

Analysis of Recruitment Reviews from Migrant Workers



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Acknowledgements

Every day nearly 1700 Nepali workers left the country to work abroad. Most of them are low-skilled workers that go to GCC states and Malaysia to find better jobs and salaries to feed their families. Unfortunately, a large number of workers often found themselves in jobs and salaries which were not as promised before their departure. Out of fear of losing jobs or not being able to get future recruitment, they did not report the cases and the fraudulent practices that they experienced. It is commonly known among the public that Nepali Migrant workers have been cheated but there is a lack of evidence for the strong advocacy to tackle the problem.

In this context, the International Trade Union Confederation (ITUC) with the collaboration of the General Federation of Nepalese Trade Unions (GEFONT) conducted collection of (web-based) evidence from Nepali migrant workers through the implementation of Recruitment Advisor project supported by the ILO. This report is based on the reviews posted by the Nepali Migrant workers about the performance of their recruitment agencies on **Recruitment Advisor** (www.recruitmentadvisor.org). We believe it will be an advocacy tool to make labour migration safer, decent and dignified.

We would like to thank Dr. Jeevan Baniya for working on the analysis report of the reviews data

and bringing very meaningful conclusion and recommendations based on facts and evidence found in the reviews data. We believe this would benefit further advocacy efforts of trade unions and it also benefits the governments, employers, recruiters, media and wider public in the monitoring of recruitment of migrant workers or its reality check. Especially we would like to thank Ms. Ira Rachmawati (Project officer, Human & Trade Union Rights at ITUC) for her continuous guidance, feedback and support for this research. We would like to extend our special thanks to Mr. Sunil Neupane, National Coordinator of Migrant Recruitment Advisor project in Nepal who had led the outreach activities to migrant workers to collect reviews of agencies. Finally, thanks are extended to Ms. Sadikshya Bhattarai and Dogendra Tumsa for their support to prepare this report.

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Acronyms/ Abbreviations

BLA	Bilateral Labour Agreement
CoD	Country of Destination
DoFE	Department of Foreign Employment
GCC	Gulf Cooperation Council
ILO	International Labour Organization
GEFONT	General Federation of Nepalese Trade Unions
GPOG	The ILO General Principles and Operational Guidelines
MRA	Migrant Recruitment Advisor
NPR	Nepali Rupees
PRA	Private Recruitment Agencies

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Executive Summary

Labour recruitment agencies play an important role in the foreign employment market in Nepal serving as a bridge between potential migrant workers and employers abroad. Workers pay large recruitment fees to the agencies for their service. The absence of income generating opportunities at home and financial pressure has forced Nepalis to turn to employment opportunities abroad. Despite the existence of various institutional and policy arrangements and instruments to facilitate and regulate labour migration and to ensure fair recruitment, migrant workers continue to face fundamental and labour right violations during their migration process. Desperation to migrate abroad for employment and poor government oversight over recruitment practices and the activities of agencies and agents makes aspiring migrants vulnerable to fraud, extortion, and exploitation at the hands of labour recruiters, intermediaries, and traffickers. This report explores recruitment practices of recruitment agencies based on the reviews from 1,593 reviewers provided to Recruitment Advisor. The key findings from the analysis of the reviews are presented below.

Prominent roles of sub-agents in hiring migrant workers. Sub-agents and middlemen continue to play an important role in facilitating the migration of Nepalis in foreign employment. The study identified that almost 40 per cent of the total reviewers had learnt about the job abroad through sub-agents and only 32 per cent from recruitment agencies.

Migrant workers are paying high recruitment and other related fees. The result of the analysis demonstrates that Nepali migrants paid more than NPR 100,000 (Approx. USD855) on average for recruitment fees, while only less than 2 per cent of them did not pay for recruitment and other related costs.

Majority of migrant workers took pre-departure training. Notably, around 80 per cent of the reviewers have taken pre-departure orientation training;

48.1 per cent of those who attended the orientation received information about all three major components, i.e., the rights and obligation of migrant workers, complain registration and useful contacts and services in the destination country.

Migrant workers continue to be deceived about their job, salary, and benefits. Almost fourth-fifth of the Nepali reviewers had received a contract. Among those who received a contract, an overwhelming majority (95 per cent) mentioned understanding the language it was written in. However, it is interesting to note that some of the reviewers who mentioned to have understood the contract shared that the terms and conditions were verbally read out to them by the recruitment agency. Strikingly, one-third of the reviewers reported to not have received the jobs they were promised in the destination country. Similarly, more than half of the reviewers had not received jobs they were promised.

Passports of the workers were withheld by the employer. Surprisingly, a massive proportion of Recruitment Advisor reviewers (96 per cent) responded that they had not been able to retain possession of their passport while they were working abroad.

Migrant workers were deprived of freedom of association and right to return. Less than 4 per cent mentioned to have access to trade union or workers' associations in the destination country. Similarly, a significant number of reviewers (83.4 per cent) reported that they had been denied the right to freely leave the destination country.

Most migrant workers less informed about recruitment agency and employer. Most reviewers (78 per cent) rated the agencies between 0 and 3. Based on their experience with recruitment agencies, almost 70 per cent of the reviewers mentioned they would not use the same recruiter to go for employment overseas again. On the other hand, when asked if the

reviewers would work for the same employer again, only 26.4 per cent gave positive affirmation.

