$1,204	Kitchen helper
	\$4,436	Security guard
	\$4,436	Security guard
Recruited by relatives (3 workers)	\$200	Domestic servant
	\$635	Cook
	\$635	Cleaner

## Exploitation of Nepali Workers in the U.A.E.

### *Excessive and Illegal Fees*

Under U.A.E. law, neither employers nor U.A.E. labor agents or suppliers are allowed to charge workers any commission or fees pursuant to their recruitment. The law requires employers to bear the cost of recruiting, transporting, and hiring noncitizens. Nevertheless, workers interviewed reported paying steep fees to obtain employment in the U.A.E.

Most of the interviewees in the construction and service sectors had to pay USD 1,800 in fees on average. These fees did not include airfare, which cost NPR 22,000-27,000 (USD 249-305), a training fee of NPR 700 (USD 8), and medical insurance. They were also expected to support themselves while their applications were being processed. This meant traveling to and staying in Kathmandu for an unspecified period of time.

Broker fees are higher for security guards, since a particular Nepali recruitment agency in Kathmandu has a monopoly on these jobs, and workers have no choice but to work with that

agency. The advertised broker fee was NPR 70,000 (USD 792), but once the aspiring workers got to the agency, they were asked to pay NPR 350,000 (USD 3,960) for a two-year contract. With a promised income of AED 3,000 (USD 817) per month, it would take at least five months for workers to recoup their investment. One informant, who applied to be a security guard, said: "I went to the recruitment agency in Kathmandu and I was asked to submit my passport, training certificate, school records, and proof of previous working experience. The agency representative held a briefing to explain the job and employment terms and conditions. I went through three interviews: The first was a pre-interview conducted by the agency representative, the second was with the U.A.E. company representative, and the third one was with the U.A.E. company doctor. After I was selected, I was sent to complete two medical checkups, one within two weeks of selection and another one prior to departure. I paid for both, which cost me a total of NPR 3000 (USD 34). I paid NPR 350,000 (USD 3,960) to the agency — NPR 50,000 (USD 566) after the first medical checkup and the rest prior to departure. The agency also asked me to pay to attend the government pre-departure orientation on local customs, practices, the problem of AIDS, and details about the embassy. I signed the contract after paying the initial down payment."<sup>161</sup>

In an interview with a representative of a cabling and networking contractor that employs Nepali laborers, the representative reported that the company paid the following fees to the Ministry of Labor per unskilled/semiskilled worker: AED 2,000 (USD 545) for the recruitment fee, AED 3,000 (USD 817) for insurance/deposit, AED 300 (82) for the immigration stamp, and AED 600 (USD 164) for medical insurance every contract cycle, totaling AED 5,900 (USD 1,606) for every migrant worker. This was in addition to the company's expenses for worker accommodations, which amounted to AED 14,000 (USD 3,812) annually for a house. The interviewee was not aware whether these fees were charged in sending countries as well.<sup>162</sup>

Similarly, a representative of a construction company said that his company was directly involved in the recruitment process, from prescreening to actual arrival, and that all the recruitment fees in the sending and receiving countries were borne by the employer.<sup>163</sup>

Based on data gathered from respondents, it did not seem to make any difference in the cost of migration if workers were recruited by subagents or if they were placed by Kathmandu-based recruitment agencies, because they still paid an average of USD 1,800 in fees. However, the three interviewees recruited by relatives already in Abu Dhabi paid less than the others, since they only had to pay for passport preparation (NPR 5,000, or USD 57) and airline tickets (NPR 25,000, or USD 283).

**Case Study: DB**

DB, a helper working at a construction company in Abu Dhabi, was referred by a subagent to an agent based in Kathmandu. During the interview, he said: "One day my neighbor called me up to come work overseas. He said that I would be a helper and my work would be outdoors. He said also said that my salary would be AED 600 (USD 164), plus AED 150 (USD 41) for food and overtime. He then asked me for a photocopy of my passport, which he passed on to Sheila, the arranger in Kathmandu. I paid NPR 85,000 (USD 962), and my neighbor said it covered passport preparation, visa cost, travel ticket, insurance, agent's service charge, and health checkup. I had to borrow money with 3 percent interest. I signed my work contract one week after arriving in Abu Dhabi. I have no copy of the contract, and it was explained to me verbally, because I cannot understand English or Arabic. I started working the day after I arrived."

## Recruitment Debt for Nepali Workers Interviewed in the U.A.E.

Names	Amount Borrowed in Nepali Rupees (NPR)	Interest	Collateral	Recruitment Fees in NPR
JB (security guard)	150,000 (USD 1,700), payable in 6 months	NPR 19,000 (USD 215) over a 6-month period	No mention	350,000 (USD 4,078) agency fee
AG (security guard)	350,000 (USD 3,960)	3 percent	No mention but borrowed money from an aunt	350,000 (USD 3,960) agency fee
BRG (supermarket cleaner)	100,000 (USD 1,131)	24 percent	"Paper, witnessed and thumbprinted" Repayment of loan through salary deduction	29,500 (USD 334) + AED 5,000 (USD 59) for visa cost
DPG (domestic worker)	16,000 (USD 181)	24 percent	No mention	16,000 (USD 181) for travel ticket
RCG (mason)	80,000 (USD 905)	36 percent or 3 percent per month	"Paper, witnessed and thumb-marked"	80,000 (USD 905) agency fee
NB (tire factory worker)	50,000 (USD 566)	24 percent	No mention but to be paid in installments	38,000 (USD 430) agency fee
DB (helper)	85,000 (USD 990)	3 percent	"Written on paper and thumbprint"	85,000 (USD 990) agency fee
YG (cook)	50,000 (USD 566)	2 percent	No mention	None, paid only 5,000 (USD 57) passport + 25,000 (USD 283) travel ticket
YBG (cleaner)	50,000 (USD 566)	24 percent	No mention	None, paid only 5,000 (USD 57) passport + 25,000 (USD 283) travel ticket
TL (taxi driver)	150,000 (USD 1,700)	24 percent	Thumbprint on paper	110,000 (USD 1,245) agency fee
PMB (kitchen helper)	95,000 (USD 1,075)	24 percent	No mention	95,000 (USD 1,075) agency fee

Workers interviewed for this report all borrowed money and were charged interest ranging from 2-24 percent, and most were asked to sign IOUs by providing their thumbprint. The table below does not include information from four construction workers who participated in the group interview, because they did not specify whether they had borrowed money. However, the four construction workers each said they paid about AED 4,000-5,000 (USD 1,090-1,361), excluding the airplane ticket to Abu Dhabi that cost NPR 22,000 (USD 249) each. Even the three interviewees who were recruited directly by their relatives and paid much less than the others still had to borrow money on interest to pay migration-related fees. This debt compels workers to continue in jobs for longer hours or for less money than originally expected in order to repay their loan.<sup>164</sup> The table below summarizes the recruitment terms for workers that Verité interviewed for this report. All the migrants interviewed had to borrow money on interest to finance their migration.<sup>165</sup>

### *Deception Regarding Wages*

All the workers interviewed were promised a higher salary than what they actually received. One interviewee reported that he was promised work in Dubai but found himself in Abu Dhabi. The four Nepali construction workers interviewed in labor camps in Moussaka said that their brokers promised that they would receive AED 1,200-1,500 (USD 327-408) net pay per month. However, in reality, their gross income was about AED 1,300 (USD 354), including overtime and with deductions of AED 200-300 (USD 54-82) per month to cover the visa cost, AED 600 (USD 164) for the medical card, and about AED 200 (USD 54) for room rental. They also reported that they did not sign a contract before leaving Nepal but only upon arrival in the U.A.E. The contract was written in English and Arabic.

#### **Case Study: BRG**

BRG, a supermarket cleaner, shared his story: “My broker said that I would earn AED 1,000 (USD 272) per month, so I agreed to go. I paid AED 5,000 (USD 1,361) for a visa and NPR 27,000 (USD 305) for airfare. My family helped me borrow NPR 100,000 (USD 1,131) to pay for all this. When I arrived in Abu Dhabi, I had no work during the first month, and I was not paid anything. I was not given an advance. I had to ask for support from my friends. I was made to sign a contract that said working hours would be nine hours per day, plus two hours overtime, plus food and accommodation. My basic pay turned out to be AED 400 (USD 109), and OT was AED 3 (USD 11) per hour. The contract is for three years. The contract was in English, and I did not understand everything. I want to quit. The work is difficult, as I need to clean the whole inner area of the supermarket alone. The pay is so much less than I expected. I was already earning MYR 700 (USD 221) in Malaysia. I want to leave, but the company won’t allow me to, so I’ll just finish my contract and go back to Nepal to look for another job.”<sup>166</sup>

The table below shows the difference between promised and actual wages for workers interviewed in the U.A.E. by Verité for this report.

### Examples of Disparity Between Wage Promised and Wage Provided

Position	Wage Promised (in AED)	Actual Wage Received
Cook	800 + free accommodations and food	600 + management increase after 9 hours of work
Domestic servant	900 + 150 travel allowance	800
Supermarket cleaner	1,000	400 + food, accommodations after 9 hours of work
Tire factory worker	1,000 + overtime, free food and accommodations	1,000
Construction worker	1,200-1,500 net	1,300 gross, including overtime

#### *Lack of a Contract*

Most of the interviewed migrant workers reported that they did not sign a written contract with either the subagent or the recruitment agency upon payment of fees in Nepal. The terms of employment were explained verbally to them and included information on wages and benefits, as well as duration and location of employment. The interviewees said that it was not clear what the recruitment fees covered. One in particular said that he did not understand why he was paying the fees when he heard that the company should be paying for recruitment, and that migration should be free.

While 14 of the 15 interviewees reported that they signed a contract upon arrival in the U.A.E., nine said that they were not given a copy of the contract. Ironically, the domestic servant who was placed in the Nepali Embassy did not sign any contract. The duration of worker contracts ranged from two to five years.

#### *Passport Confiscation*

All workers interviewed reported that their passports were taken as soon as they arrived in Abu Dhabi. They were unsure of whether they could obtain a refund from the broker or recruitment agency if they decided to go home. This practice increased the ability of the employer or agent to coerce and control migrant workers, because they cannot seek other work without risking detention and deportation.<sup>167</sup>

#### *Delays in Providing Work*

While researchers did not find a high incidence of delays in picking up workers at airports in the U.A.E., the case study below details the effects of delays in providing migrant workers with employment.

**Case Study: JB and AG**

JB and AG, who went to Abu Dhabi to be security guards, were picked up from the airport by a driver wearing a company uniform. At the time of the Verité interview, they had been in Abu Dhabi for three months but had yet to start working. They were given a cash advance of AED 500 (USD 136) upon arrival and AED 200 (USD 54) almost three months after. When the money ran out, they opened a credit line at a local grocery store. One of them was worried that he already owed the grocery store AED 250 (USD 60). JB said that he did not know what to do, since he could not go back home, because he had spent so much already. At this point, JB said that he would just have to do his best, and if nothing happened, he would go back home and get a refund for his expenses, as the recruitment agency promised a full refund if the job did not materialize.

## Case Studies

### Case Study 1: Female Nepali Migrant Workers in Israel

This case study describes the situation of Nepali migrant workers in the long-term care industry of Israel. The migration of Nepali workers to Israel is interesting for several reasons:

- Nepali migrants to Israel are overwhelmingly female.
- These female migrants work primarily in the long-term care industry — i.e., home health care of the elderly or disabled adults. That is a rather unique industry within Israel, given that home-based long-term care is state-subsidized and is the fastest-growing sector of employment for (mainly female) migrant workers.
- The isolated nature of work as a long-term caregiver, combined with Israel's fluctuating migration policies in the 1990s and 2000s, rendered these Nepali migrants highly vulnerable to exploitation and abuse.
- Based on overwhelming evidence of illegal and exploitative recruitment practices, Israel banned the immigration of Nepali workers in 2009. Israel reopened its borders to these workers only in late 2011, after several steps were taken by the government of Nepal to better protect workers prior to departure and during their stay in Israel.

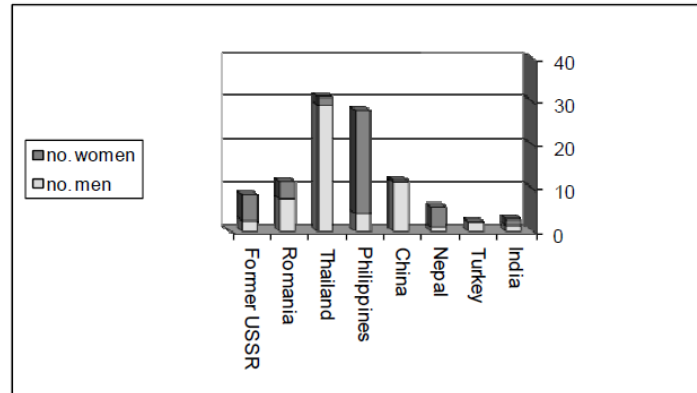
These elements are described in more depth below.

#### *A Short History of Nepali Migration to Israel*

In the wake of the 1987 intifada, Israel began to encourage foreign migration to Israel to combat a severe labor shortage in its low-skilled industries, primarily construction and agriculture, in which Palestinians had previously formed the bulk of the labor force. The first waves of immigrants came from eastern Europe for construction and from Thailand for agriculture.

By 2008, Nepal was among the eight countries accounting for 93 percent of all foreign workers with permits in Israel (see table below). While precise estimates of the number of Nepali migrant workers in Israel is difficult to obtain, data from Israel's Population, Immigration and Border Crossings Authority suggests that 8,400 Nepali with work visas entered Israel from 1995-2009, 81 percent of whom were women.<sup>168</sup> In 2006, women made up 83 percent of migrants with work permits from Nepal; and in 2007, 87 percent.

**Foreign Workers with Permits by Main Countries of Origin/Gender<sup>169</sup>**  
**(End of 2007, in Thousands)**



The sectors employing migrant workers shifted as well. Agriculture and long-term care eclipsed construction as the largest employers of foreign workers after 2001, with long-term care being the fastest growing. In 1996, it accounted for seven percent of all foreign worker permits, while in 2007, it accounted for 50 percent.<sup>170</sup> As of August 2010, there were some 57,000 migrant caregivers in Israel, 42,000 of whom were employed in nursing.<sup>171</sup> Fifteen percent were Nepali.<sup>172</sup>

#### *Israeli Migration Policies and the Long-Term Care Industry*

The aim of Israeli migration policy over the past two decades has been to ensure that migration is temporary and time-bound. The backbone of Israel's managed migration system is a quota system, with a finite number of work permits assigned to particular sectors. Manpower agencies must submit visa applications for migrant workers in Israel, thus elevating the role of the manpower contractor.<sup>173</sup>

Until 2005, a "binding policy" restricted migrant workers' permits to specific employers. The binding policy was roundly criticized because of the extreme vulnerability it created for migrant workers. Any change in employment status — dismissal, resignation, or employer bankruptcy or death — would result in a worker becoming illegal and subject to arrest and deportation. Workers who had paid illegally high fees to obtain their jobs in Israel were especially vulnerable to trafficking under the binding policy. In March 2006, following an appeal by six human-rights organizations, Israel's High Court of Justice ordered the government to come up with a new employment system. A new system was deployed — to mixed reviews — in which workers must register with private agencies but can change employers under certain circumstances. In May 2011, the government of Israel passed a bill making the binding policy even more restrictive, by setting geographical limits on work permits and limits on the number of transfers. Worker advocates criticized these changes, saying that they restricted workers to "employment in narrowly defined sub-categories within the home care industry," thereby limiting freedom and increasing vulnerability to exploitation and abuse.<sup>174</sup>

Before 2009, the Israeli government was also criticized for its lack of involvement in prescreening migrant workers and for exclusionary criteria. It left this responsibility up to the manpower agencies, which, according to policy observers, had little incentive to perform this task thoroughly or efficiently. Thus, many foreign workers arrived in Israel lacking necessary language or job skills, and having been inaccurately informed about their rights and job responsibilities in Israel.<sup>175</sup> In February 2009, tighter screening requirements were instituted.

The U.S. Department of State's 2011 Trafficking in Persons report ranked Israel as a Tier 2 country, together with countries that do not comply with the minimal requirements of the American Trafficking Victims Protection Act. The report recommended, among other things, the elimination of the binding policy and enforcement of the ceiling on brokerage fees.

The long-term care industry is unique in that the National Insurance Institute's (NII) Long-Term Care Insurance Program (LTCIP) provides state subsidies for home-care services for the elderly and disabled. The NII pays the subsidy directly to the service provider; in the case of foreign migrant workers, this is the manpower agency. Binding-policy reform was introduced in this sector in 2008. The elderly must be the direct employer of the foreign worker, and workers are bound to the private agency during the first year of employment. The new 2011 restrictions mentioned above apply to the long-term care sector.

### *The Situation of Nepali Long-Term Care Workers*

Long-term care workers in Israel are generally young women who have migrated from South and Southeast Asia (primarily the Philippines, Nepal, India, and Sri Lanka) on temporary work permits and who lack proficiency in Hebrew. While most Filipino and some Indian and Sri Lankan migrant workers can use English to communicate, Nepali women are not generally proficient in English and thus do not speak a common language with their employer or Israel-based agent. This heightens their vulnerability considerably. Nepali migrants are also generally younger than their Filipino counterparts: 18 percent of Nepali female migrants were between the ages of 15 and 24, and 35 percent were between the ages of 25 and 29, compared to 5.9 and 22 percent, respectively, for Filipino migrants.<sup>176</sup> A final factor that increases the vulnerability of Nepali migrant workers is their job placement. One report indicated that an "informal hierarchy" is present among manpower agencies, in which Indian and Nepali migrant workers are sent to care for the most dependent and disabled elderly.<sup>177</sup>

Most migrant women live at their employer's house, and their duties go beyond nursing of the elderly to include a range of domestic services. They are on-call "around the clock."<sup>178</sup> The work is long and difficult, with very little privacy or rest. One survey indicated that only six percent of these workers received the legally mandated 36 hours of rest per week. Thirty-one percent reported having to sleep in the same room with their employer/care patient.

While the Israeli government has placed a cap on recruitment fees, the actual recruitment fees paid by migrant workers regularly exceed that limit. Long-term care givers paid an average of USD 5,398 (seven times the legal limit). In the case of Nepali workers, fees are very high, ranging from USD 6,000-12,000.<sup>179</sup> These fees are shared between the recruitment agents in Nepal and the sponsoring agents in Israel. These fees also greatly exceed the government of Nepal's own ceiling for recruitment fees charged for migration to Israel of USD 835.<sup>180</sup>

The high fees paid by Nepali migrant workers, combined with the consequent debt they carry and deception in recruitment, result in a the trafficking of some of these women.

It is difficult for Nepali women to access credit, and therefore they are forced to borrow from money lenders at usurious rates of interest. In some cases, it reportedly takes "the combined effort of an entire village" to send a young woman to Israel for employment. Thus, these young women are under intense pressure and obligation to pay off the debt and support their families and villages with their overseas employment.<sup>181</sup> This is no small task, since it takes a Nepali

migrant worker one to two years of work on average to repay recruitment debt in Israel.<sup>182</sup> These workers are essentially bound to their employers during this period.

Some Nepali women have been subject to a “flying visa” scheme, in which a worker pays a recruiter for a valid work permit (oftentimes going into debt to do so), but when she arrives in Israel, she is never picked up at the airport or is dismissed almost immediately by her employer. These workers are left with no employer, vulnerable to arrest and deportation, and with no way to pay off their debt.

While the money that Nepali migrant women earn as long-term caregivers in Israel is considerably more than they would earn at home, it should be noted that there is no minimum-wage floor for migrant workers in Israel, and the pay they receive is extremely low for the hours worked. In late 2011, the Migrant Workers Committee of the Knesset, as part of its recommendations for extensive reform in the caregiving system noted “the complexity of employing migrant workers as caregivers.” It further noted that “foreign caregivers could not be expected to undertake tasks normally accomplished by three caregivers per shift ... foreign caregivers could not be expected to earn half of what is earned by an Israeli caregiver for longer hours and harder work.”<sup>183</sup> This committee made several recommendations for improving the regulation of caregiving in Israel, including an increase in the number of hours of care per week covered by subsidies and closer regulation of the payment system for migrant caregivers.<sup>184</sup>

#### *The Ban on Nepali Migration and Negotiations for Lifting It*

In April 2009, the Israeli government closed its borders to migrant caregivers from Nepal based on evidence of illegally high recruitment fees, other fraudulent recruitment practices (such as the “flying visa” scheme), and growing numbers of unemployed or informally employed migrant caregivers. While the intent of this measure was to prevent further exploitation of Nepali migrant caregivers on Israeli soil, NGO advocates asserted that the measure in fact made migrant caregivers more vulnerable, since it pushed migration underground, with Nepali job seekers migrating via India without regular visas.<sup>185</sup>

The government of Nepal initiated investigations and suspended operation of several manpower agencies accused of charging illegally high fees and participating in flying visa schemes.<sup>186</sup>

The government of Israel stated that it would consider reopening its borders if workers were sent directly by the government of Nepal or by the International Organization of Migration (IOM).<sup>187</sup>

The Ministry of Foreign Affairs of Nepal worked with the government of Israel to find agreeable conditions under which migrant workers could again be sent to Israel. Because sending migrants via the IOM would require an amendment to the Foreign Employment Act, the government of Nepal proposed an alternative through which the migration of Nepali migrant workers is monitored by a committee that includes a representative of the IOM and various government ministries. This arrangement was contained in guidelines released in late 2011 that also set forth minimum qualifications and orientation training for migrant workers and procedures for requesting, authorizing, and issuing work permits; and the authorization by the government of Nepal of 206 manpower agencies to send Nepali migrant workers, including caregivers, to Israel.<sup>188</sup> The government of Israel then lifted the ban on Nepali migration to Israel.

While it is too early to judge the effectiveness of the steps taken by the government of Nepal to better protect its migrant workers in Israel, the proactive steps taken nonetheless serve as an interesting case study of proactive government-to-government negotiation on these issues.

### **Case Study 2: Nepali Workers Migrating to the United States**

This case study describes the situation of Nepali workers migrating to the United States. This case focuses both on Nepali recipients of United States diversity-lottery visas who were exploited in the United States and undocumented Nepali immigrants who were trafficked through Guatemala and Mexico to the United States.

The migration of Nepali workers to the United States is interesting for several reasons:

- Verité uncovered a case in which Nepali migrants who obtained legal residency were trafficked to the United States by labor brokers whom they paid to find them a job.
- This case study shows how the creation and lifting of a visa exemption created new trafficking and smuggling corridors in Guatemala and Mexico.
- The case study shows how the asylum system can be abused by trafficking networks.
- This case study shows the ways in which smuggling and trafficking networks morph to adapt to new circumstances.

### ***Research on the Trafficking of Nepali Immigrants to the United States***

Verité had originally planned to carry out research in the United States, based on reports that diversity-lottery visa recipients in Nepal were being trafficked to the United States, where they were subjected to forced labor. However, Verité's Research Program Manager, based in Guatemala, discovered that Guatemala had become the number-one transit point for undocumented Indian immigrants seeking to migrate to the United States due to a visa exemption for Indian tourists. Research indicates that Nepali immigrants were obtaining false Indian passports to travel to Guatemala, from which they were smuggled to the United States via Mexico. Therefore, Verité expanded its research into undocumented Nepali immigrants traveling to the United States through Guatemala and Mexico.

Verité carried out extensive desk research on Nepali migration into the United States as well as the trafficking mechanisms that exist in Guatemala and Mexico. Verité also carried out expert consultations with legal services representatives and Nepali community leaders in the United States. In Guatemala and Chiapas, Mexico, Verité carried out expert consultations with representatives of migrant shelters, government agencies dedicated to combating trafficking and aiding refugees, the Ministry of Labor, the United Nations High Commission for Refugees (UNHCR), the Guatemalan Migration Directorate (DGM), and the United States Embassy in Guatemala.

### ***Statistics on Nepali Migration to the United States***

There are a relatively small number of Nepali immigrants in the United States — fewer than 200,000 by most accounts. The most recent government data, from the 2000 United States census, indicates that there were only 9,399 Nepali officially registered in the United States in 2000.<sup>189</sup> In November 2010, the UNHCR reported that 34,129 Bhutanese refugees of Nepali origin had been resettled in the United States, bringing the total number of Nepali in the United States to 174,365.<sup>190</sup> The main Nepali American communities exist in large cities such as New York, Boston, Chicago, Denver, Dallas, Portland, Gainesville, and St. Paul, with sizable numbers also living in cities in California.<sup>191</sup>

### *Trafficking of Nepali Diversity-Visa Recipients to the United States*

Nepal ranked ninth in the world for the largest number of United States visa lottery recipients, with 4,259 in 2011.<sup>192</sup> This number does not include Bhutanese refugees. Verité uncovered cases of forced labor among Nepali visa-lottery recipients in the United States — the first case that Verité has come across in which individuals who have obtained residency have been trafficked by labor brokers whom migrant workers paid simply to find them a job.

Nepali visa lottery recipients are vulnerable, as they generally lack English skills and the Nepali community is very small, especially in outlying rural areas in the U.S., where they have no social network. Interviews with legal services representatives indicate that visa-lottery recipients, who lacked contacts in the United States and the ability to communicate in English, paid brokerage fees of approximately USD 3,000 to obtain jobs in the United States. Verité identified cases in Washington State in which Indian and Nepali gas station owners and labor brokers exploited these migrant workers, charging them 50 percent interest on their loans, failing to pay them, and severely restricting their freedom of movement and communication. In one case, Nepali workers were owed USD 16,000 in back wages, as the employer retained their wages and only gave them small “advances” on wages that they had already earned. One of these workers, who had no money to buy winter shoes, almost lost his foot to gangrene, when he contracted frostbite from having to walk to work in the snow. He was denied medical attention, and his case was only discovered after he went to the hospital on his own.

While this case is very shocking and expert consultations indicated that this system was likely occurring in other gas stations in the Northwest, it appears to affect a relatively small number of Nepali immigrants. Additionally, it seems that this scheme was limited to a single extended Indian family that owned a number of gas stations, and legal services organizations were bringing cases against this family to put a stop to the exploitation. A phenomenon that affects a much larger number of Nepali migrant workers traveling to the United States is undocumented migration through Guatemala and Mexico.

### *Trafficking of Undocumented Nepali Migrants Through Guatemala and Mexico*

Desk research, expert consultations, and field research in Nepal indicate that a large number of Nepali migrants travel through Guatemala and Mexico to the United States on forged passports and visas from India and other countries and are smuggled and trafficked across international borders. Authorities from Mexico and especially Guatemala lack the training and language skills to assess the country of origin of individuals traveling on forged passports. There have been a number of reports of Nepali immigrants traveling on fake passports and visas. In April 2004, the Malaysian Embassy issued a statement that nearly 800 Nepali with false passports had been detained traveling through Malaysia.<sup>193</sup> In June 2010, Indian police uncovered a Delhi-based human-trafficking ring that had been faking Malaysian and Singaporean visas to send Indians and Nepali to the United States via Latin American countries. According to evidence unearthed by the Delhi police team, this group was believed to have sent at least 100 people to the United States in 2010. Clients were flown to Ecuador, Guatemala, and Mexico with fake visas. Thereafter, they were smuggled over the United States-Mexico border. During a raid, 152 fake passports were seized in Delhi.<sup>194</sup>

Nepali migrants traveling on fake passports have been discovered in Guatemala. In 2009, seven Nepali immigrants (individuals of Bhutanese origin living in refugee camps) who were traveling on fake passports were detained at the Guatemala City airport. As the Guatemalan authorities lacked shelters and translators and could not determine where the immigrants were from in

order to deport them, the immigrants were forced to stay at the airport for months, begging for food from travelers.<sup>195</sup> In November 2010, an Indian citizen, Adil Vali Mohammed, was arrested after leaving Guatemala and arriving at the New Delhi airport carrying 31 Indian passports. It is suspected that these documents were being used by Nepali to enter Guatemala and then were sent back to India to be used by another group traveling to Guatemala.<sup>196</sup> Because many Nepali travel on fake Indian passports, and because Guatemalan and Mexican officials lack training and language skills, it is likely that many of the immigrants they detain and identify as Indian are in fact Nepali.

### *Visa Exemption*

Recent reports indicate that Guatemala and Mexico became the main transit points for undocumented “Indian” immigrants to the United States following Guatemala’s elimination of a visa requirement for Indian tourists in 2009. Until June 2011, when the Guatemalan government eliminated the visa exemption for Indian tourists, a large number of “Indians” (including Nepali with false Indian passports) arrived in Guatemala as “tourists” seeking to travel illegally through Mexico to the United States. According to the director of the Guatemala Migration Directorate (DGM), during this time, over 8,300 Indians entered Guatemala as tourists, only 28 percent of whom exited legally, meaning that approximately 6,000 “Indians” likely migrated illegally from Guatemala through Mexico to the United States.<sup>197</sup>

A Verité interview with a high-level representative of the DGM indicated that from January to August 2010, a total of 2,859 individuals traveling on Indian passports entered Guatemala through official ports of entry, while only 284 “Indians” left through official channels. Once the visa restriction was put in place, the number of “Indians” arriving in Guatemala went down by 75 percent. Research indicated that Ecuador still had a visa exemption for Indians and that, increasingly, immigrants with fake Indian passports were flying to Ecuador, from which they traveled north illegally through Guatemala (which still has established trafficking networks) and Mexico. In March 2010, a man was detained at Guatemala City’s international airport, en route to Ecuador, with 50 passports from India.<sup>198</sup>

From January to August 2010, according to the DGM representative, ten Nepali entered Guatemala on visas, all of whom left through official ports of entry. The representative asserted that it was very difficult for Nepali to obtain visas to travel to Guatemala unless they had a lot of money, because they had to travel to a Guatemalan Embassy in another country, as Nepal lacks an embassy. Therefore, the process is very costly and burdensome, and many Nepali immigrants seeking to migrate to the United States through Guatemala continued to obtain false passports and visas. The DGM representative reported that despite the elimination of the visa exemption, individuals with Indian passports continued to be authorized tourist visas and less than ten percent of the “Indians” who were issued tourist visas left through official ports of entry, indicating that they were likely smuggled over the border en route to the United States.

### *Mexican Asylum System*

Some of the trafficking networks that were able to get migrants into Guatemala and smuggle them over the border into Mexico used the asylum system to get the migrants legally to the northern border with the United States. An interview with a high-level UNHCR representative and the head of a migrant shelter in Tapachula, Chiapas, Mexico (on Mexico’s southern border with Guatemala), revealed that a network of Indian lawyers in Mexico was obtaining temporary asylum for “Indian” migrants, who would use this status to be able to freely travel to the border with the United States, giving them a safer and cheaper way to get to the United States border. However, in late 2010, Mexico altered the asylum system, disallowing asylum seekers to travel

outside of the state in which they applied for asylum. According to the UNHCR representative, 150 “Indians” applied for asylum in 2011, all of whom failed to show up for their appointment to obtain permanent asylum after receiving temporary asylum paperwork that allowed them to travel legally to Mexico’s northern border. Following the change, the number of “Indian” asylum seekers in Chiapas diminished significantly, to five in 2011. Five Nepali applied for asylum in 2010, all of whom disappeared, and four applied in 2011.