Way Forward

- The existing policies and labour agreements on recruitment practice and cost should be effectively enforced. The government of Nepal should proactively investigate and monitor recruitment agencies for deception regarding cost and employment contract. The government should increase financial and human resources devoted to monitoring activities when necessary. Furthermore, it should be mandated that migrant workers are provided with detailed and disaggregated receipt of cost they have paid to recruitment agencies. Trade unions can support monitoring of recruitment agencies to ensure that they are not charging more than the government-prescribed upper limit for service charge to migrant workers.
- As observed from the study, a significant proportion of Nepali migrant workers do not receive contract for their employment abroad. And for those who do receive the contract, the content is not available in a language understandable by the migrants or the information in the contract are explained to the migrant verbally. Hence, it is necessary to ensure that migrant workers are provided with a written copy of their contract in Nepali and in advance.
- The present study showed that migrant workers are deceived about their employment and salary. Hence, the government, in coordination with diplomatic missions, should put in place monitoring mechanisms in destination

countries to ensure that migrant workers are getting what they are promised as per the employment contract. Trade unions can support in monitoring the situation of Nepali migrant workers in destination countries through the help of their national and international networks. Unions can conduct consultation with representatives from the government and other stakeholders with regard to development of such mechanism.

- It is necessary to ensure that migrant workers are actively participating in pre-departure orientation training as mandated by the Foreign Employment Act, 2007. Such training should be used to disseminate information, especially on their right to retain their passport and other travel documents in the destination country, importance of having a copy of written contract, access to trade unions and information on access to complaint and compensation mechanisms or nearest contact in the destination country if encountered with deception regarding employment. The government can disseminate such information through other platforms such as radio, television and social media platforms such as Facebook, YouTube and Viber. In this regard, trade unions should conduct awareness campaigns about recruitment cost, employment contract, complaint and compensation mechanisms at the national, provincial or local levels. Unions should also use their networks at the national, provincial and local levels and in the destination countries as well as online platforms to inform migrant workers about the same.

1. Introduction

Workers, including migrant workers who travel away from their homes, can be vulnerable to abusive recruitment when they are coming from an area of high unemployment, when there is intense competition for jobs, domestically or abroad, and when they are not protected by clear laws and effective enforcement. An organised workforce cannot be enslaved, but when governments fail their citizens and allow corporations to escape the rule of law, slavery can flourish.

The search for a job, the hope of escaping poverty wages and the desire to provide for family is pushing vulnerable people into the hands of abusive recruiters and employers. Case by case, workplace by workplace, workers and their unions have been exposing the scandals of modern slavery. For the first time, a global recruitment review platform, www.recruitmentadvisor.org, put the power of information into migrant workers' hands.

The creation of www.recruitmentadvisor.org stems from the commitment of the labour movement to create effective mechanisms by which to reduce deceptive and fraudulent recruitment practices, which render workers more vulnerable to labour exploitation and forced labour. This website will support the advocacy efforts for fair recruitment and help reorient the market towards labour recruiters respecting international human rights.

Recruitment Advisor is developed by a consortium of unions from different countries with support from ILO Fair Recruitment Initiative. Recruitment Advisor currently has coordination teams in 7 countries (currently in the Philippines, Indonesia, Nepal, Sri Lanka, Kenya, Hong Kong and Bahrain). Together with several other organizations in each country, the team reaches out to the workers with the mission to raise awareness on the workers' rights to be fairly recruited based on ILO General Principles and Operational Guidelines for Fair Recruitment and to encourage workers to share and learn about recruitment through Recruitment Advisor.

Migrant workers can share their experiences and rate recruitment agencies through this

web platform www.recruitmentadvisor.org. The platform also provides a support service and has a reporting system of violations experienced by migrant workers implemented in collaboration with Migrant Forum in Asia (MFA).

Recruitment practices that lure workers with promises of jobs that don't exist, salaries that aren't paid, and charge unscrupulous loans forcing workers into years of debt bondage are deceptive and fraudulent. In the search for a better future for their families, many workers are still unaware of their rights or which recruiters are making false promises. To clean up unscrupulous recruitment and promote fair business practices, we need stronger laws, and a fair recruitment framework based on ILO General Principles and Operational Guidelines for Fair Recruitment. History shows us that before laws are changed, it's often workers who act first. However, coherent government action and responsible conduct by employers and recruiters are essential if there is to be fair recruitment.

RecruitmentAdvisor website is a global recruitment and employment review platform offering migrant workers easy access to information about recruitment agencies and workers' rights when looking for a job abroad.

With www.recruitmentadvisor.org migrant workers can:

1. Check the rating of recruitment agencies based on worker reviews.
2. Check workers' rights where workers will work.
3. Ask for assistance when workers' rights have been violated.

<https://www.recruitmentadvisor.org/about-us>

Public and private recruitment agencies, when appropriately regulated, play an important role in the efficient and equitable functioning of both the migration process and labour markets in countries of destination by matching the right workers with specific labour needs and labour markets, as well as creating invaluable skills assets for countries and communities of origin when workers return home.

Migration for employment across borders has accelerated in the last decade across the globe and Nepal is not an exception to this phenomenon. Labour migration has emerged as a predominant means of livelihood for Nepali households. The past two decades have been characterised by migration to Middle East and Southeast Asian countries with the Gulf Cooperation Council (GCC) countries and Malaysia dominating as the top destinations for labour migration from Nepal.¹ Poverty, unemployment and lack of income generating opportunities and social inequalities in Nepal and the prospect of high earnings in destination countries and ultimately betterment of living standard of the family has motivated the need for migration for Nepali people.² The annual number of labour permits issued officially recorded by Department of Foreign Employment (DoFE) sheds light on this phenomenon; between 2009/10 and 2018/19, DoFE issued over 4 million new labour permits³ to Nepali workers for overseas employment for more than 153 countries.⁴ Consequently, remittance inflow contributes significantly to the national economy making up more than one-fourth of the GDP of Nepal.⁵