**Figure 2. Migrant shelter director in Tapachula.**

An interview with the director of a migrant shelter in Tapachula reported that there had been a flood of “Indians” coming to the shelter after they had been caught trying to traverse Mexico or had run out of money. The vast majority of these “Indian” immigrants had flown to Guatemala and had immediately gone to Mexico to try to get into the United States. He stated that many of these “Indian” immigrants could have been Nepali, and between the end of July and October 2010, a total of 17 immigrants had officially registered at the shelter as being from Nepal. These immigrants reported that they had paid USD 27,000-47,000 to get from Nepal

to the United States, many by boat via Dubai and Egypt, a journey that took up to seven months. These were not wealthy Nepali, and a fee that high made them tremendously vulnerable to trafficking and forced labor, as they most likely had to work for years to pay off these fees. He also reported that there was a firm of Indian lawyers based in Mexico that charged Indians excessive fees to obtain asylum status in Mexico so that they could transit freely to the border with the United States. He said that one of the lawyers offered him a large sum of money if he would attest that a group of Indian immigrants were in his custody at the shelter, a bribe that he refused to take.

### *Human Smuggling*

Due to the reversal of the visa exemption in Guatemala and increased restrictions on travel for asylum seekers in Mexico, Nepali migrants are being forced deeper underground, and migration is becoming increasingly dangerous and expensive, increasing the risk for human trafficking. Press reports from Nepal indicate that undocumented Nepali migrants generally took a circuitous trip to the United States, through India, Singapore, or Malaysia and then on through Central America.<sup>199</sup> Migrants also traveled by boat. In 2009, 25 Nepali migrants who were being trafficked to the United States were found aboard a boat in the Pacific by the navy of El Salvador, among 76 migrants from as far away as Bangladesh and Eritrea.<sup>200</sup> On January 27, 2011, four Nepali migrants were rescued from a stolen tractor trailer truck in Chiapas holding 219 immigrants in “subhuman conditions.” The migrants had paid about GTQ 58,000 (USD 7,450) to get from Guatemala to the border with the United States and had been threatened by the smugglers.<sup>201</sup> On May 10, 2011, Mexican police in the state of Puebla detained nine Nepali migrants seeking to migrate to the United States.<sup>202</sup> One day later, six Nepali migrants and 12 migrants who said that they were from India were discovered among 513 migrants on the United States-Mexico border crammed into two tractor trailer trucks.<sup>203</sup>

In May 2011, reports began to emerge that Guatemala had become the main pipeline for South Asian immigrants. According to Guatemala’s director of the DGM, Enrique Degenhart, Indians were increasingly using Guatemala “as a bridge to begin an illegal journey through Mexico” to the United States. Degenhart reported that of the 4,966 Indians who entered Guatemala in 2010, only 1,058 (21 percent) exited legally. When looking for a drug house, Guatemalan

authorities found 27 “Indian” immigrants who were being kept in a safe house for days without being provided with food or a bath. After this raid, Degenhart reported that there were “mafias dedicated to trafficking [Indians] through Guatemala.” New Delhi police reported that they had arrested the kingpin of a network trafficking Indians to the United States through Guatemala, then Mexico and Canada to the United States. The police also identified an Indian national in Guatemala who ran safe houses, but the Guatemalan police had been unable to capture him. According to a high-level U.S. law enforcement official, Indian immigrants were paying USD 35,000-75,000 to get to the United States.<sup>204</sup>

Mexico and Guatemala are vulnerable to corruption. The emergence of the Zetas as a powerful and extremely violent drug cartel involved in human trafficking in Guatemala and Mexico makes Nepali migrants traversing these countries even more vulnerable. In multiple instances, Mexican immigration officials and security forces have been tied to the trafficking and kidnapping of migrants, who are held until relatives pay a ransom. Other victims are forced to work for criminal bands. According to Mexican army reports, the Zetas, who also have a presence in Central America, control



Figure 3. Sign in Guatemala for a worker-exploitation hotline.

migrant routes along Mexico's southern border, where unsuspecting victims are lured into traps.<sup>205</sup> A U.S. government official reported that Guatemala's high level of corruption makes it an attractive pipeline for human traffickers: "If a country has less visa requirements, or corrupt officials, or there's a country where they have better contacts, that's the country [traffickers] will travel through to get to the United States. ... The trafficking networks are fluid; they'll go to where the opportunity is."<sup>206</sup>

Verité's research indicates that the networks that traffic Nepali immigrants to the United States are in fact fluid and adaptable. When regulations make it harder for migrants to travel to or through countries legally, the networks are forced deeper underground, and migration becomes more dangerous and expensive. However, this does not deter the smuggling networks. In fact, many times it simply makes smuggling more profitable, illicit, and dangerous and increases the risk of human trafficking.

## Conclusions

Verité research for this report found that in the case of Nepali workers in Malaysia, the U.A.E., and Israel, and workers migrating to the United States, all the elements of forced labor and trafficking for forced labor are present: deception, vitiated consent, movement and transfer, exploitation, restricted movement, and coercion. Verité found that vulnerability to forced labor is greatly heightened for undocumented Nepali workers and those working in the domestic-service and construction industries.

Evidence that undocumented workers fare worse when migrating for employment is found in the number of individual claims currently in the Nepali court system, most of which are from workers going through unofficial channels. Undocumented workers receive no oversight by Nepali or receiving governments, nor can they avail themselves of the Nepali welfare fund or grievance mechanisms in either country, exacerbating their vulnerability to forced labor and trafficking.

## Vulnerabilities to Trafficking and Forced Labor

Vulnerabilities to forced labor and labor trafficking common Malaysia, Israel, the U.A.E., and the U.S. include:

### *The Ladder of Intermediaries*

Migrants pay high service fees because they pass through multiple intermediaries. Typically three to four intermediaries, each charging a fee, are involved in placing a single worker from Nepal in employment in a receiving country. Verité research found that the most poorly regulated segment of the migration process is the 25,000-30,000 village agents, who operate completely outside of the law in Nepal. Paid by the number of migrant workers brought to regional agents or recruiting agencies in Kathmandu, these village agents often deceive workers about their terms of employment in order to pool as many workers as possible. Because the worker is not negotiating directly with the employer, the worker suffers from imperfect information about his or her working conditions. Verité's research shows that labor brokers take advantage of the information gap by actively deceiving workers regarding working conditions.

### *Lack of Worker Awareness of the Migration Cycle*

Nepali workers recruited and hired for work abroad are usually low-skilled and poorly educated and come from villages that are remote from the political and economic centers of Nepal. Among migrant workers, awareness of human and labor rights is low. Their disempowerment appears to be systemic such that even if they knew their rights, migrant workers would continue to have blind faith in the agents, agencies, and relatives who send them abroad for work. Based on their trust in brokers, workers use illegal migration routes and procedures such as traveling via India or going abroad on a tourist visa. By buying an orientation certificate on the black market, workers miss out on the opportunity to learn about their rights, the grievance process, and help available to them in receiving countries.

### *Problematic Policies Regarding Migrant Workers*

Migrant workers from Nepal are generally employed in three major sectors overseas: manufacturing, services, and agriculture. While each sector has its own unique characteristics, there are common factors in the laws of Nepal and receiving countries that contribute to the vulnerability of workers in the destination country. In both Nepal and receiving countries, laws to protect migrant workers are often ignored, such as legal limits on agent fees, working hours, overtime, deductions of fees, and grievance mechanisms. With little oversight or monitoring in receiving countries, worker exploitation is inevitable. Government-to-government collaboration, which could redress many migrant-worker issues, is rare.

In the four receiving countries profiled for this report, worker contracts are tied to a specific employer or sponsor, and changing employers for any reason could result in worker expulsion from the country. Making sponsors responsible for workers overstaying their visas can encourage sponsors to take drastic measures to ensure workers do not escape, such as retaining their passports and limiting their freedom of movement. In a sponsorship system, workers who run away or change employer without the employer's consent lose not only their job and legal status but also shelter, access to health care, insurance, and their livelihoods. The system thereby creates disempowered workers who are completely dependent on employers.

In Malaysia and the U.A.E., laws on labor brokerage and outsourcing employment effectively remove employers from direct responsibility for workers and allow brokers to take over this

function with minimal oversight. In the U.A.E. in particular, brokers can transfer workers at will to work locations with varying work conditions, and sometimes to other brokers, often without workers' consent.

In addition to laws that are not properly implemented in receiving countries, Verité found inadequate grievance systems in all four receiving countries. Legislation in receiving countries allows employers to fire workers who lodge formal complaints. Work sites by and large have no mechanism for worker representation, and where labor attaches are available in receiving countries, they are understaffed.

### *Onerous Recruitment Fees and the Cycle of Debt*

Mechanisms are in place in some receiving countries to ensure that workers do not pay for the cost of migration (by placing a cap on recruitment fees or legislating an employers pay principle), but these mechanisms are routinely violated with no serious consequences. There are no systems to monitor whether recruitment fees are exacted in sourcing countries like Nepal.

Nepali workers interviewed in Malaysia and the U.A.E. all paid onerous recruitment fees and were forced to take out loans with interest, which tied them to employers until their debts were repaid. These migrant workers are placed in forced labor when employers or brokers exploit what is already a desperate situation by forcing them to accept terms to which they did not originally consent (work in subminimum conditions or under circumstances to which they did not initially agree or substandard accommodations). Workers accept these changes in terms of employment only because they know that they cannot complain or leave, since there is no opportunity to seek other work without risking detention or deportation.

### *Lack of Understanding of the Link Between Forced Labor and Trafficking*

In the two receiving countries profiled for this report, a migrant worker who runs away from an employer because of abusive labor conditions is considered to be in violation of immigration laws and subject to immediate deportation. While both Malaysia and the U.A.E. have antitrafficking laws — Act 670 and Federal Law No. 51, respectively — the concepts of labor trafficking and forced labor are fairly new and have not yet been translated into an actionable policy. Neither government has developed a procedure to actively and effectively identify victims of labor trafficking or forced labor. Victims are routinely processed as illegal migrants and held in detention until deported. Nepal's policies on labor trafficking are also poorly developed.

### *Corruption*

Some inherent features of foreign-employment transactions make them highly susceptible to corruption. The one-off nature of the transaction, involvement of unknown foreigners living in distant places, the maze of bureaucracy in the preparation of travel documents, involvement of layers of middlemen and agents, tight deadlines, and informality of the transactions all create a ripe environment for corruption. Complications are added to the transaction due to limited supply and high demand for jobs in foreign countries. This corruption in Nepal is a root cause of forced labor.

### *Too Much Documentation*

A prospective migrant worker has to prepare so many documents that it is literally impossible to complete the whole process without depending on the services of agents and middlemen. Innumerable documents such as birth certificates, citizenship certificates, passports, visa stamps, work permits, contract letters, health certificates, insurance, training certificates,

orientation certificates, air tickets, and parental approval (in case of female workers) have to be prepared before departure. Migrant workers do not have enough time, capacity, or resources to deal with this bureaucratic maze. Time pressures make it impossible to follow all the requirements. Migrant workers coming from outside the Kathmandu area cannot afford to stay in Kathmandu to prepare these documents. The only option is to look for shortcuts like buying documents on the black market.

## **Recommendations**

Based on fieldwork and research in Nepal and receiving countries, Verité posits the following insights for the government of Nepal:

### ***Advocate for a No-Fee Recruitment System***

Nepal can stop the ladder of intermediaries in foreign employment by advocating that the receiving-country employer, not the migrant workers, pay the recruitment agencies.<sup>207</sup> While some countries already do this in theory, such as Gulf states, in practice recruitment agencies still demand high fees from Nepali migrating for work.

### ***Focus on the Next-Door Neighbor***

India is the major destination and transit country for Nepali workers, yet Nepal lacks labor-migration policies focused on India. Not only are stronger bilateral relations in order for the two countries, but better record-keeping is sorely needed as well.

### ***Fix the Policy Gaps and Loopholes***

Verité discovered several large gaps and loopholes in Nepali legislation that need fixing. A ministry or department for combating human trafficking is needed, and stronger enforcement of the FEA is imperative, with harsh punishment for violators. The lack of rights for domestic workers abroad and inconsistencies in service charges must be addressed. Regulation of village agents, the weakest link in the recruitment process, must begin. Specific sections of the Foreign Employment Act that need enforcement/revision are:

- Section 19, which should be amended to say that all payments be made through banks instead of in cash;
- Section 22, allowing recruitment agencies to use foreign airports, should be removed; Section 23, allowing the government of Nepal to specify the minimum remuneration for foreign workers; and
- Section 24, regarding service charges and promotional costs, needs amending.

### ***Reach Out to Other Governments***

Nepal has limited relationships with the major receiving countries for Nepali workers, despite the fact that poorly enforced policies in these countries are harming Nepali workers. It is time to fulfill the terms of the FEA 2007 in placing labor attaches in all countries with over 5,000 Nepali workers and over 1,000 women workers, and make sure that they are functioning efficiently.

### ***Make It Easier to Migrate Legally***

Undocumented workers fare worse when migrating for employment than legal migrants. By streamlining the recruitment process, controlling government corruption, and limiting the ladder of intermediaries, Nepal can encourage more legal migration, which has a much lower risk for forced labor.

Below are specific recommendations by stakeholder group, including the government of Nepal, worker and civil-society organizations, manpower agencies, international organizations, and receiving-country governments.

<b>Measures to Combat Forced Labor and Labor Trafficking in Foreign Employment</b>	
<b>Institutions</b>	<b>Actions</b>
Government of Nepal (MLTM, DoFE, FEPB, and other related agencies)	<ul style="list-style-type: none"> <li>• Adopt a no-fee recruitment system wherein the employer, not the migrant workers, pays the recruiting agents.</li> <li>• Ratify the United Nation's Convention on Transnational Organized Crime (UNTOC) and its Optional Protocol (Palermo Protocol). Ratify the United Nation's Convention for the Protection of Migrant Workers and Their Families (CMW) to curb human smuggling and trafficking.</li> <li>• Take steps to ensure that the migration process is better regulated, including better monitoring of recruitment agents and agencies, and stronger enforcement measures for wrongdoers. Bringing the village-level agent into legal compliance with migration law is a priority.</li> <li>• Maintain data on returnees, the number of persons deported due to fraudulent travel/working documents, the number of persons in detention in destination countries, the loss of life related to work site activities, and the nature of violation of human rights and labor rights.</li> <li>• Decrease the "ladder of agents" involved in each migrant worker transaction. The government of Nepal has issued a circular on more stringent control of branch offices and regional agents. Less than half of branch offices were renewed in 2012. However, since most village agents operate outside the law, this closure will not affect their activities.</li> <li>• Address corruption in the government regarding Nepali worker migration through establishment of a task force on government corruption regarding migrant workers.</li> <li>• Ensure that labor attaches are functional in the recipient countries and provide better training, as well as stronger grievance mechanisms.</li> <li>• Conduct bilateral talks with India to stop illegal migration through India and begin record-keeping of migrant worker flows.</li> <li>• Strengthen enforcement of the Foreign Employment Act, with harsher punishment for perpetrators.</li> <li>• Negotiate bilateral treaties with additional receiving countries to establish fair employment conditions for Nepali workers.</li> <li>• Empower worker organizations such as Pourakhi and PNCC and help them increase the use of technology to promote transparency.</li> <li>• Blacklist foreign employers that have a track record of</li> </ul>