The increase in labour migrants has meant that the industry of foreign employment and, consequently, Private Recruitment Agencies (PRAs) have flourished in Nepal. According to official data, labour migration from Nepal is largely facilitated by recruitment agencies with nearly 90 per cent of the Nepalis who obtained new labour permits in 2019/20 leav-

ing through PRAs.⁶ PRAs play a key role in linking prospective migrant workers with employers abroad and facilitating the labour migration process by providing information on destination countries, nature of prospective jobs and pay scale, helping to obtain necessary documents and making necessary travel arrangements including acquiring labour permits, visa, and air tickets for the workers.⁷ However, these agencies are 'profit driven' and experience has shown that there is lack of proper and effective monitoring and regulation of their activities. As such, these agencies are often found charging migrant workers 'desperate to find work' with exorbitant fees and thereby making them highly vulnerable to debt, exploitation and rights violations in the workplace and throughout the course of their migration process.⁸ An ILO study on migrant recruitment study in Nepal highlighted, 'In addition to charging a fee for recruitment (matching employees from one country with an employer in another), recruiters charge fees for managing the bureaucracy associated with immigration and often emigration; for organising transportation to the destination country; for reserving accommodation en route and on arrival; for issuing employment contracts; for providing (access to) insurance; for delivering training; and for arranging the medical screening which is often required by destination country governments.'⁹

1 Ministry of Labour, Employment and Social Security, *Nepal Labour Migration Report 2020* (Kathmandu: Ministry of Labour, Employment and Social Security, 2020).

2 Amnesty International, *False Promises: Exploitation and Forced Labour of Nepalese Migrant Workers* (London: Amnesty International, 2011); IOM, *Migration in Nepal: A Country Profile 2019* (Kathmandu: IOM, 2019).

3 'New entry' labour permits include the number of labour permits issued through a recruiting agency, including at the individual level and as legalized entry. 'Re-entry' permits are issued to those migrant workers returning to the same job on a renewed contract; Ministry of Labour, Employment and Social Security, *Nepal Labour Migration Report 2020* (Kathmandu: Ministry of Labour, Employment and Social Security, 2020).

4 IOM, *Migration in Nepal: A Country Profile 2019* (Kathmandu: IOM, 2019).

5 Dilip Ratha, Eung Ju Kim, Sonia Plaza, and Ganesh Seshan, *Migration and Development Brief 34: Resilience: COVID-19 Crisis through a Migration Lens* (Washington, DC: KNOMAD-World Bank, 2021).

6 Department of Foreign Employment, 'Annual Labour Approval Record 2076-77'.

7 Amnesty International, *Turning People into Profits: Abusive Recruitment, Trafficking and Forced Labour of Nepali Migrant Workers* (London: Amnesty International, 2017); Kern, Alice, and Ulrike Müller-Böker, 'The Middle Space of Migration: A Case Study on Brokerage and Recruitment Agencies in Nepal,' *Geoforum* 65 (2015) 158–169.

8 Amnesty International, *Turning People into Profits: Abusive Recruitment, Trafficking and Forced Labour of Nepali Migrant Workers* (London: Amnesty International, 2017); MFAAsia, MADE, Global Coalition on Migration and European Union, *Ethical Recruitment: Open Working Group on Labour Migration & Recruitment Policy Brief #5* (n.a.); <https://madenetwork.org/sites/default/files/Ethical%20Recruitment%20-%20Layout%20v.1.pdf>.

9 ILO, *The Migrant Recruitment Industry: Profitability and unethical business practices in Nepal, Paraguay and Kenya* (Geneva: ILO, 2017).

Fair and Ethical Recruitment in Nepal

Fair and ethical recruitment of migrant workers has become a focus of national, regional and international agenda on labour migration. There is no internationally accepted definition of fair and ethical recruitment. The ILO General Principles and Operational Guidelines for Fair Recruitment provides guidelines on promoting and ensuring fair recruitment. Among other principles and guidelines, the ILO's Operational Guidelines recognizes that 'recruitment should take place in a way that respects, protects and fulfils internationally recognized human rights, including those expressed in international labour standards, and in particular the right to freedom of association and collective bargaining, and prevention and elimination of forced labour, child labour and discrimination in respect of employment and occupation'.¹⁰ The Guidelines also upholds the global consensus that recruitment and other related costs should not be borne by the migrant workers.

Nepal has ratified several core international human rights treaties and ILO fundamental conventions.¹¹ However, Nepal has not signed several important conventions on protecting the rights of migrant workers including the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990.¹² On the contrary, Nepal is member state of the Global Compact on Safe, Orderly and Regular Migration (GCM) adopted in 2018 which has also recognized the fair and ethical recruitment of migrant workers incorporating recommendations from the IRIS, the Fair Recruitment Initiative developed by the ILO and the United Nations Guiding Principles on Business and Human Rights.¹³

There are around 854 PRAs currently active in the country.¹⁴ PRAs are governed by the Foreign Employment Act, 2007 and the Foreign Employment Rules, 2008. The Act and the Rules require agencies to get registered at the Office of Company Registrar and obtain license from DoFE for their establishment and operation.¹⁵ The Act has given the Department of Foreign Employment authority for monitoring and inspection of recruitment agencies' activities, documents and compliance with the Act. However, the department has not been effective in monitoring and supervision of recruitment agencies.¹⁶ In a bid to make labour migration safe, fair and ethical, the Government of Nepal has introduced several policies to regulate the labour recruitment. Efforts have been made to curb unethical and fraudulent practices of recruitment agencies and eliminate excessive and unauthorized recruitment fees charged to Nepali migrant workers. The government introduced the 'free-visa, free-ticket' policy in 2015.¹⁷ Introduced with the aim of reducing the formal cost of migration significantly, the policy has stipulated that employers have to cover migrant workers' visa and flight costs to the GCC countries and Malaysia.¹⁸ Furthermore, the policy requires recruitment agencies to charge up to a maximum of NPR 10,000¹⁹ for their services while other costs related to medical

Regular Migration (New York: United Nations, 2018).

10 ILO, *General Principles and Operational Guidelines for Fair Recruitment & Definition of Recruitment Fees and Related Costs* (Geneva: ILO, 2019).

11 FairSquare, *The Five Corridors Project - Corridors 2 And 3: Nepal to Kuwait and Qatar: Fair Recruitment in Review* (London: FairSquare, 2021).

12 Such as, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Migration for Employment Convention (revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Private Employment Agencies Convention, 1997 (No. 181) and the Domestic Workers Convention, 2011 (No. 189).

13 United Nations, *Global Compact for Safe, Orderly and*

14 The Himalayan Times, 'Govt scraps licence of 303 manpower firms', *The Himalayan Times*, September 4, 2019, <https://thehimalayantimes.com/business/govt-scraps-licence-of-303-manpower-firms/>

15 Government of Nepal, *Foreign Employment Act, 2007* (Kathmandu: GoN, 2007), Article 10, Chapter 3. Available online at: https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=78258.

16 Amnesty International, *Turning People into Profits: Abusive Recruitment, Trafficking and Forced Labour of Nepali Migrant Workers* (London: Amnesty International, 2017).

17 Bandita Sijapati, Mohd Ayub and Himalaya Kharel, 'Making Migration Free: An analysis of Nepal's 'free-visa, free-ticket' scheme', in S. Irudaya Rajan (ed), *South Asia Migration Report 2017: Recruitment, Remittances and Reintegration* (Oxon and New York: Routledge, 2017).

18 Amnesty International, *Turning People into Profits*.

19 Additionally, the ceiling cost for migration has been placed at NPR 10,000 for Qatar, Saudi Arabia, Kuwait, Bahrain, Oman, Brunei, Sweden and Malta, NPR 50,000 for Singapore, Panama, USD 970 for South Korea, NPR 80,000 for Russia, NPR 80,400 for Poland and NPR 65,000 for Portugal; Ministry of Labour, Employment and Social Security, *Nepal Labour Migration Report 2020* (Kathmandu: MoLESS, 2020), 60.

check-up, insurance and pre-departure orientation are to be borne by the workers themselves.²⁰ The government of Nepal has also signed Bilateral Labour Agreements (BLAs) and Memorandum of Understanding and/or Cooperation (MoUs/MoCs) with the governments of some of the major Countries of Destination (CoDs) including Jordan, the UAE, Mauritius and Malaysia that obliges the employer to pay for the recruitment fees, airfare and other costs associated with the migration process.²¹ Furthermore, the government has banned PRAs from using informal agents for recruiting migrant workers.

As recognized by the Global Compact on Migration, trade unions have an important role to play in the protection of human and labour rights of migrant workers and promoting fair recruitment. ILO GPOG has emerged as the most legitimate standard for fair recruitment adopted by representatives of governments, trade unions and employers with different interests from regions and countries from across the globe. The General Federation of Nepalese Trade Unions (GEFONT) had played a key role as an expert during the ILO tripartite meetings in 2016 and 2018 (regarding definition of recruitment fees) for the adoption of GPOG. Furthermore, the International Trade Union Confederation (ITUC) and its national affiliates and partners have been actively promoting fair recruitment and informing migrant workers about their rights and of the support they can receive from unions in origin and host countries while following the guidelines in GPOP and information disseminated by Recruitment Advisor. GEFONT was involved in the drafting of the BLA between Nepal and Jordan to monitor and ensure workers' rights are included. There are also GEFONT support groups in cooperation with local trade unions in several destination countries—Hong Kong, South Korea, Malaysia, Bahrain Kuwait, Qatar, Lebanon, Jordan, and India. Moreover, GEFONT

has been collecting web-based evidence in Nepal supporting MRA's aim to make sure workers' voice is documented and heard by the concern agencies. It has enabled them to advocate for improvement of regulation and its implementation including monitoring of recruitment agencies.

Apart from the government and trade unions, there are also Civil Society Organizations (CSOs) actively advocating and working for the rights of migrant workers. ILO has also prepared a toolkit for Nepali journalists for reporting on human trafficking and fair recruitment to support ILO's initiative of promoting fair recruitment in line with the 'Fair Recruitment Initiative' launched in 2014.²²

However, despite the cost of migration prescribed for some of the destination countries, particularly the GCC countries and Malaysia, as per the policy and bilateral labour agreements, migrant workers can be found paying significantly high amount of money for their migration as recruitment cost and other associated costs—past studies have shown that Nepali workers pay more than ten times the cost legally allowed for the GCC countries and Malaysia.²³ Recruitment agencies have continued to collect hefty sums from migrant workers while providing them with receipts for government prescribed fees.²⁴

Ensuring fair recruitment is especially concerning amidst the Covid-19 crisis.²⁵ Most PRAs in Nepal are experiencing decrease in demand from employers abroad.²⁶ Also, with countries implementing various safety protocols, recruitment cost can further increase. Shortage of labour demand can result in a competitive environment for available jobs. This, coupled with inadequate national fair recruitment laws and effective enforcement and lack of protection from workers' organisations, can increase

20 Ibid.

21 Most recently, Nepal has signed Bilateral Labour Agreements (BLAs) with the UAE, Mauritius and Malaysia in 2019 and with Jordan in 2017. The BLAs stipulates that employer have to pay for the recruitment related cost and fees including recruitment agency fees, airfares and insurance, visa and medical fees; 'Bilateral Arrangements', CESLAM, <https://www.ceslam.org/governance/bilateral-arrangements>.