	<p>abuse of Nepali migrant workers.<sup>208</sup></p> <ul style="list-style-type: none"> <li>• Lobby governments of major destination countries of Nepali workers to establish embassies in Nepal.</li> <li>• Include a migrant-labor representative on the board of the Foreign Employment Welfare Fund.</li> <li>• Through bilateral negotiations with Gulf countries, ensure that brokers do not charge workers for travel expenses and commission to work in these destinations, since they are prohibited by law in these countries.</li> <li>• Set up effective repatriation mechanisms for trafficking victims.</li> <li>• Enhance capacity of law enforcement agencies and border authorities.</li> <li>• Increasing media sensitivity to trafficking in persons and public awareness of trafficking through the media.</li> <li>• Develop opportunities for skill development, alternative employment, and income generation for potential migrant workers and other vulnerable groups.</li> <li>• Establish information booths on safe migration for trafficking prevention.</li> <li>• Review/revise minimum wages for foreign employment.</li> <li>• Decentralize operation of the DoFE so that migrant workers need not come to Kathmandu for document preparation.</li> <li>• Encourage ID cards for migrant workers as a countermeasure to passport impounding.</li> </ul>
Private sector (Association of RAs, recruitment agents, and others)	<ul style="list-style-type: none"> <li>• Advocate for the no-fee recruitment system.</li> <li>• Register all affiliated subagents and agents and refuse to work with unregistered agents.</li> <li>• Implement sanctions for errant agencies and agents.</li> <li>• Enforce government rules regarding recruitment fees and stop double-dipping (recruiters taking fees from both workers and employers).</li> <li>• Advocate for incentives for good practices by foreign employment businesses.</li> <li>• Make it mandatory to have employment contracts translated into Nepali.</li> <li>• Lobby to reduce the cost of remittances.</li> <li>• Develop a code of conduct for working with Nepali migrant workers.</li> </ul>
Civil society (NGOs working in the field of foreign employment and antitrafficking, including media)	<ul style="list-style-type: none"> <li>• Advocate for the no-fee recruitment system.</li> <li>• Increase awareness of migrant workers on key vulnerable areas through better orientation training, publicity campaigns, and use of the media.</li> <li>• Increase civil-society monitoring of recruitment agents and agencies.</li> <li>• Promote media sanctions against blacklisted recruitment agents and agencies.</li> </ul>

	<ul style="list-style-type: none"> <li>• Conduct advocacy campaigns directed at workers to help them: (a) make informed choices with a full understanding of migration terms and conditions, (b) verify the background of recruitment agents before signing contracts, and (c) report agent and government official bribery.</li> <li>• Provide legal aid to the workers in Nepal and receiving countries.</li> <li>• Provide stronger rehabilitation mechanisms for migrant workers who are victims of trafficking and other forms of exploitation.</li> <li>• Advocate for a stronger role of employer organizations in Nepali worker migration.</li> </ul>
Donors and INGOs	<ul style="list-style-type: none"> <li>• Advocate for the no-fee recruitment system.</li> <li>• Help the government of Nepal to sign more bilateral and regional agreements.</li> <li>• Support ratification of international conventions related to migrant workers.</li> <li>• Support NGOs and media working in the field of foreign employment and antitrafficking.</li> <li>• Encourage sanctions against labor-exploiting countries.</li> <li>• Encourage antitrafficking dialogue that goes beyond sex trafficking to include migrant-labor trafficking and forced labor.</li> <li>• Build the capacity of government officials to address Nepali migrant-worker issues.</li> <li>• Advocate for transparent credit agencies with reasonable rates for migrant workers.</li> <li>• Advocate for a code of conduct for manpower agencies in Nepal and receiving countries.</li> <li>• Advocate for the criminalization of nonregistered agents in Nepal and receiving countries.</li> <li>• Advocate for better treatment of migrant women, particularly in caregiving and domestic service.</li> </ul>
Receiving-country governments	<ul style="list-style-type: none"> <li>• Enforce the no-fee recruitment system.</li> <li>• Require employers in receiving countries to audit the brokers they work with and require that the brokers disclose their counterparts in sending countries.</li> <li>• Set a minimum wage for migrant workers where none exists, as in the U.A.E. and in Israel for domestic workers.</li> <li>• Add labor inspectors to workforce teams to better monitor labor conditions at company work sites.</li> <li>• Monitor worker payment of recruitment fees through payroll deductions.</li> <li>• Outlaw in-kind remunerations (food, housing) that are structured to hide low wage levels.</li> <li>• Implement workplace grievance mechanisms and strengthen institutional grievance mechanisms.</li> <li>• Create an agency dedicated to migrant-worker welfare.</li> </ul>

## Annex 1: Data on Nepali Employed Abroad by District

Foreign Employment Data (From July 16, 2009, to July 16, 2010 = 1 Year )				
	Nepal District	Male	Female	Total
1	Taplejung	2,229	28	2,257
2	Panchthar	4,033	38	4,071
3	Ilam	4,356	88	4,444
4	Jhapa	10,318	208	10,526
5	Sankhuwasabha	2,638	29	2,667
6	Tehrathum	1,752	10	1,762
7	Bhojpur	2,617	30	2,647
8	Dhankuta	2,915	37	2,952
9	Morang	9,359	145	9,504
10	Sunsari	5,748	122	5,870
11	Solukhumbu	867	37	904
12	Khotang	3,196	34	3,230
13	Okhaldhunga	1,628	30	1,658
14	Udaypur	3,880	69	3,949
15	Saptari	7,269	9	7,278
16	Siraha	9,509	9	9,518
17	Dolakha	1,595	81	1,676
18	Ramechap	1,831	56	1,887
19	Sindhuli	3,232	82	3,314
20	Dhanusha	11,906	9	11,915
21	Mahottari	25,146	51	25,197
22	Sarlahi	5,117	44	5,161
23	Rasuwa	517	28	545
24	Dhading	3,714	41	3,755
25	Nuwakot	2,340	99	2,439
26	Kathmandu	1,417	90	1,507
27	Bhaktapur	621	15	636
28	Lalitpur	897	36	933
29	Kavrepalanchowk	2,589	105	2,694
30	Sindhupalchowk	2,469	268	2,737
31	Makwanpur	3,278	123	3,401
32	Rautahat	2,114	12	2,126
33	Bara	2,490	29	2,519
34	Parsa	1,176	8	1,184
35	Chitwan	4,198	44	4,242
36	Gorkha	3,279	41	3,320
37	Manang	109	1	110
38	Lamjung	2,400	29	2,429
39	Kaski	3,071	53	3,124
40	Tanahu	4,834	23	4,857
41	Shyanja	3,246	22	3,268
	Nepal District	Male	Female	Total

42	Gulmi	1,991	11	2,002
43	Palpa	2,793	24	2,817
44	Argakhanchi	1,598	18	1,616
45	Nawalparasi	6,390	45	6,435
46	Rupandehi	4,109	35	4,144
47	Kapilbastu	2,172	19	2,191
48	Mustang	34	2	36
49	Myagdi	1,698	16	1,714
50	Baglung	3,062	12	3,074
51	Parbat	1,690	13	1,703
52	Rukum	1,613	7	1,620
53	Rolpa	3,146	10	3,156
54	Pyuthan	1,102	3	1,105
55	Salyan	3,129	13	3,142
56	Dang	4,962	30	4,992
57	Dolpa	12	0	12
58	Mugu	36	1	37
59	Jumla	37	0	37
60	Kalikot	95	0	95
61	Humla	50	2	52
62	Jajarkot	464	4	468
63	Dailekh	442	5	447
64	Surkhet	1,073	5	1,078
65	Banke	1,829	15	1,844
66	Bardiya	1,343	7	1,350
67	Bajura	114	0	114
68	Acham	189	0	189
69	Bajhang	124	0	124
70	Doti	81	0	81
71	Kailali	7,358	23	7,381
72	Darchula	330	4	334
73	Baitadi	422	0	422
74	Dedeldhura	790	3	793
75	Kanchanpur	1,162	9	1,171
	Total	221,340	2,649	223,989

Source: Migrant Resource Centre  
Kathmandu, Nepal

## Annex 2: List of Useful Contacts by Country

NEPAL	
Contact	Category
1. Umesh Upadhaya, GeFont	Trade union
2. Ganesh Gurung, NIDS	NGO
3. Saru Joshi, U.N. Women	U.N. organization
4. Kumud Khanal, General Secretary, Nepal Association of Foreign Employment Agencies	Manpower agency
5. Ram Prakash Mandal, Supervisor, WOREC Nepal: Dhanusa information centre	NGO
6. Milan Shreshtha, ILO	U.N. organization
7. Sthaneswar Devpota, Executive Director, FEPB	Government
8. Babita Basnet, Sancharika Samooh, Media Group Focusing on Women Issues	NGO
9. Kashinath Marasini, Director, DoFE	Government
10. Mr. Yadav, Chairman, PNCC (Pravasi Nepali Coordination Committee)	NGO
11. Etsuko Teranishi, Project Officer, IOM	International organization
12. Niru Khadka, Migrant Resource Centre	Government
13. Prem Bahadur Katuwal, President, Prakash Karki, General Secretary, Foreign Employment Association	Manpower agency
14. Kiran Kishor Ghimire, Executive Chairman, Kanchan Human Resource Management Private Limited	Manpower agency
15. Prem Narayan Thapa, Nepal Association of Foreign Employment Agencies	Manpower agency
16. Geeta Pradhan, Program Coordinator, WOREC	NGO
17. Surendra Rai, Ram Naresh Singh, Hari Babu, GeFont, Dhanusha	Trade union
18. Manju Gurung and Bijaya Rai Strestha, Chairperson and President, Pourakhi	NGO
19. Chandeshwar Acharya, Under Secretary, Ministry of Labour and Transport Management	Government
20. Shom Luitel, President, People's Forum for Human Rights	NGO
21. Dave Sadoff, Country Director, ABA Nepal Country office	International organization
22. P.K. Singh and James Sinclair, FSI Employment India and FSI worldwide	Manpower agency
23. Surya Nath Mishra, former Ambassador of Qatar	Politics
24. Ram Ashish Yadav, Federation of Nepalese Journalists, Dhanusha	Media
25. Dr. Geeta Pathak Sangroula, Kathmandu School of Law	Academia
26. Helen Sherpa, Combatting Child Labor Through Education in Nepal	NGO

<b>MALAYSIA</b>	
27. Chakra Kumar Subedi, Second Secretary, Embassy of Nepal	Government
28. Ministry of Human Resources	Government
29. Ministry of Home Affairs, Kementerian Hal Ehwal Dalam Negeri	Government
30. The Human Rights Commission of Malaysia	NGO
31. The Malaysian Bar	Association
32. Youth With a Mission (YWAM)	NGO
33. CARAM Asia	NGO
34. Tn Hj Shamsuddin Bardan, Malaysian Employers Federation	Association
<b>U.A.E.</b>	
35. Embassy of Nepal, Abu Dhabi, United Arab Emirates	Government
36. General Directorate of Residence and Foreigners Affairs, Abu Dhabi	Government
37. Abu Dhabi Naturalization and Residence Directorate (ADNRD)	Government
38. Ajman Immigration Department	Government
39. Ministry of the Interior, Abu Dhabi	Government
40. Ministry of Labor, Abu Dhabi Office	Government
<b>ISRAEL</b>	
41. Avner Amrani, Ministry of Industry, Trade and Employment Research Division	Government
42. Dr. Adriana Kemp, Senior Lecturer, Tel Aviv University	Academia
43. Dr. Nathan Gilad, Migration Specialist, Knesset Research and Information Center	Government
44. Ruth Eglash, Social Media Editor, <i>The Jerusalem Post</i>	Media
45. Idit Lebovitch, Caregiving Workers Coordinator, Kav L'Oved	NGO
46. Government of Nepal, Embassy of Nepal in Israel	Government
47. Caregivers Union in Israel	Union
48. Noga Shafer, Tevel b'Tzedek (Earth – In Justice)	NGO
49. Itai Svirsky, The Legal Clinic, Tel Aviv University	Academia
50. Alon Silbershatz, LAHAV Independent Employers Organization	Association
51. Efram Zilony, Histadrut, Authority for Economy and Society	Union
<b>GUATEMALA/MEXICO</b>	
52. Padre Francisco Pellizari, Director, Casa del Migrante, Guatemala City	NGO
53. Licenciado M., Head of Labor Migration, Ministry of Labor and Social Provision Guatemala	Government
54. Erna Cabrera, Director, Secretary Against Sexual Violence, Exploitation, and Human Trafficking	Government
55. Fredy Viana, Director, Guatemalan Migration Directorate	Government

56. Marco Vinicio Hernandez, Director of Labor Issues, Human Rights Ombudsman (PDH)	Government
57. Padre Flor de Maria, Director, Casa del Migrante, Tapachula, Chiapas, Mexico	NGO
58. María de las Mercedes Gómez Mont Urueta, National Migration Institute of Mexico (INM), Tapachula	Government
59. Carmen Obregon Pina, Grupo Beta, National Migration Institute of Mexico (INM), Tapachula	Government
60. Padre Ademar, Director, Casa del Migrante, Tecun Uman, Guatemala	NGO

## Bibliography

- "6P' programme shifting to legalisation phase." The Malaysian Insider, October 5, 2011.  
<http://www.themalaysianinsider.com/malaysia/article/6p-programme-shifting-to-legalisation-phase/>
- "25 United States-Bound Nepali Migrants Held in El Salvador." *The Katmandu Post*. September 7, 2009.  
<http://www.highbeam.com/doc/1P3-1854764211.html>
- "5,000 Riot Over Death of Worker." New Straits Times. August 16, 2010.  
<http://news.asiaone.com/News/AsiaOne+News/Malaysia/Story/A1Story20100816-232251.html>
- Adhikari, Dr. Rishi Raj. Nepali Workers in Malaysia, Non-Resident Nepali Regional Conference 2008, 24-25 May 2008, Bangkok.
- "Agents cheating foreign job seekers." The Himalayan, March 21, 2012.  
<http://thehimalayantimes.com/fullToday.php?headline=Agents+cheating+foreign+job+seekers&NewsID=324941>
- Amnesty International. *False Promises: Exploitation and Forced Labor of Nepali Migrant Workers*. 2011.  
<http://www.amnesty.org/en/library/info/ASA31/007/2011/en>
- Amnesty International, Kav L'Oved, and Pourakhi. *Nepal: Briefing to the UN Committee on the Elimination of Discrimination against Women*. July 2011.
- Amnesty International Nepal. "Nationwide Campaign on Migrants' Rights Launched." Undated, accessed May 1, 2012. <http://amnestynepal.org/campaigns/ai-nepal-activities/nationwide-campaign-on-migrants-rights-launched.html>
- Amnesty International 2010. *Trapped: The Exploitation of Migrant Workers in Malaysia*.  
<http://www.amnesty.org/en/library/info/ASA28/002/2010>.
- Aruna, P.. "New law refines Rela powers." Thestaronline, May 28, 2012.  
<http://thestar.com.my/news/story.asp?file=/2012/5/28/nation/11369609&sec=nation>
- "Asiáticos que pernoctan en aeropuerto de Guatemala se niegan a hablar." *El Economista*, March 16, 2009. <http://ecodiario.eleconomista.es/internacional/noticias/1101000/03/09/Asiaticos-que-pernoctan-en-aeropuerto-de-Guatemala-se-niegan-a-hablar.html>
- Barros, Guillermo. "Migrants Forced to be Sex Slaves in Mexico." Herald Sun Online, April 20, 2011.  
<http://www.heraldsun.com.au/news/world/migrants-forced-to-be-sex-slaves-in-mexico/story-e6frf7n6-1226042334684>
- BBC Monitoring South Asia, Political Supplied by BBC Worldwide Monitoring. "Nepal seeks lifting of Israeli ban on migrant labour." January 8, 2010.
- Ben-Israel, H. "Knesset passes pro-slavery bill." Kav L'Oved, May 24, 2011.  
<file:///C:/Documents%20and%20Settings/EK/My%20Documents/VERITE/HU%20Nepal/Israel/Kav%20L%20Oved%20pages/Knesset%20passes%20pro-slavery%20bill.htm>
- BuddeComm. "Nepal - Telecoms, Mobile, Internet and Forecasts."  
<http://www.budde.com.au/Research/Nepal-Telecoms-Mobile-Internet-and-Forecasts.html>
- Center for Latin American and Border Studies. *Mexico Pans Arizona as Migrants are Massacred at Home*.  
<http://mexidata.info/id2797.html>

Centre for the Study of Labour and Mobility. "Nepal Map of Foreign Employment by District."  
<http://ceslam.org/map/>

Central Intelligence Agency. *The World Factbook: Nepal*, 2012.  
<https://www.cia.gov/library/publications/the-world-factbook/geos/np.html>

"Changes at DoFE relieve foreign job seekers." The Kathmandu Post, May 16, 2012.  
<http://www.ekantipur.com/the-kathmandu-post/2012/05/12/money/changes-at-dofe-relieve-foreign-job-seekers/234809.html>