22 ILO, *Toolkit for Journalists. Reporting on Forced Labour and Fair Recruitment* (Geneva: ILO, 2019).

23 International Labour Organisation, *Promoting Informed Policy Dialogue on Migration, Remittance and Development in Nepal* (Kathmandu: ILO, 2016).

24 MADE Network, *Stand Firm with Nepal: Zero Fees as a First Step towards Migrant Worker Empowerment*. Open Working Group on Labour Migration & Recruitment, Policy Brief #6 (Geneva: MADE Network, 2016).

25 ILO, *Rapid assessment of the Impact of COVID-19 on Private Recruitment Agencies in Nepal* (Geneva: ILO, 2021).

26 ILO, *Rapid assessment of the Impact of COVID-19 on Private Recruitment Agencies in Nepal* (Geneva: ILO, 2021).

vulnerability of Nepali migrant workers to abusive recruitment practices.²⁷

Evidence from Nepal also shows that fair recruitment practices of screening potential migrants to match them with the job abroad, removal of recruitment fees and informing the worker about the pay, hours and working conditions is feasible and creates benefits for both migrant workers and the company that hires them.²⁸

In 2018, the ITUC and ILO established Recruitment Advisor to enhance workers' rights and at the same time reduce vulnerability to forced labour. While the public face of Recruitment Advisor is a web platform, its primary function is as a digital tool to support advocacy and worker organising. In Nepal, GEFONT leads the implementation of the project. To achieve this, Recruitment Advisor provides:

- up-to-date information on fair recruitment options and on existing support services in countries of origin and destination countries.
- an opportunity for migrant workers to share their experiences and rate recruitment agencies.
- a reporting mechanism and referral to effective support for migrant workers that have been victims of deceptive and fraudulent recruitment practices.

This report focuses on labour recruitment in Nepal and aims to inform governments and stakeholders about the practices of recruitment agencies and fundamental and labour rights of migrant workers. The report also aims to explore about the experiences of Nepali migrant workers about the recruitment agencies. More specifically, the report aims to address the following objectives:

- Understand the perception of migrant workers regarding recruitment agencies and employers based on the experiences of migrant workers.
- Understand about the recruitment and other migration related fees incurred by migrant workers.

²⁷ ILO, *Ensuring Fair Recruitment During the COVID-19 Pandemic* (Geneva: ILO, 2020).

²⁸ ILO, *The Benefits of Fair Recruitment – Result of the Impact Study on the Nepal-Jordan Corridor* (Geneva: ILO, 2019).

- Identify the situation of migrant workers regarding salary, employment and access to trade unions or worker's association(s) in the destination country.

1.1 Methodology

Review of Literature

A review of existing literature related to labour migration and recruitment agencies in Nepal was carried out. Additionally, publications on ethical and fair recruitment including by IOM International Recruitment Integrity System (IRIS) and ILO General Principles and Operational Guidelines for Fair Recruitment were reviewed.

Survey Process

The report is based on the analysis of 1,593 reviews collected from migrants in Nepal. The Recruitment Advisor web platform was used to collect reviews from migrant workers. The reviews relate to the migrant workers' rating of the recruitment agencies, source of information about the job, pre-departure training, labour contract and recruitment cost.

Reviews of recruitment agencies in Recruitment Advisor were provided by workers who have had a recruitment experience that they want to share with other workers. These include:

- a. Workers who are still in their country of origin but have used the service of an agency.
- b. Workers who are still working abroad, in the country of destination.
- c. Returnees or workers who are back in the country of origin after working abroad.

The reviews being analysed in this report were mostly collected in the first years of Recruitment Advisor through offline/outreach activities in Nepal by GEFONT and in destination countries by GEFONT support groups. GEFONT has played an important role in reaching out to migrant workers who have shared their reviews. GEFONT reached out to migrant workers in several destination countries such as Kuwait, Qatar, the UAE and Malaysia and to returnee migrant workers in Nepal. GEFONT has played crucial roles in convincing migrant workers

to take part in the review and to share their experience about the agencies.

Weighing System for agency rating

The recruitment agencies are rated by calculating the answers to the binary review questions submitted by the workers.²⁹ The review questions are based on the international rights and standards for fair recruitment devised by the International Labour Organization.³⁰ With this weighing system, users' response to questions for 'review an agency' is automatically calculated by the system according to the value defined for each question (See Annex 2 for detailed information on weighing system).

²⁹ Please see for more information on weighing system: <https://www.recruitmentadvisor.org/sites/default/files/inline-files/Migrant%20Recruitment%20Advisor-Reviews%20Weighing%20System%20V2%20for%20website.pdf>

³⁰ See Annex 2 for the weighing and rating system.

Support and Challenges

The reviews analysed in this report were collected in the first years of Recruitment Advisor through offline/outreach activities in Nepal by GEFONT and in destination countries by GEFONT support groups. Despite Recruitment Advisor application and assurance of total anonymity of information of the workers in reviews of agencies, there were various challenges during the collection of reviews. These include reviewers fearing being backlisted, being threatened with dismissal from employment and/or being detected by recruitment agencies if bad reviews are provided and consequently not getting employment opportunities abroad in the future.

2. Key Findings

2.1 Source of information about job

Lack of direct access to job opportunities abroad means that aspiring migrant workers rely on individuals (friends and relatives), sub-agents and agencies to get preliminary information about jobs in demand abroad.³¹ Studies have indicated the integral role played by informal agents and recruitment agents in dissemination of preliminary information to migrant workers and linking them to jobs abroad.³² Corresponding the findings of past studies, a vast majority of the reviewers reported to have learned about the job abroad through recruitment agencies and brokers/sub-agents. As majority of recruitment agents are in the capital—Kathmandu—and bigger cities, aspiring migrant workers depend on layers of intermediaries including brokers, friends, and relatives for information on overseas jobs. Recruitment agencies also depend on sub-agents to reach potential clients in distant places. This is visible in the reviews from migrant workers; 38.5 per cent heard about the job from brokers and/or sub-agents (Figure 1). These brokers or middlemen are informal agents, who are unregistered and function as linkage between recruitment agency/agents and migrant workers. Their informal nature further raises the questions about the accountability and transparency of their work as well as weak monitoring and governance of recruitment practices in Nepal. Recent amendment to the Foreign Employment Act, 2007 forbids recruitment agencies from using informal agents.³³ Despite this, recruitment agents depend on them to reach prospective migrants in villages and remote areas of Nepal.

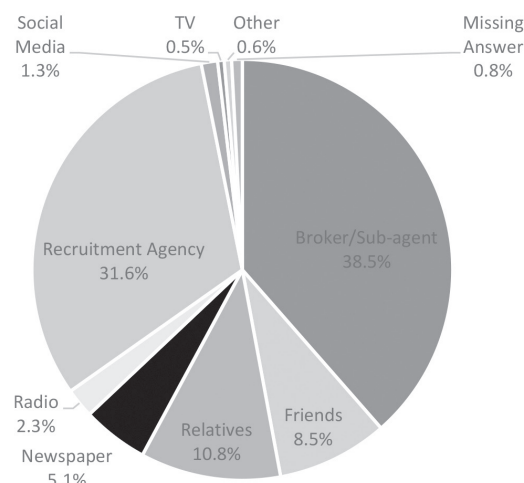
However, difference across gender and source of

31 Amnesty International, *Turning People into Profits: Abusive Recruitment, Trafficking and Forced Labour of Nepali Migrant Workers* (London: Amnesty International, 2017).

32 Amnesty International, *Turning People into Profits: Abusive Recruitment, Trafficking and Forced Labour of Nepali Migrant Workers* (London: Amnesty International, 2017);

33 Government of Nepal, *Some Nepal Laws Amendments Act, 2075 (2019)* (Kathmandu: Government of Nepal, 2019)

FIGURE 1:
Source of information about the job
(N=1580)



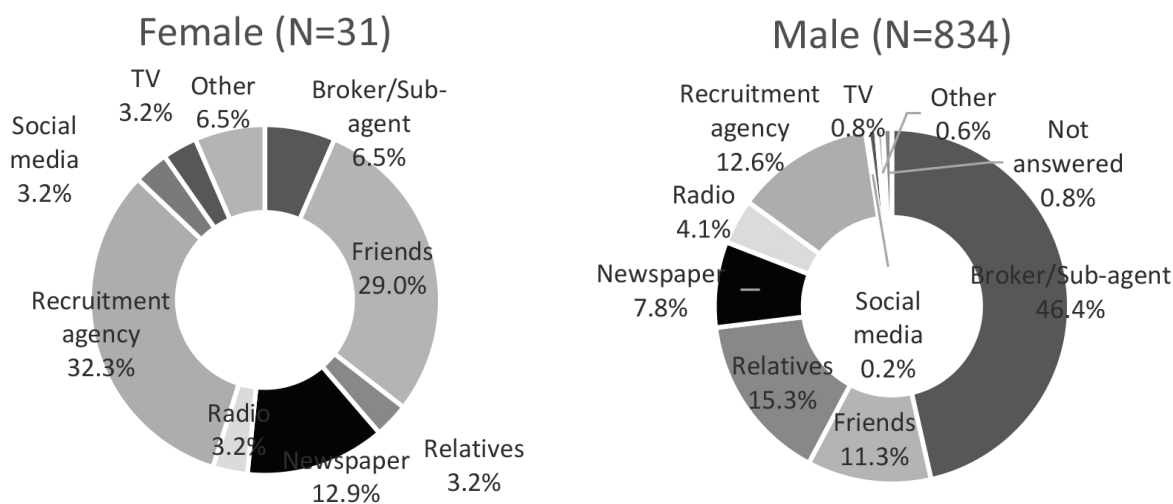
information are significant (Figure 2). Specifically, most of the male migrant workers learnt about their job abroad through brokers/sub-agents. In contrast, recruitment agencies were the primary source of information about job abroad for most of the female migrant workers. Notably, friends were also another primary source of information for female migrant workers compared to their male counterparts. Given that the analysis is based on a smaller number of female reviewers compared to male reviewers, the data should be interpreted with caution.

2.2 Recruitment fees and other migration related costs

The Government of Nepal has implemented the 'zero-cost' policy for migration from Nepal to some destination countries. It has also a prescribed ceiling amount of NPR10,000 that can be charged as service fees for some destination countries.³⁴ Likewise,

34 Ministry of Labour, Employment and Social Security, *Nepal Labour Migration Report 2020* (Kathmandu: MoLESS, 2020), 60; Bandita Sijapati, Mohd Ayub and Himalaya Kharel.