Chauhan, A. *Nepali in America*. <http://arunkchauhan.com/2011/02/09/Nepali-in-america/>

"Corruption-accused under secy of Foreign Employment Promotion Board sent to judicial custody."  
Nepalnews.com. March 6, 2012. <http://www.nepalnews.com/home/index.php/news/1/17148-corruption-accused-under-secy-of-foreign-employment-promotion-board-sent-to-judicial-custody.html>

"Detiene la SSP a 183 inmigrantes de Centroamérica, África y Asia." *El Excelsior*, May 10, 2011.  
[http://www.excelsior.com.mx/index.php?m=nota&id\\_nota=735747&rss=1](http://www.excelsior.com.mx/index.php?m=nota&id_nota=735747&rss=1)

Eglash, Ruth. "Interior Ministry fails on foreign caregivers policy." *Jerusalem Post*, May 18, 2011.  
<file:///C:/Documents%20and%20Settings/EK/My%20Documents/VERITE/HU%20Nepal/Israel/Kav%20L%20Oved%20pages/Interior%20Ministry%20fails%20on%20foreign%20caregivers%20policy.htm>

Gilad, Nathan. "Migrant Workers and Victims of Human Trafficking; the Government's Policy and Activity of the Immigration Authority." Research and Information Center of the Israel Parliament, October 20, 2009. <http://www.knesset.gov.il/mmm/data/pdf/me02294.pdf>

Government of Dubai. U.A.E. Labour Law, Federal Law No. 8 of 1980,  
[http://www.deg.gov.ae/sitecollectionimages/content/pubdocs/U.A.E.\\_labour\\_law\\_eng.pdf](http://www.deg.gov.ae/sitecollectionimages/content/pubdocs/U.A.E._labour_law_eng.pdf)

Government of Nepal. "Nepalese Embassy, Malaysia," April 23, 2012.  
<http://www.Nepaleseabroad.com/embassy-of-nepal/Nepalese-embassy-malaysia/>

Government of Nepal, Department of Foreign Employment. "Foreign Employment Act." September 5, 2007. [http://www.dofe.gov.np/uploads/cmsfiles/file/foreign-employment-act\\_20120420110111.pdf](http://www.dofe.gov.np/uploads/cmsfiles/file/foreign-employment-act_20120420110111.pdf)

Government of Nepal, Department of Foreign Employment. "Recognized Destinations."  
[http://www.dofe.gov.np/en/innerpage.php?page\\_id=43](http://www.dofe.gov.np/en/innerpage.php?page_id=43)

Government of Nepal, Embassy of Nepal in Israel. "Guidelines to send Nepali Labour to Israel as 'Caregiver', 2011/12" (unofficial English translation). <http://www.nepalembassy-israel.org/AllSites/903/Assets/guidelines%20for%20sending%20caregivers%20eng..pdf>

Government of Nepal, Ministry of Foreign Affairs. "Nepalese Missions Abroad."  
<http://www.mofa.gov.np/nepalesemission/index.php?type=nepalese>

Government of the United States of America. *United States Census 2000, Asian Population by Detailed Group*. <http://www.census.gov/prod/2002pubs/c2kbr01-16.pdf>

"Government to appoint 7 labour attaches." NepalBizNews.com, November 16, 2009.  
<http://www.nepalbiznews.com/newsdata/Home/Government-to-appoint-7-labour-.html>

"Govt to fix minimum pay for migrant workers." The Kathmandu Post, May 10, 2012. <http://www.ekantipur.com/the-kathmandu-post/2012/05/10/money/govt-to-fix-minimum-pay-for-migrant-workers/234741.html>

"Govt working on foreign employment policy." Kathmandu Post, February 6, 2012. <http://www.ekantipur.com/the-kathmandu-post/2012/02/06/development/govt-working-on-foreign-employment-policy/231268.html>

"Helping workers abroad: Himal Media's roundtable discussion on the challenges and issues of migrant labour." Nepali Times, December 17, 2010. <http://www.nepalitimes.com.np/issue/2010/12/17/Nation/17743>

Human Rights Watch. *Building Towers, Cheating Workers: Exploitation of Migrant Construction Workers in the United Arab Emirates*. Vol. 18, no. 8(E), p. 26, 2006.

Human Rights Watch. *"The Island of Happiness": Exploitation of Migrant Workers on Saadiyat Island, Abu Dhabi*. P. 23, 2009. <http://www.hrw.org/node/83111>

Human Rights Watch. *The U.A.E.'s Draft Labor Law: Human Rights Watch's Comments and Recommendations*. March 25, 2007. <http://www.hrw.org/reports/2007/03/25/U.A.E.s-draft-labor-law-human-rights-watch-s-comments-and-recommendations>

Human Rights Watch. *U.A.E.: Stepped-Up Harassment of Rights Defenders*. January 26, 2011. <http://www.hrw.org/news/2011/01/26/U.A.E.-stepped-harassment-rights-defenders>

"Hundreds of Nepali Laborers Arrested with Forged Visas in Malaysia." BBC. April 27, 2004.

"Illegal Immigration Pipeline from South Asia to United States Passes through Guatemala." Fox News Latino. May 17, 2011. <http://latino.foxnews.com/latino/politics/2011/05/17/india-migrants-guatemala-provides-path-illegally-entering-united-states/>

"Illegal Trail through Mexico." *The Kathmandu Post*. May 18, 2011. <http://www.ekantipur.com/the-kathmandu-post/2011/05/18/top-story/illegal-trail-through-mexico/221839.html>

ILO. "Combating Forced Labor: A Handbook For Employers & Business." 2008. [http://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@declaration/documents/publication/wcms\\_101171.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_101171.pdf)

ILO. *A Global Alliance against Forced Labor*. 2005. <http://www.ilo.org/public/english/standards/relm/ilc/ilc93/pdf/rep-i-b.pdf>

ILO. "Ratifications for Nepal." [http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:910014459245977::NO:11200:P11200\\_COUNTRY\\_ID:103197](http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:910014459245977::NO:11200:P11200_COUNTRY_ID:103197)

"Indian Cops Bust Indo-Nepal Human Trafficking Ring." *The Himalayan Times*. <http://www.thehimalayantimes.com/fullNews.php?headline=Indian+cops+bust+Indo-Nepal+human+trafficking+ring&NewsID=248220>

International Trade Union Confederation. "New Campaign to Combat Forced Labour of Nepali Migrant Workers in Gulf." January 21, 2011. <http://www.ituc-csi.org/new-campaign-to-combat-forced.html>

Israel Population, Immigration and Border Crossings Authority. "Data of Foreigners in Israel." November 15, 2010 (Hebrew).

Kanapathy, Vijayakumari. "Migrant Workers in Malaysia: An Overview." Pp. 3-4.  
[http://english.cpiasia.net/dmdocuments/Migrant%20Workers%20in%20Malaysia\\_An%20Overview.pdf](http://english.cpiasia.net/dmdocuments/Migrant%20Workers%20in%20Malaysia_An%20Overview.pdf)

Kanapathy, Vijayakumari. "Towards an East Asian Cooperation Framework for Migrant Labor, Migrant Workers in Malaysia: Overview." ISIS Malaysia, December 2006.  
[http://www.isis.org.my/attachments/381\\_VK\\_MIGRATION-NEAT\\_6Dec06.pdf](http://www.isis.org.my/attachments/381_VK_MIGRATION-NEAT_6Dec06.pdf)

The Kathmandu Post. "Nepal Among Top 5 Countries." November 2009. <http://www.ekantipur.com/the-kathmandu-post/2010/11/09/money/nepal-among-top-5-countries/214646/>

The Kathmandu Post. "Number of outbound workers up." May 20, 2012. <http://www.ekantipur.com/the-kathmandu-post/2012/05/20/money/number-of-outbound-workers-up/235127.html>

The Kathmandu Post. "235 Nepalis Died in M'sia This Year." November 2, 2011.  
<http://www.ekantipur.com/the-kathmandu-post/2011/11/12/top-story/235-nepalis-died-in-msia-this-year/228132.html>

The Kathmandu Post. "Risky Business." March 6, 2012. <http://www.ekantipur.com/the-kathmandu-post/2012/03/05/editorial/risky-business/232307.html>

Kazim, Azizah. "Integration for Foreign Workers and Illegal Employment in Malaysia."  
[http://www.google.com.ph/books?hl=en&lr=&id=5RxKSjScnUgC&oi=fnd&pg=PA113&dq=Undocumented+Workers+%2B+Malaysia&ots=RWP6WRissm&sig=K16yKYtYjLRZV77ybNxKEMYY\\_FY&redir\\_esc=y#v=onepage&q=Undocumented%20Workers%20%2B%20Malaysia&f=false](http://www.google.com.ph/books?hl=en&lr=&id=5RxKSjScnUgC&oi=fnd&pg=PA113&dq=Undocumented+Workers+%2B+Malaysia&ots=RWP6WRissm&sig=K16yKYtYjLRZV77ybNxKEMYY_FY&redir_esc=y#v=onepage&q=Undocumented%20Workers%20%2B%20Malaysia&f=false)

Keane, D., and McGeehan, M. "Enforcing Migrant Workers' Rights in the United Arab Emirates." International Journal on Minority and Group Rights, vol. 15, p. 87, 2008.

Kemp, A. "Reforming policies on foreign workers in Israel." OECD Social, Employment and Migration Working Papers No. 103. Directorate for Employment, Labor and Social Affairs Employment Labor and Social Affairs Committee. DELSA/ELSA/WD/SEM, 2010 (English).

Ktm2day News. "Nepal's Internet users grow by 160%." September 15, 2010.  
<http://www.ktm2day.com/2010/09/15/nepals-internet-users-grow-by-160/>

"Legalised Nepalis in Malaysia Qualify for Security Guards," The Kathmandu Post. December 28, 2011.  
<http://www.ekantipur.com/the-kathmandu-post/2011/12/28/money/legalised-nepalis-in-malaysia-qualify-for-security-guard-jobs/229802.html>

Lebovitch, I. "Migrant Workers Caregiving Committee Recommends Extensive Caregiving Reform." Kav L'Oved, August 25, 2011.

L'Oved, K. "Employment Conditions of Migrant Caregivers in Israel." Undated. (Data from November-January 2010.)

Lutfia, Ismira, and Rachman, Anita. "Workers in Malaysia Urged to Join Amnesty Program." August 5, 2011. <http://www.thejakartaglobe.com/home/workers-in-malaysia-urged-to-join-amnesty-program/457289>

Mahato, Rubeena. "To hell and back." Nepali Times, March 30, 2012.  
<http://www.nepalitimes.com.np/issue/2012/03/23/ThisIsIt/19121>

"Malaysia records less Nepalis," The Himalayan, September 21, 2011.  
<http://thehimalayantimes.com/fullNews.php?headline=Malaysia+records+less+Nepalis&NewsID=303517>

Manandhar, Narayan, and Adhikari, Jagnath. *Study of Issues on the Recruitment of Migrant Labour in Nepal*. Submitted to the World Bank Country Office, Nepal, July 2010.

"More illegal immigrants from India crossing border." *USA Today*. July 17, 2011.  
[http://www.usatoday.com/news/nation/2011-07-17-illegal-immigration-indians\\_n.htm](http://www.usatoday.com/news/nation/2011-07-17-illegal-immigration-indians_n.htm)

National Centre of Competence in Research (NCCR) North-South, Nepal: NIDS. *Nepal Migration Yearbook 2010*. 2011. [http://www.nccr-north-south.unibe.ch/publications/Infosystem/Online%20Dokumente/Upload/Migration\\_Year\\_Book\\_2010.pdf](http://www.nccr-north-south.unibe.ch/publications/Infosystem/Online%20Dokumente/Upload/Migration_Year_Book_2010.pdf)

National Committee to Combat Human Trafficking. *Combating human trafficking in the U.A.E.: Annual Report 2010-2011*. Pp. 27-28, 2011. [www.nccht.gov.ae/en/Publications/PDF/6720111425174190000.pdf](http://www.nccht.gov.ae/en/Publications/PDF/6720111425174190000.pdf)

Nation Master. *Immigration Statistics: United States Visa Lottery Winners (most recent) by Country*.  
[http://www.nationmaster.com/graph/imm\\_us\\_vis\\_lot\\_win-immigration-us-visa-lottery-winners](http://www.nationmaster.com/graph/imm_us_vis_lot_win-immigration-us-visa-lottery-winners)

"Nepal asks Malaysia to give last chance to illegal workers." Center for the Study of Labour and Mobility. December 13, 2011. <http://ceslam.org/index.php?pageName=newsDetail&nid=1487>

Nepal Institute of Development Studies (NIDS). *A Study on Migrant Recruitment Practice in Nepal*. Report submitted to ILO/UNIFEM/EU, November 2008.

Office of the Special Rapporteur on Trafficking in Women and Children (OSRT), National Human Rights Commission (NHRC). *Trafficking in Persons (Especially on Women and Children) in Nepal*. National Report 2008-2009, June 2010. [http://nhrcnepal.org/nhrc\\_new/doc/newsletter/Trafficking-NationalReport%202008-09.pdf](http://nhrcnepal.org/nhrc_new/doc/newsletter/Trafficking-NationalReport%202008-09.pdf)

"Over 3,000 Nepalis take advantage of amnesty plan." *Himalayan Times*. November 3, 2011.  
<http://thehimalayantimes.com/fullNews.php?headline=Over+3+percentE2+percent80+percent9A000+Nepalis+take+advantage+of+amnesty+plan&NewsID=307916>

Palniadndy, Kandasamy; Santhiago, Anni; Santiago, Charles; Roger, Clemence. "A Fair Deal and Development for Migrant Workers : Issues and Challenges." ActionAid International, 2008.  
[http://www.isis.org.my/attachments/381\\_VK\\_MIGRATION-NEAT\\_6Dec06.pdf](http://www.isis.org.my/attachments/381_VK_MIGRATION-NEAT_6Dec06.pdf)

Parakhi. "1,357 Nepali Migrant Workers Dead in Last 3 Years." January 12, 2012.  
<http://www.parakhi.com/news/2012/01/12/1357-nepali-migrant-workers-dead-in-last-three-years>

People's Forum and UNIFEM. *Effectiveness of Law and Law Enforcement Mechanism for Safe Foreign Labor Migration of Women*. 2009.