FIGURE 2:
Source of information about occupation abroad (by gender)



it has expressed its commitment for fair recruitment and the employer pay model in international forums such as the Global Compact for Migration (GCM)³⁵, and has also signed bilateral agreements accordingly.³⁶ Also, the ILO General Principles and Operational Guidelines for Fair Recruitment³⁷ stipulates that workers should not bear or be charged with any recruitment fees or related costs. However, Nepali migrant workers are made to pay recruitment agencies for recruitment and placement in jobs abroad that far exceeds the legal limit prescribed by the government.³⁸

Analysis of the reviews from migrant workers

Making Migration Free: An analysis of Nepal's 'free-visa, free-ticket' scheme, In *South Asia Migration Report 2017: Recruitment, Remittances and Reintegration*, edited By S. Irudaya Rajan. Routledge India

35 UN. Global Compact for Safe, Orderly and Regular Migration. https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/73/195.

36 Ministry of Labour, Employment and Social Security, *Nepal Labour Migration Report 2020* (Kathmandu: MoLESS, 2020).

37 ILO. General principles and operational guidelines for fair recruitment and Definition of recruitment fees and related costs. https://www.ilo.org/wcmsp5/groups/public/--ed_protect/--protrav/--migrant/documents/publication/wcms_536755.pdf.

38 UNODC, *The Role of Recruitment Fees and Abusive and Fraudulent Practices of Recruitment Agencies in Trafficking in Persons* (Vienna: United Nations Office on Drugs and Crime, 2015); Amnesty International, *Turning People into Profits*.

also revealed that a vast majority (98.5 per cent) of migrant workers have paid the recruitment fees and other related costs. It is important to note that a significantly large proportion of the migrant workers (97.4 per cent) had paid service fees to recruitment agencies. Similarly, other items reviewers have paid for include medical check-up, insurance and pe-departure orientation. There were also migrant workers who have paid for special skill training, and skill and qualification test.

Even though different laws and policies prohibit recruitment agencies from charging migrant workers or charging more than the legally prescribed amount, reviews from migrant workers show that they are paying significant amounts to the recruitment agencies (Table 2). More than half of the reviewers mentioned paying more than NPR 100,000 as recruitment fees. Similarly, the mean total cost migrant workers had paid to the recruitment agencies was NPR 128,347 (N=49). The minimum and maximum amounts paid to a recruitment agency were NPR 50,000 and NPR 225,000 respectively. This finding corresponds to what has been reported by other studies in the past. According to an ILO report, Nepali workers are found to be paying over NPR 100,000 in recruitment fees and associated costs for migration to Malaysia and the GCC

TABLE 1:
Recruitment and other migration-related costs paid by reviewers

	Per cent
Did not pay any cost	1.4
Recruitment fees	97.4
Medical costs	97.4
Insurance costs	59.8
Costs for orientation	84.9
Equipment costs	31.7
Administrative costs	59.9
Travel & lodging costs	65.5
Costs for skills & qualification test	39.2
Costs for special skills training	1.6
Other	3.6
Total	542.6 (N=1593)

countries, the top destination of Nepali migrant workers.³⁹ It should be noted that the review does not allow for the breakdown of the recruitment fees by destination country. As such, for some destination countries, the ceiling cost set by the government equals to NPR 50,000 or more.⁴⁰

Recruitment agencies, despite charging huge fees, deliberately provide migrant workers with a receipt that states lower amount, or the amount legally permitted. As one reviewer mentioned, ‘I had paid NPR 150,000 but was given a receipt of only NPR 10,000. I was told that if I mentioned I paid more than 10,000, I will have to return from the airport. I needed to go [abroad for work] so I went.’

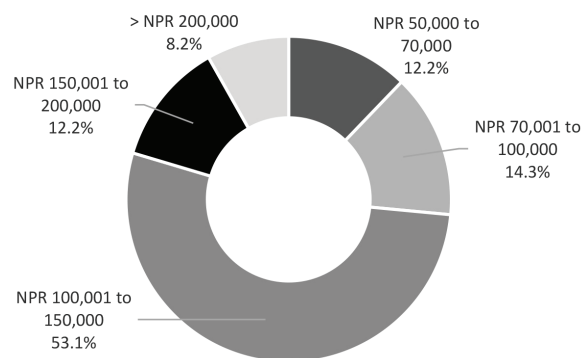
However, desperation of finding employment means that despite knowing about it, migrant workers refrain from talking about the deception they face with regard to recruitment fees.

This situation also indicates lack of oversight and monitoring of recruitment practices. Excessive and illegal recruitment fees leave migrant work-

39 International Labour Organisation, *Promoting Informed Policy Dialogue on Migration, Remittance and Development in Nepal* (Kathmandu: ILO, 2016).

40 Ministry of Labour, Employment and Social Security, *Nepal Labour Migration Report 2020* (Kathmandu: MoLESS, 2020), 60.

FIGURE 3:
Recruitment fees (NPR) paid by the reviewers (N=49)



ers vulnerable to deception and victimization from unscrupulous recruitment. It pushes migrants and their families into the vicious cycle of debt and exploitation.⁴¹ While some migrants collect money by selling their land, house or other valuable items like jewellery, most migrant workers are often forced to take large sums of money as loan to pay the high recruitment fees and associated costs which results in

41 Amnesty International, *False Promises: Exploitation and Forced Labour of Nepalese Migrant Workers* (London: Amnesty International, 2011); Bandita Sijapati, Ang Sanu Lama, Jeevan Baniya, Jacob Rinck, Kalpana Jha & Amrita Gurung, *Labour Migration and the Remittance Economy: The Socio-Political Impact* (Kathmandu: Centre for the Study of Labour and Mobility, 2017). <https://www.ceslam.org/our-publications/the-socio-political-impact>.