"Rescatan a 219 migrantes en Chiapas." *El Universal*. January 27, 2011.  
<http://www.eluniversal.com.mx/notas/740450.html>

Robertson, P. "Migrant Workers in Malaysia — Issues, Concerns and Points for Action." P. 7, Fair Labor Association, 2008.  
[http://fairlabor.org/fla/\\_pub/Synclmg/fla\\_occasionalpaper\\_migrantworkersinmalaysia.pdf](http://fairlabor.org/fla/_pub/Synclmg/fla_occasionalpaper_migrantworkersinmalaysia.pdf)

Sapkota, C. "Work on it." *Republica*, May 16, 2012.  
[http://www.myrepublica.com/portal/index.php?action=news\\_details&news\\_id=35107](http://www.myrepublica.com/portal/index.php?action=news_details&news_id=35107)

Shrestha, Manesh. "Nepal bans women under 30 from working in Gulf States." *CNN*, August 10, 2012.  
<http://edition.cnn.com/2012/08/09/world/meast/nepal-migrant-workers/index.html>

"Six labor attaches appointed ignoring criteria." Nepal News, May 5, 2010.  
<http://ohmynewsnepal.blogspot.com/2010/05/new-published-by-republica.html>

"Soalan-Soalan Lazim Program 6P." June 23, 2011, accessed May 1, 2012 (in Malaysian).  
<http://portal.ikdn.gov.my/2011/06/soalan-soalan-lazim-program-6p/>

Sta Maria, S. "What is the UNHCR doing?" Free Malaysia Today, August 25, 2011.  
<http://www.freemalaysiatoday.com/2011/08/25/what-is-unhcr-doing/>

Teoh El Sen. "Minister: 6P not a free ride." Free Malaysia Today, December 30, 2011.  
<http://www.freemalaysiatoday.com/category/nation/2011/12/30/minister-6p-not-a-free-ride/>

Teoh El Sen. "6P Fiasco: Agents Cry Foul Over New Ruling." Free Malaysia Today, December 23, 2011.  
<http://www.freemalaysiatoday.com/2011/12/23/6p-fiasco-which-ministry-is-in-charge/>

Thieme, S.; Bhattra, R.; Gurung, G.; Kollmair, M.; Manandhar, S.; Müller-Böker, U. "Addressing the needs of Nepalese migrant workers in Nepal and in Delhi, India." *Mountain Research and Development*, 25(2):109-114, 2005. [http://www.zora.uzh.ch/2628/2/thieme\\_bhattra\\_gurung\\_addressing\\_2005V.pdf](http://www.zora.uzh.ch/2628/2/thieme_bhattra_gurung_addressing_2005V.pdf)

"U.A.E. hosts 25,000 Nepali workers." <http://tradenewswire.net/archives/16353>

U.A.E. Ministry of Labour 2011. Procedure Manual For Ministry of Labour, United Arab Emirates.  
<http://www.thaiembassy.org/abudhabi/contents/files/thai-people-20120619-135925-451433.pdf>

"Undermanned DoFE gets 27 more staffers." The Kathmandu Times, April 24, 2012.  
<http://www.ekantipur.com/the-kathmandu-post/2012/04/24/money/undermanned-dofe-gets-27-more-staffers/234162.html>

United Nations Development Fund for Women. "Nepal." <http://www.migration-unifem-apas.org/nepal/index.html>

University of Minnesota Human Rights Library. "Ratification of International Human Rights Treaties — Nepal." <http://www1.umn.edu/humanrts/research/ratification-nepal.html>

U.S. Agency for International Development Nepal. *Combating Trafficking in Persons*. December 29, 2010.  
<http://nepal.usaid.gov/our-work/program-area/democracy-and-governance/358-combating-trafficking-in-persons.html>

U.S. Department of Health and Human Services. "Labor Trafficking Fact Sheet."  
[http://www.acf.hhs.gov/trafficking/about/fact\\_labor.pdf](http://www.acf.hhs.gov/trafficking/about/fact_labor.pdf)

U.S. Department of State. *2010 Human Rights Report: United Arab Emirates*. P. 19, 2010.  
<http://www.state.gov/j/drl/rls/hrrpt/2010/nea/154475.htm>

U.S. Department of State. *2011 Trafficking in Persons Report*. P. 367.  
<http://www.state.gov/documents/organization/164458.pdf>

U.S. Department of State. *Trafficking in Persons Report 2011: Country Narratives N through Z*. 2011.  
<http://www.state.gov/j/tip/rls/tiprpt/2011/164233.htm>

Verité. "An Assessment of Productive Labor Practices, Country Report: Malaysia." Prepared for the New York City Employees' Retirement System (NYCERS), May 2012.

Verité. "Help Wanted." 2010. [http://www.verite.org/sites/default/files/images/Help\\_Wanted\\_2010.pdf](http://www.verite.org/sites/default/files/images/Help_Wanted_2010.pdf)

The World Bank. "Monthly Remittance Flows to Selected Countries." *Migration and Remittances Factbook 2011*. <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1199807908806/Nepal.pdf>

## Endnotes

- <sup>1</sup> Government of Nepal, "Nepalese Embassy, Malaysia," April 23, 2012.  
<http://www.Nepaleseabroad.com/embassy-of-nepal/Nepalese-embassy-malaysia/>
- <sup>2</sup> Amnesty International, *False Promises: Exploitation and Forced Labor of Nepali Migrant Workers*, 2011.  
<http://www.amnesty.org/en/library/info/ASA31/007/2011/en>
- <sup>3</sup> Manesh Shrestha, "Nepal bans women under 30 from working in Gulf States," CNN, August 10, 2012.  
<http://edition.cnn.com/2012/08/09/world/meast/nepal-migrant-workers/index.html>
- <sup>4</sup> Manesh Shrestha, "Nepal bans women under 30 from working in Gulf States," CNN, August 10, 2012.  
<http://edition.cnn.com/2012/08/09/world/meast/nepal-migrant-workers/index.html>
- <sup>5</sup> Narayan Manandhar and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.
- <sup>6</sup> A seven-member high-level committee that visited the Philippines in May 2010 and submitted its 38-point suggestions to the National Planning Commission made this suggestion. Narayan Manandhar and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.
- <sup>7</sup> Universal Declaration of Human Rights, G.A. Res. 217A(III), Doc A/810 at 71 (1948).
- <sup>8</sup> Universal Declaration of Human Rights, G.A. Res. 217A(III), Doc A/810 at 71 (1948).
- <sup>9</sup> U.S. Department of Health and Human Services, "Labor Trafficking Fact Sheet."  
[http://www.acf.hhs.gov/trafficking/about/fact\\_labor.pdf](http://www.acf.hhs.gov/trafficking/about/fact_labor.pdf)
- <sup>10</sup> ILO, *A Global Alliance against Forced Labor*, 2005.  
<http://www.ilo.org/public/english/standards/relm/ilc/ilc93/pdf/rep-i-b.pdf>
- <sup>11</sup> ILO, "Ratifications for Nepal."  
[http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:910014459245977::NO:11200:P11200\\_COUNTRY\\_ID:103197](http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:910014459245977::NO:11200:P11200_COUNTRY_ID:103197)
- <sup>12</sup> University of Minnesota Human Rights Library, "Ratification of International Human Rights Treaties-Nepal." <http://www1.umn.edu/humanrts/research/ratification-nepal.html>
- <sup>13</sup> The definition used by the Human Trafficking (Control) Act is also widely accepted in Nepal. The definition has two major components: transportation and buying-selling.
- <sup>14</sup> Adapted from Verité, "Help Wanted," 2010.  
[http://www.verite.org/sites/default/files/images/Help\\_Wanted\\_2010.pdf](http://www.verite.org/sites/default/files/images/Help_Wanted_2010.pdf)
- <sup>15</sup> Central Intelligence Agency, *The World Factbook: Nepal*, 2012.  
<https://www.cia.gov/library/publications/the-world-factbook/geos/np.html>
- <sup>16</sup> Central Intelligence Agency, *The World Factbook: Nepal*, 2012.  
<https://www.cia.gov/library/publications/the-world-factbook/geos/np.html>
- <sup>17</sup> The World Bank, *Migration and Remittances Factbook 2011*, "Monthly Remittance Flows to Selected Countries," 2011. <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1199807908806/Nepal.pdf>
- <sup>18</sup> Narayan Manandhar and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.
- <sup>19</sup> The Kathmandu Post, "Nepal Among Top 5 Countries," November 2009.  
<http://www.ekantipur.com/the-kathmandu-post/2010/11/09/money/nepal-among-top-5-countries/214646/>
- <sup>20</sup> The Kathmandu Post, "Risky Business," March 6, 2012. <http://www.ekantipur.com/the-kathmandu-post/2012/03/05/editorial/risky-business/232307.html>
- <sup>21</sup> The Kathmandu Post, "Number of outbound workers up," May 20, 2012.  
<http://www.ekantipur.com/the-kathmandu-post/2012/05/20/money/number-of-outbound-workers-up/235127.html>
- <sup>22</sup> United Nations Development Fund for Women, "Nepal." <http://www.migration-unifem-apas.org/nepal/index.html>  
Nepal Institute of Development Studies (NIDS), "Nepal Migration Year Book 2010," 2011.  
[http://www.nccr-north-south.unibe.ch/publications/Infosystem/Online%20Dokumente/Upload/Migration\\_Year\\_Book\\_2010.pdf](http://www.nccr-north-south.unibe.ch/publications/Infosystem/Online%20Dokumente/Upload/Migration_Year_Book_2010.pdf)

- 
- <sup>23</sup> Thieme, S.; Bhattarai, R.; Gurung, G.; Kollmair, M.; Manandhar, S.; Müller-Böker, U. "Addressing the needs of Nepalese migrant workers in Nepal and in Delhi, India." *Mountain Research and Development*, 25(2):109-114, 2005. [http://www.zora.uzh.ch/2628/2/thieme\\_bhattarai\\_gurung\\_addressing\\_2005V.pdf](http://www.zora.uzh.ch/2628/2/thieme_bhattarai_gurung_addressing_2005V.pdf)
- <sup>24</sup> NIDS, *A Study on Migrant Recruitment Practice in Nepal*, report submitted to ILO/UNIFEM/EU, November 2008.
- <sup>25</sup> U.S. Department of State, *Trafficking in Persons Report 2011: Country Narratives N through Z*, 2011. <http://www.state.gov/j/tip/rls/tiprpt/2011/164233.htm>
- <sup>26</sup> United Nations Development Fund for Women, "Nepal." <http://www.migration-unifem-apas.org/nepal/index.html>
- Nepal Institute of Development Studies (NIDS), "Nepal Migration Year Book 2010," 2011. [http://www.nccr-north-south.unibe.ch/publications/Infosystem/Online%20Dokumente/Upload/Migration\\_Year\\_Book\\_2010](http://www.nccr-north-south.unibe.ch/publications/Infosystem/Online%20Dokumente/Upload/Migration_Year_Book_2010)
- <sup>27</sup> The Kathmandu Post, "Number of outbound workers up," May 20, 2012. <http://www.ekantipur.com/the-kathmandu-post/2012/05/20/money/number-of-outbound-workers-up/235127.html>
- <sup>28</sup> The Kathmandu Post, "Number of outbound workers up," May 20, 2012. <http://www.ekantipur.com/the-kathmandu-post/2012/05/20/money/number-of-outbound-workers-up/235127.html>
- <sup>29</sup> International Trade Union Confederation, "New Campaign to Combat Forced Labour of Nepali Migrant Workers in Gulf," January 21, 2011. <http://www.ituc-csi.org/new-campaign-to-combat-forced.html>
- <sup>30</sup> Amnesty International Nepal, "Nationwide Campaign on Migrants' Rights Launched," undated, accessed May 1, 2012. <http://amnestynepal.org/campaigns/ai-nepal-activities/nationwide-campaign-on-migrants-rights-launched.html>
- <sup>31</sup> Amnesty International. *False Promises: Exploitation and Forced Labor of Nepali Migrant Workers*, 2011. <http://www.amnesty.org/en/library/asset/ASA31/007/2011/en/b58f0185-455d-425c-bc4f-d6b7fe309524/asa310072011en.pdf>
- <sup>32</sup> U.S. Department of State, *Trafficking in Persons Report 2011: Country Narratives N through Z*, 2011. <http://www.state.gov/j/tip/rls/tiprpt/2011/164233.htm>
- <sup>33</sup> Office of the Special Rapporteur on Trafficking in Women and Children (OSRT), National Human Rights Commission (NHRC), *Trafficking in Persons (Especially on Women and Children) in Nepal*, National Report 2008-2009, June 2010. [http://nhrcnepal.org/nhrc\\_new/doc/newsletter/Trafficking-NationalReport%202008-09.pdf](http://nhrcnepal.org/nhrc_new/doc/newsletter/Trafficking-NationalReport%202008-09.pdf)
- <sup>34</sup> U.S. Agency for International Development Nepal, *Combating Trafficking in Persons*, December 29, 2010. <http://nepal.usaid.gov/our-work/program-area/democracy-and-governance/358-combating-trafficking-in-persons.html>
- <sup>35</sup> HU 2010 Report by Social Science Baha.
- <sup>36</sup> Narayan Manandhar and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.
- <sup>37</sup> U.S. Department of State, *Trafficking in Persons Report 2011: Country Narratives N through Z*, 2011. <http://www.state.gov/j/tip/rls/tiprpt/2011/164233.htm>
- <sup>38</sup> Narayan Manandhar and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.
- <sup>39</sup> Government of Nepal Department of Foreign Employment, "Recognized Destinations." [http://www.dofe.gov.np/en/innerpage.php?page\\_id=43](http://www.dofe.gov.np/en/innerpage.php?page_id=43)
- <sup>40</sup> Government of Nepal Ministry of Foreign Affairs, "Nepalese Missions Abroad." <http://www.mofa.gov.np/nepalesemission/index.php?type=nepalese>
- <sup>41</sup> Government of Nepal Ministry of Foreign Affairs, "Nepalese Missions Abroad." <http://www.mofa.gov.np/nepalesemission/index.php?type=nepalese>
- <sup>42</sup> "Government to appoint 7 labour attaches," NepalBizNews.com, November 16, 2009. <http://www.nepalbiznews.com/newsdata/Home/Government-to-appoint-7-labour-.html>
- <sup>43</sup> "Six labor attaches appointed ignoring criteria," Nepal News, May 5, 2010. <http://ohmynewsnepal.blogspot.com/2010/05/new-published-by-republica.html>
- <sup>44</sup> BuddeComm, "Nepal - Telecoms, Mobile, Internet and Forecasts." <http://www.budde.com.au/Research/Nepal-Telecoms-Mobile-Internet-and-Forecasts.html>

---

Ktm2day News, "Nepal's Internet users grow by 160%," September 15, 2010.

<http://www.ktm2day.com/2010/09/15/nepals-internet-users-grow-by-160/>

<sup>45</sup> Government of Nepal Department of Foreign Employment, "Foreign Employment Act," September 5, 2007. [http://www.dofe.gov.np/uploads/cmsfiles/file/foreign-employment-act\\_20120420110111.pdf](http://www.dofe.gov.np/uploads/cmsfiles/file/foreign-employment-act_20120420110111.pdf)

<sup>46</sup> Narayan Manandha and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010

<sup>47</sup> Government of Nepal Department of Foreign Employment, "Foreign Employment Act", September 5, 2007. [http://www.dofe.gov.np/uploads/cmsfiles/file/foreign-employment-act\\_20120420110111.pdf](http://www.dofe.gov.np/uploads/cmsfiles/file/foreign-employment-act_20120420110111.pdf)

<sup>48</sup> Office of the Special Rapporteur on Trafficking in Women and Children (OSRT), National Human Rights Commission (NHRC), *Trafficking in Persons (Especially on Women and Children) in Nepal*, National Report 2008-2009, June 2010. [http://nhrcnepal.org/nhrc\\_new/doc/newsletter/Trafficking-NationalReport%202008-09.pdf](http://nhrcnepal.org/nhrc_new/doc/newsletter/Trafficking-NationalReport%202008-09.pdf)

<sup>49</sup> Basis of scoring: Low: highly unsatisfactory, Moderate to Low: improvement towards satisfactory, Moderate: not fully realized but at a state of satisfactory, Moderate to High: movement towards highly satisfactory state.

<sup>50</sup> "Govt to fix minimum pay for migrant workers," The Kathmandu Post, May 10, 2012.

<http://www.ekantipur.com/the-kathmandu-post/2012/05/10/money/govt-to-fix-minimum-pay-for-migrant-workers/234741.html>

<sup>51</sup> "Agents cheating foreign job seekers," The Himalayan, March 21, 2012.

<http://thehimalayantimes.com/fullTodays.php?headline=Agents+cheating+foreign+job+seekers&NewsID=324941>

<sup>52</sup> Rubeena Mahato, "To hell and back," Nepali Times, March 30, 2012.

<http://www.nepalitimes.com.np/issue/2012/03/23/ThisIsIt/19121>

<sup>53</sup> "Undermanned DoFE gets 27 more staffers," The Kathmandu Times, April 24, 2012.

<http://www.ekantipur.com/the-kathmandu-post/2012/04/24/money/undermanned-dofe-gets-27-more-staffers/234162.html>

<sup>54</sup> nepalnews.com, Corruption-accused under secy of Foreign Employment Promotion Board sent to judicial custody, March 6, 2012, <http://www.nepalnews.com/home/index.php/news/1/17148-corruption-accused-under-secy-of-foreign-employment-promotion-board-sent-to-judicial-custody.html>

<sup>55</sup> Chandan Sapkota, "Work on it," Republica, May 16, 2012.

[http://www.myrepublica.com/portal/index.php?action=news\\_details&news\\_id=35107](http://www.myrepublica.com/portal/index.php?action=news_details&news_id=35107)

<sup>56</sup> "Changes at DoFE relieve foreign job seekers," The Kathmandu Post, May 16, 2012.

<http://www.ekantipur.com/the-kathmandu-post/2012/05/12/money/changes-at-dofe-relieve-foreign-job-seekers/234809.html>

<sup>57</sup> Narayan Manandhar and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.

<sup>58</sup> Ibid.

<sup>59</sup> NIDS, *A Study on Migrant Recruitment Practice in Nepal*, report submitted to ILO/UNIFEM/EU, November 2008.

<sup>60</sup> People's Forum and UNIFEM, *Effectiveness of Law and Law Enforcement Mechanism for Safe Foreign Labor Migration of Women*, 2009.

<sup>61</sup> Narayan Manandha and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.

<sup>62</sup> Narayan Manandha and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.

<sup>63</sup> Narayan Manandhar and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.

<sup>64</sup> Narayan Manandhar and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.

<sup>65</sup> Evaluating Transparency of Government Ministries and Departments, Transparency International and AC Nielsen, September 2004.

<sup>66</sup> Narayan Manandha and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.

- 
- <sup>67</sup> Centre for the Study of Labour and Mobility, "Nepal Map of Foreign Employment by District." <http://ceslam.org/map/>
- <sup>68</sup> "Govt working on foreign employment policy," Kathmandu Post, February 6, 2012. <http://www.ekantipur.com/the-kathmandu-post/2012/02/06/development/govt-working-on-foreign-employment-policy/231268.html>
- <sup>69</sup> United Nations Development Fund for Women, "Nepal." <http://www.migration-unifem-apas.org/nepal/index.html>
- <sup>70</sup> National Centre of Competence in Research (NCCR) North-South, Nepal: NIDS, *Nepal Migration Yearbook 2010*, 2011. [http://www.nccr-north-south.unibe.ch/publications/Infosystem/Online%20Dokumente/Upload/Migration\\_Year\\_Book\\_2010.pdf](http://www.nccr-north-south.unibe.ch/publications/Infosystem/Online%20Dokumente/Upload/Migration_Year_Book_2010.pdf)
- <sup>71</sup> "Helping workers abroad: Himal Media's roundtable discussion on the challenges and issues of migrant labour," Nepali Times, December 17, 2010. <http://www.nepalitimes.com.np/issue/2010/12/17/Nation/17743>
- <sup>72</sup> Manesh Shrestha, "Nepal bans women under 30 from working in Gulf States," CNN, August 10, 2012. <http://edition.cnn.com/2012/08/09/world/meast/nepal-migrant-workers/index.html>
- <sup>73</sup> National Centre of Competence in Research (NCCR) North-South, Nepal: NIDS, *Nepal Migration Yearbook 2010*, p. 15, 2011. [http://www.nccr-north-south.unibe.ch/publications/Infosystem/Online%20Dokumente/Upload/Migration\\_Year\\_Book\\_2010.pdf](http://www.nccr-north-south.unibe.ch/publications/Infosystem/Online%20Dokumente/Upload/Migration_Year_Book_2010.pdf)
- <sup>74</sup> Narayan Manandhar and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.
- <sup>75</sup> NIDS, "Nepali Women and Foreign Labour Migration (Summary)," June 2006.
- <sup>76</sup> Amnesty International, *False Promises: Exploitation and Forced Labour of Nepalese Migrant Workers*, 2011. <http://www.amnesty.org/en/library/asset/ASA31/007/2011/en/b58f0185-455d-425c-bc4f-d6b7fe309524/asa310072011en.pdf>
- <sup>77</sup> Narayan Manandhar and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.
- <sup>78</sup> Narayan Manandha and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal July 2010.
- <sup>79</sup> Narayan Manandhar and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.
- <sup>80</sup> Narayan Manandhar and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.
- <sup>81</sup> Narayan Manandhar and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.
- <sup>82</sup> Narayan Manandhar and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.
- <sup>83</sup> National Centre of Competence in Research (NCCR) North-South, Nepal: NIDS, *Nepal Migration Yearbook 2010*, 2011. [http://www.nccr-north-south.unibe.ch/publications/Infosystem/Online%20Dokumente/Upload/Migration\\_Year\\_Book\\_2010.pdf](http://www.nccr-north-south.unibe.ch/publications/Infosystem/Online%20Dokumente/Upload/Migration_Year_Book_2010.pdf)
- <sup>84</sup> Narayan Manandhar and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.
- <sup>85</sup> Narayan Manandhar and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.
- <sup>86</sup> Interview conducted in Kuala Lumpur, September 2011.
- <sup>87</sup> NIDS, *A Study on Migrant Recruitment Practice in Nepal*, report submitted to ILO/UNIFEM/EU, November 2008.
- <sup>88</sup> Philip S. Robertson, *Migrant Workers in Malaysia – Issues, Concerns, and Points for Action*, p. 1, Fair Labor Association (FLA), 2008.
- <sup>89</sup> Government of Nepal, "Nepalese Embassy, Malaysia," April 23, 2012. <http://www.Nepaleseabroad.com/embassy-of-nepal/Nepalese-embassy-malaysia/>
- <sup>90</sup> The Himalayan Times, "Over 3,000 Nepalis take advantage of amnesty plan," November 3, 2011. <http://thehimalayantimes.com/fullNews.php?headline=Over+3+percentE2+percent80+percent9A000+Nepalis+take+advantage+of+amnesty+plan&NewsID=307916>
- <sup>91</sup> The law applies to West Malaysia only.

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- <sup>92</sup> §2, Employment (Limitation of Overtime Work) Regulations 1980.
- <sup>93</sup> §59 allows one rest day in each week.
- <sup>94</sup> §60D.
- <sup>95</sup> See Termination and Lay-off Benefits Regulations.
- <sup>96</sup> §10.
- <sup>97</sup> §18.
- <sup>98</sup> §60.
- <sup>99</sup> §60-A.
- <sup>100</sup> §60-E and 60-F.
- <sup>101</sup> §60-C.
- <sup>102</sup> Kanapathy, Vijayakumari, "Towards an East Asian Cooperation Framework for Migrant Labor, Migrant Workers in Malaysia: Overview," ISIS Malaysia, December 2006.  
[http://www.isis.org.my/attachments/381\\_VK\\_MIGRATION-NEAT\\_6Dec06.pdf](http://www.isis.org.my/attachments/381_VK_MIGRATION-NEAT_6Dec06.pdf)  
Palniadndy, Kandasamy; Santhiago Anni; Santiago, Charles; Roger Clemence, "A Fair Deal and Development for Migrant Workers : Issues and Challenges," ActionAid International 2008.  
[http://www.isis.org.my/attachments/381\\_VK\\_MIGRATION-NEAT\\_6Dec06.pdf](http://www.isis.org.my/attachments/381_VK_MIGRATION-NEAT_6Dec06.pdf)
- <sup>103</sup> Failure to inform the Director General as required under this subsection is an offense under Act 265, and the employer who failed to report as required under the section is liable, on conviction, to a fine not exceeding 10,000 ringgit.
- <sup>104</sup> Kazim, Azizah. "Integration for Foreign Workers and Illegal Employment in Malaysia."  
[http://www.google.com.ph/books?hl=en&lr=&id=5RxKSjScnUgC&oi=fnd&pg=PA113&dq=Undocumented+Workers+%2B+Malaysia&ots=RWP6WRissm&sig=K16yKYtYjLRZV77ybNxKEMYY\\_FY&redir\\_esc=y#v=onepage&q=Undocumented%20Workers%20%2B%20Malaysia&f=false](http://www.google.com.ph/books?hl=en&lr=&id=5RxKSjScnUgC&oi=fnd&pg=PA113&dq=Undocumented+Workers+%2B+Malaysia&ots=RWP6WRissm&sig=K16yKYtYjLRZV77ybNxKEMYY_FY&redir_esc=y#v=onepage&q=Undocumented%20Workers%20%2B%20Malaysia&f=false)
- <sup>105</sup> "Soalan-Soalan Lazim Program 6P," June 23, 2011, accessed May 1, 2012 (in Malaysian).  
<http://portal.ikdn.gov.my/2011/06/soalan-soalan-lazim-program-6p/>
- <sup>106</sup> Registrants are required to provide the following: Name; picture; biometric scan of the fingers of both right and left hands; number of passport/travel document; state or country of citizenship; gender; date of birth; employer information (name, number card, phone number, address, email, and sector of employment); confirmation of the information by the employer; and purpose in registering: (a) to work, (b) to return to their country of origin (spared and no action/punishment), or (c) other purposes.
- <sup>107</sup> "'6P' programme shifting to legalisation phase," The Malaysian Insider, October 5, 2011.  
<http://www.themalaysianinsider.com/malaysia/article/6p-programme-shifting-to-legalisation-phase/>
- <sup>108</sup> Nepal asks Malaysia to give last chance to illegal workers, Center for the Study of Labour and Mobility, December 13, 2011. <http://ceslam.org/index.php?pageName=newsDetail&nid=1487>
- <sup>109</sup> "Malaysia records less Nepalis," The Himalayan, 09-21-2011,  
<http://thehimalayantimes.com/fullNews.php?headline=Malaysia+records+less+Nepalis&NewsID=303517>
- <sup>110</sup> Teoh El Sen, "6P Fiasco: Agents Cry Foul Over New Ruling," Free Malaysia Today, December 23, 2011.  
<http://www.freemalaysiatoday.com/2011/12/23/6p-fiasco-which-ministry-is-in-charge/>
- <sup>111</sup> Ismira Lutfia and Anita Rachman, "Workers in Malaysia Urged to Join Amnesty Program," August 5, 2011. <http://www.thejakartaglobe.com/home/workers-in-malaysia-urged-to-join-amnesty-program/457289>
- <sup>112</sup> RELA stands for Reload Rakyat Malaysia, or the People's Volunteer Corps.
- <sup>113</sup> Stephanie Sta Maria, "What is the UNHCR doing?" Free Malaysia Today, August 25, 2011.  
<http://www.freemalaysiatoday.com/2011/08/25/what-is-unhcr-doing/>
- <sup>114</sup> Tenaganita is a Malaysian NGO that protects and promotes the rights of women, migrants, and refugees.
- <sup>115</sup> Teoh El Sen, "Minister: 6P not a free ride," Free Malaysia Today, December 30, 2011.  
<http://www.freemalaysiatoday.com/category/nation/2011/12/30/minister-6p-not-a-free-ride/>
- <sup>116</sup> Verité, "An Assessment of Productive Labor Practices, Country Report: Malaysia," prepared for the New York City Employees' Retirement System (NYCERS), May 2012.
- <sup>117</sup> P. Aruna, "New law refines Rela powers," thestar online, May 28, 2012.  
<http://thestar.com.my/news/story.asp?file=/2012/5/28/nation/11369609&sec=nation>
- <sup>118</sup> Amount as amended by the Employment Amendment Act of 2011.

- <sup>119</sup> Philip S. Robertson, "Migrant Workers in Malaysia — Issues, Concerns and Points for Action," Fair Labor Association, 2008.  
[http://fairlabor.org/fla/\\_pub/SyncImg/fla\\_occasionalpaper\\_migrantworkersinmalaysia.pdf](http://fairlabor.org/fla/_pub/SyncImg/fla_occasionalpaper_migrantworkersinmalaysia.pdf)
- <sup>120</sup> Philip S. Robertson, "Migrant Workers in Malaysia — Issues, Concerns and Points for Action," p. 7, Fair Labor Association, 2008.  
[http://fairlabor.org/fla/\\_pub/SyncImg/fla\\_occasionalpaper\\_migrantworkersinmalaysia.pdf](http://fairlabor.org/fla/_pub/SyncImg/fla_occasionalpaper_migrantworkersinmalaysia.pdf)
- <sup>121</sup> E.g., Robertson 2008; Amnesty International 2010, *Trapped: The Exploitation of Migrant Workers in Malaysia*, [www.amnesty.org/en/library/info/ASA28/002/2010](http://www.amnesty.org/en/library/info/ASA28/002/2010)
- <sup>122</sup> HE Dr. Rishi Raj Adhikari, Nepali Workers in Malaysia, Non-Resident Nepali Regional Conference 2008, 24-25 May 2008, Bangkok.
- <sup>123</sup> Kazim, Azizah. "Integration for Foreign Workers and Illegal Employment in Malaysia." P. 115.  
[http://www.google.com.ph/books?hl=en&lr=&id=5RxKSjScnUgC&oi=fnd&pg=PA113&dq=Undocumented+Workers+%2B+Malaysia&ots=RWP6WRissm&sig=K16ykYtYjLRZV77ybNxKEMYY\\_FY&redir\\_esc=y#v=onepage&q=Undocumented%20Workers%20%2B%20Malaysia&f=false](http://www.google.com.ph/books?hl=en&lr=&id=5RxKSjScnUgC&oi=fnd&pg=PA113&dq=Undocumented+Workers+%2B+Malaysia&ots=RWP6WRissm&sig=K16ykYtYjLRZV77ybNxKEMYY_FY&redir_esc=y#v=onepage&q=Undocumented%20Workers%20%2B%20Malaysia&f=false)
- <sup>124</sup> Kanapathy, Vijayakumari. "Migrant Workers in Malaysia: An Overview." Pp. 3-4.  
[http://english.cpiasia.net/dmdocuments/Migrant%20Workers%20in%20Malaysia\\_An%20Overview.pdf](http://english.cpiasia.net/dmdocuments/Migrant%20Workers%20in%20Malaysia_An%20Overview.pdf)
- <sup>125</sup> Teoh El Sen, "Minister: 6P not a free ride," Free Malaysia Today, December 30, 2011.  
<http://www.freemalaysiatoday.com/category/nation/2011/12/30/minister-6p-not-a-free-ride/>
- <sup>126</sup> "Legalised Nepalis in Malaysia Qualify for Security Guards," The Kathmandu Post, December 28, 2011.  
<http://www.ekantipur.com/the-kathmandu-post/2011/12/28/money/legalised-nepalis-in-malaysia-qualify-for-security-guard-jobs/229802.html>
- <sup>127</sup> Interview with volunteer staff of YWAM-KAWAN conducted in Penang, October 2011.
- <sup>128</sup> Interview with volunteer staff of YWAM-KAWAN conducted in Penang, October 2011.
- <sup>129</sup> Based on an actual service agreement between an employment agency and a client company.
- <sup>130</sup> FLA report, p. 4.
- <sup>131</sup> Interview in September 2011, with three individuals and one NGO assisting Nepali workers in Malaysia.
- <sup>132</sup> Worker interviewed in Johor Bahru, September 2011.
- <sup>133</sup> Parakhi, "1,357 Nepali Migrant Workers Dead in Last 3 Years," January 12, 2012.  
<http://www.parakhi.com/news/2012/01/12/1357-nepali-migrant-workers-dead-in-last-three-years>
- <sup>134</sup> New Straits Times, "5,000 Riot Over Death of Worker," August 16, 2010.  
<http://news.asiaone.com/News/AsiaOne+News/Malaysia/Story/A1Story20100816-232251.html>
- <sup>135</sup> The Kathmandu Post, "235 Nepalis Died in M'sia This Year," November 2, 2011.  
<http://www.ekantipur.com/the-kathmandu-post/2011/11/12/top-story/235-nepalis-died-in-msia-this-year/228132.html>
- <sup>136</sup> U.S. Department of State, *2010 Human Rights Report: United Arab Emirates*, p. 19, 2010.  
<http://www.state.gov/j/drl/rls/hrrpt/2010/nea/154475.htm>
- <sup>137</sup> U.S. Department of State, *2011 Trafficking in Persons Report*, p. 367.  
<http://www.state.gov/documents/organization/164458.pdf>
- <sup>138</sup> Human Rights Watch 2009, *"The Island of Happiness": Exploitation of Migrant Workers on Saadiyat Island, Abu Dhabi*, p. 23, 2009. <http://www.hrw.org/node/83111>
- <sup>139</sup> Manesh Shrestha, "Nepal bans women under 30 from working in Gulf States," CNN, August 10, 2012.  
<http://edition.cnn.com/2012/08/09/world/meast/nepal-migrant-workers/index.html>
- <sup>140</sup> Government of Dubai, U.A.E. Labour Law, Federal Law No. 8 of 1980.  
[http://www.deg.gov.ae/sitecollectionimages/content/pubdocs/uae\\_labour\\_law\\_eng.pdf](http://www.deg.gov.ae/sitecollectionimages/content/pubdocs/uae_labour_law_eng.pdf)
- <sup>141</sup> See Article 181 of Federal Law No. 8, as amended.
- <sup>142</sup> U.A.E. Ministry of Labour 2011, Procedure Manual For Ministry of Labour, United Arab Emirates.  
<http://www.thaiembassy.org/abudhabi/contents/files/thai-people-20120619-135925-451433.pdf>
- <sup>143</sup> Human Rights Watch, *"The Island of Happiness": Exploitation of Migrant Workers on Saadiyat Island, Abu Dhabi*, p. 29, 2009. <http://www.hrw.org/node/83111>
- <sup>144</sup> National Committee to Combat Human Trafficking, *Combating human trafficking in the UAE: Annual Report 2010-2011*, pp. 27-28, 2011. [www.nccht.gov.ae/en/Publications/PDF/6720111425174190000.pdf](http://www.nccht.gov.ae/en/Publications/PDF/6720111425174190000.pdf)
- <sup>145</sup> During the month of Ramadan, normal working hours shall be reduced by two hours. Time spent by the worker in transit from his residence to the place of work is not included in the working hours.

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- <sup>146</sup> In factories and workshops where work is rotated on night and day shift basis, or in places of business where technical and economic reasons necessitate round-the-clock work, break times for rest, food, and prayer shall be determined by the Minister.
- <sup>147</sup> It is calculated on the bases of pay received by the employee at the time of maturity of such leave.
- <sup>148</sup> David Keane and Nicholas McGeehan, "Enforcing Migrant Workers' Rights in the United Arab Emirates," *International Journal on Minority and Group Rights*, vol. 15, p. 87, 2008.
- <sup>149</sup> Human Rights Watch, *The UAE's Draft Labor Law: Human Rights Watch's Comments and Recommendations*, p. 13, March 25, 2007. <http://www.hrw.org/reports/2007/03/25/uaes-draft-labor-law-human-rights-watch-s-comments-and-recommendations>
- <sup>150</sup> National Committee to Combat Human Trafficking, *Combating human trafficking in the UAE: Annual Report 2010-2011*, p. 29, 2011. [www.nccht.gov.ae/en/Publications/PDF/6720111425174190000.pdf](http://www.nccht.gov.ae/en/Publications/PDF/6720111425174190000.pdf) See also Article 155, Federal Law No. 8.
- <sup>151</sup> National Committee to Combat Human Trafficking, *Combating human trafficking in the UAE: Annual Report 2010-2011*, p. 28, 2011. [www.nccht.gov.ae/en/Publications/PDF/6720111425174190000.pdf](http://www.nccht.gov.ae/en/Publications/PDF/6720111425174190000.pdf)
- <sup>152</sup> David Keane and Nicholas McGeehan, "Enforcing Migrant Workers' Rights in the United Arab Emirates," *International Journal on Minority and Group Rights*, vol. 15, p. 84, 2008.
- <sup>153</sup> The term refers to the process of rendering a documented and legal worker illegal upon losing his/her permit to work, which is tied up to his employer or sponsor.
- <sup>154</sup> Human Rights Watch, UAE: Stepped-Up Harassment of Rights Defenders, January 26, 2011. <http://www.hrw.org/news/2011/01/26/uae-stepped-harassment-rights-defenders>.
- <sup>155</sup> U.S. Department of State, *2010 Human Rights Report: United Arab Emirates*, p. 20-21, 2010. <http://www.state.gov/j/drl/rls/hrrpt/2010/nea/154475.htm>
- <sup>156</sup> Amnesty International, *False Promises: Exploitation and Forced Labor of Nepali Migrant Workers*, 2011. <http://www.amnesty.org/en/library/info/ASA31/007/2011/en>
- <sup>157</sup> Amnesty International, *False Promises: Exploitation and Forced Labor of Nepali Migrant Workers*, p. 21, 2011. <http://www.amnesty.org/en/library/info/ASA31/007/2011/en>
- <sup>158</sup> "UAE hosts 25,000 Nepali workers." <http://tradenewswire.net/archives/16353>
- <sup>159</sup> HRW 2006, "Building Towers, Cheating Workers," p. 23.
- <sup>160</sup> Human Rights Watch 2006, "Building Towers, Cheating Workers: Exploitation of Migrant Construction Workers in the United Arab Emirates," vol. 18, no. 8(E), p. 26, 2006.
- <sup>161</sup> Interviewed JB in Abu Dhabi on October 10, 2011.
- <sup>162</sup> Interviewed in Abu Dhabi on October 12, 2011.
- <sup>163</sup> Interviewed in Abu Dhabi on October 13, 2011.
- <sup>164</sup> Amnesty International, *False Promises: Exploitation and Forced Labor of Nepali Migrant Workers*, p. 21, 2011. <http://www.amnesty.org/en/library/info/ASA31/007/2011/en>
- <sup>165</sup> Informants were interviewed in Abu Dhabi between October 8 and December 15, 2011.
- <sup>166</sup> Amnesty International, *False Promises: Exploitation and Forced Labor of Nepali Migrant Workers*, p. 21, 2011. <http://www.amnesty.org/en/library/info/ASA31/007/2011/en>
- <sup>167</sup> Amnesty International, *False Promises: Exploitation and Forced Labor of Nepali Migrant Workers*, p. 21, 2011. <http://www.amnesty.org/en/library/info/ASA31/007/2011/en>
- <sup>168</sup> Israel Population, Immigration and Border Crossings Authority, "Data of Foreigners in Israel," November 15, 2010 (Hebrew).
- <sup>169</sup> Adriana Kemp, "Reforming policies on foreign workers in Israel," OECD Social, Employment and Migration Working Papers No. 103. Directorate for Employment, Labor and Social Affairs Employment Labor and Social Affairs Committee (English). DELSA/ELSA/WD/SEM, 2010.
- <sup>170</sup> Adriana Kemp, "Reforming policies on foreign workers in Israel," OECD Social, Employment and Migration Working Papers No. 103. Directorate for Employment, Labor and Social Affairs Employment Labor and Social Affairs Committee (English). DELSA/ELSA/WD/SEM, 2010.
- <sup>171</sup> Ruth Eglash, "Interior Ministry fails on foreign caregivers policy," *Jerusalem Post*, May 18, 2011. <file:///C:/Documents%20and%20Settings/EK/My%20Documents/VERITE/HU%20Nepal/Israel/Kav%20L%20Oved%20pages/Interior%20Ministry%20fails%20on%20foreign%20caregivers%20policy.htm>
- <sup>172</sup> Amnesty International, Kav L'Oved and Pourakhi. *Nepal: Briefing to the UN Committee on the Elimination of Discrimination against Women*, July 2011.

- <sup>173</sup> Nathan Gilad, "Migrant Workers and Victims of Human Trafficking; the Government's Policy and Activity of the Immigration Authority." Research and Information Center of the Israel Parliament, October 20, 2009. <http://www.knesset.gov.il/mmm/data/pdf/me02294.pdf>
- <sup>174</sup> Hanny Ben-Israel, "Knesset passes pro-slavery bill," Kav L'Oved, May 24, 2011. <file:///C:/Documents%20and%20Settings/EK/My%20Documents/VERITE/HU%20Nepal/Israel/Kav%20L%20Oved%20pages/Knesset%20passes%20pro-slavery%20bill.htm>
- <sup>175</sup> Adriana Kemp, "Reforming policies on foreign workers in Israel." OECD Social, Employment and Migration Working Papers No. 103. Directorate for Employment, Labor and Social Affairs Employment Labor and Social Affairs Committee (English). DELSA/ELSA/WD/SEM, 2010.
- <sup>176</sup> Adriana Kemp. "Reforming policies on foreign workers in Israel." OECD Social, Employment and Migration Working Papers No. 103. Directorate for Employment, Labor and Social Affairs Employment Labor and Social Affairs Committee (English). DELSA/ELSA/WD/SEM, 2010.
- <sup>177</sup> Adriana Kemp. "Reforming policies on foreign workers in Israel." OECD Social, Employment and Migration Working Papers No. 103. Directorate for Employment, Labor and Social Affairs Employment Labor and Social Affairs Committee (English). DELSA/ELSA/WD/SEM 2010.
- <sup>178</sup> Kav L'Oved, "Employment Conditions of Migrant Caregivers in Israel." Undated. (Data from November 2009-January 2010.)
- <sup>179</sup> Amnesty International, Kav L'Oved and Pourakhi. *Nepal: Briefing to the UN Committee on the Elimination of Discrimination against Women*, July 2011.
- <sup>180</sup> Amnesty International, *False Promises: Exploitation and Forced Labor of Nepali Migrant Workers*, 2011. <http://www.amnesty.org/en/library/info/ASA31/007/2011/en>
- <sup>181</sup> Amnesty International, *False Promises: Exploitation and Forced Labor of Nepali Migrant Workers*, 2011. <http://www.amnesty.org/en/library/info/ASA31/007/2011/en>
- <sup>182</sup> Amnesty International, Kav L'Oved and Pourakhi. *Nepal: Briefing to the UN Committee on the Elimination of Discrimination against Women*, July 2011.
- <sup>183</sup> Idit Lebovitch, "Migrant Workers Caregiving Committee Recommends Extensive Caregiving Reform," Kav L'Oved, August 25, 2011.
- <sup>184</sup> Idit Lebovitch, "Migrant Workers Caregiving Committee Recommends Extensive Caregiving Reform," Kav L'Oved, August 25, 2011.
- <sup>185</sup> Amnesty International, *False Promises: Exploitation and Forced Labor of Nepali Migrant Workers*, 2011. <http://www.amnesty.org/en/library/info/ASA31/007/2011/en>
- <sup>186</sup> Including, among others, High Lander Employment, Kathmandu International, Alpha-Sigma Overseas, Blue-Sky International, Galiment Manpower, Nepal Gulf Manpower, Sigma International, Sunaulo Prakash Manpower, Neel Kamal Human Resources, Ishan Employment, Everest International, Worldwide Human Resources, and Life Line International.
- <sup>187</sup> BBC Monitoring South Asia – Political Supplied by BBC Worldwide Monitoring, "Nepal seeks lifting of Israeli ban on migrant labour," January 8, 2010.
- <sup>188</sup> Government of Nepal, Embassy of Nepal in Israel. "Guidelines to send Nepali Labour to Israel as 'Caregiver', 2011/12" (unofficial English translation). <http://www.nepalembassy-israel.org/AllSites/903/Assets/guidelines%20for%20sending%20caregivers%20eng..pdf>.
- <sup>189</sup> Government of the United States of America. *United States Census 2000, Asian Population by Detailed Group*. <http://www.census.gov/prod/2002pubs/c2kbr01-16.pdf>
- <sup>190</sup> Arun K. Chauhan, *Nepali in America*. <http://arunkchauhan.com/2011/02/09/Nepali-in-america/>
- <sup>191</sup> Arun K. Chauhan, *Nepali in America*. <http://arunkchauhan.com/2011/02/09/Nepali-in-america/>
- <sup>192</sup> Nation Master, *Immigration Statistics: United States Visa Lottery Winners (most recent) by Country*. [http://www.nationmaster.com/graph/imm\\_us\\_vis\\_lot\\_win-immigration-us-visa-lottery-winners](http://www.nationmaster.com/graph/imm_us_vis_lot_win-immigration-us-visa-lottery-winners)
- <sup>193</sup> "Hundreds of Nepali Laborers Arrested with Forged Visas in Malaysia." BBC. April 27, 2004.
- <sup>194</sup> "Indian Cops Bust Indo-Nepal Human Trafficking Ring." *The Himalayan Times*. <http://www.thehimalayantimes.com/fullNews.php?headline=Indian+cops+bust+Indo-Nepal+human+trafficking+ring&NewsID=248220>
- <sup>195</sup> "Asiáticos que pernoctan en aeropuerto de Guatemala se niegan a hablar." *El Economista*. March 16, 2009. <http://ecodiario.eleconomista.es/internacional/noticias/1101000/03/09/Asiaticos-que-pernoctan-en-aeropuerto-de-Guatemala-se-niegan-a-hablar.html>

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- <sup>196</sup> "Illegal Immigration Pipeline from South Asia to United States Passes through Guatemala." Fox News Latino. May 17, 2011. <http://latino.foxnews.com/latino/politics/2011/05/17/india-migrants-guatemala-provides-path-illegally-entering-united-states/>
- <sup>197</sup> "More illegal immigrants from India crossing border." *USA Today*. July 17, 2011. [http://www.usatoday.com/news/nation/2011-07-17-illegal-immigration-indians\\_n.htm](http://www.usatoday.com/news/nation/2011-07-17-illegal-immigration-indians_n.htm)
- <sup>198</sup> "Illegal Immigration Pipeline from South Asia to United States Passes through Guatemala." Fox News Latino. May 17, 2011. <http://latino.foxnews.com/latino/politics/2011/05/17/india-migrants-guatemala-provides-path-illegally-entering-united-states/>
- <sup>199</sup> "Illegal Trail through Mexico." *The Kathmandu Post*. May 18, 2011. <http://www.ekantipur.com/the-kathmandu-post/2011/05/18/top-story/illegal-trail-through-mexico/221839.html>
- <sup>200</sup> "25 United States-Bound Nepali Migrants Held in El Salvador." *The Kathmandu Post*. September 7, 2009. <http://www.highbeam.com/doc/1P3-1854764211.html>
- <sup>201</sup> "Rescatan a 219 migrantes en Chiapas." *El Universal*. January 27, 2011. <http://www.eluniversal.com.mx/notas/740450.html>
- <sup>202</sup> "Detiene la SSP a 183 inmigrantes de Centroamérica, África y Asia." *El Excelsior*. May 10, 2011. [http://www.excelsior.com.mx/index.php?m=nota&id\\_nota=735747&rss=1](http://www.excelsior.com.mx/index.php?m=nota&id_nota=735747&rss=1)
- <sup>203</sup> "Illegal Trail through Mexico." *The Kathmandu Post*. May 18, 2011. <http://www.ekantipur.com/the-kathmandu-post/2011/05/18/top-story/illegal-trail-through-mexico/221839.html>
- <sup>204</sup> "Illegal Immigration Pipeline from South Asia to United States Passes through Guatemala." Fox News Latino. May 17, 2011. <http://latino.foxnews.com/latino/politics/2011/05/17/india-migrants-guatemala-provides-path-illegally-entering-united-states/>
- <sup>205</sup> Center for Latin American and Border Studies. *Mexico Pans Arizona as Migrants are Massacred at Home*. <http://mexidata.info/id2797.html>
- <sup>206</sup> "Illegal Immigration Pipeline from South Asia to United States Passes through Guatemala." Fox News Latino. May 17, 2011. <http://latino.foxnews.com/latino/politics/2011/05/17/india-migrants-guatemala-provides-path-illegally-entering-united-states/>
- <sup>207</sup> A seven-member high-level committee that visited the Philippines in May 2010 and submitted its 38-point suggestions to the National Planning Commission made this suggestion. Narayan Manandhar and Jagnath Adhikari, *Study of Issues on the Recruitment of Migrant Labour in Nepal*, submitted to the World Bank Country Office, Nepal, July 2010.
- <sup>208</sup> [www.nagariknews.com](http://www.nagariknews.com), June 21, 2010.