them being indebted.⁴² Moreover, loan and debt of migrant workers take several forms: loan collected through informal sources such as moneylenders and friend/relatives, the former often at high interest rate and loan taken from formal sources i.e., banks and financial institutions.⁴³ Instances where the recruitment cost is paid by migrants through wage deduction in the destination countries are also not uncommon.⁴⁴ Adding to this is the fact that most workers are unable to register their grievances due to fear of termination from work and retaliation from the employer and recruitment agencies.⁴⁵ High recruitment costs and indebtedness incurred in migration not only means aggravation of their vulnerabilities, it also means migrant workers being led to possible forced labour situations in destination countries. Additionally, indebtedness can also lead to social, emotional, and psychological impacts on migrants and their families.⁴⁶

42 International Labour Organisation, *Promoting Informed Policy Dialogue on Migration, Remittance and Development in Nepal* (Kathmandu: ILO, 2016); Bandita Sijapati, Ang Sanu Lama, Jeevan Baniya, Jacob Rinck, Kalpana Jha & Amrita Gurung, *Labour Migration and the Remittance Economy: The Socio-Political Impact* (Kathmandu: Centre for the Study of Labour and Mobility, 2017). <https://www.ceslam.org/our-publications/the-socio-political-impact>.

43 International Labour Organisation, *Promoting Informed Policy Dialogue on Migration, Remittance and Development in Nepal* (Kathmandu: ILO, 2016); Dechenla Sherpa, *Labour Migration and Remittance in Nepal* (Kathmandu: ICIMOD and IFAD, 2010). Bandita Sijapati, Ang Sanu Lama, Jeevan Baniya, Jacob Rinck, Kalpana Jha & Amrita Gurung, *Labour Migration and the Remittance Economy: The Socio-Political Impact* (Kathmandu: Centre for the Study of Labour and Mobility, 2017). <https://www.ceslam.org/our-publications/the-socio-political-impact>.

44 International Organization for Migration, *Debt and the Migration Experience: Insights from South-East Asia* (Bangkok: IOM, 2019).

45 Sarah Paoletti, Eleanor Taylor-Nicholson, Bandita Sijapati and Bassina Farbenblum, *Migrant Workers' Access to Justice at Home: Nepal* (New York: Open Society Foundation, 2014); Migrant Forum Asia, *Challenges on Access to Justice for Migrants* (Quezon City: Migrant Forum Asia, n.a.), National Human Rights Commission, *Research-Report on the Situation of the Rights of Migrant Workers: Recruitment Practices and Access to Justice of Migrant Workers* (Kathmandu: National Human Rights Commission, 2019).

46 Amnesty International, *Turning People into Profits: Abusive Recruitment, Trafficking and Forced Labour of Nepali Migrant Workers* (London: Amnesty International, 2017); IOM, Sub-Regional Study on the Debt of Migrants Assisted with Voluntary Return and Its Impact on The Sustainability of Reintegration in Countries of Origin: A Study Conducted in Côte d'Ivoire, Burkina Faso, Mali, The Gambia, Senegal, and Guinea under the Coordination of IOM Regional Office in

2.3 Pre-departure training

Pre-migration awareness raising, and orientation training is considered an important tool to reduce the vulnerability of migrant workers and enable them to maximize the benefits from foreign employment.⁴⁷ It is also considered as an important strategy to prevent forced labour and human trafficking through informing prospective migrants and thereby supporting them in decision-making and planning processes, and access to justice.⁴⁸ For workers from Nepal, pre-departure orientation training (PDOT) is mandatory prior to departure for work overseas and also to obtain labour permit.⁴⁹ The training aims to disseminate useful information to outbound migrant workers and thereby ensure their safety and protection abroad. Information about foreign employment processes, travel information, labour laws, rules and regulation, culture and tradition of host countries, occupational safety, and health measures, among others, are provided through these trainings. However, pre-departure orientation trainings in Nepal have been criticized for their inaccessibility as most are in the Kathmandu valley or in major cities. Institutions providing pre-departure orientation training have also been accused of issuing fake certificates without conducting mandatory orientation programmes.⁵⁰ Also, the orientation provided to prospective migrants has been found to be inadequate. As such, many of the migrant workers do not receive any information about working hours, overtime hours and pay, rights and responsibilities

Dakar (Dakar: IOM, 2021).

47 Nicola Suyin Pocock, Ligia Kiss, Mamata Dash, Joelle Mak, and Cathy Zimmerman. 2020. "Challenges to Pre-migration Interventions to Prevent Human Trafficking: Results from a Before-and-After Learning Assessment of Training for Prospective Female Migrants in Odisha, India." PLOS ONE 1-23.

48 Joelle Mak, Ligia Kiss and Cathy Zimmerman. 2019. 'Pathways to Prevent Labour Exploitation in Nepal: Do Pre-migration Interventions Work?' London School of Hygiene & Tropical Medicine. <https://www.ceslam.org/books-and-reports/pathways-to-prevent-labour-exploitation-in-Nepal-do-pre-migration-interventions-work>

49 'Foreign Employment Act 2007', Section 27, Government of Nepal.

50 Asis M, Agunias D. 'Strengthening Pre-departure Orientation Programmes in Indonesia, Nepal and the Philippines,' *Migration Policy Institute Issue Brief* 5 (2012):1-11.

TABLE 2:
Information during the pre-employment orientation

	Per cent
I did not receive any orientation	20.8
I received information about my rights and obligations	59.0
I received information about what to do if I have a complaint	60.8
I received information about useful contacts & services in destination	72.1
Other	0.9
Total	213.7 (N=1593)

of migrants in destination countries, fines for early termination of contract, vacation, and leave.⁵¹

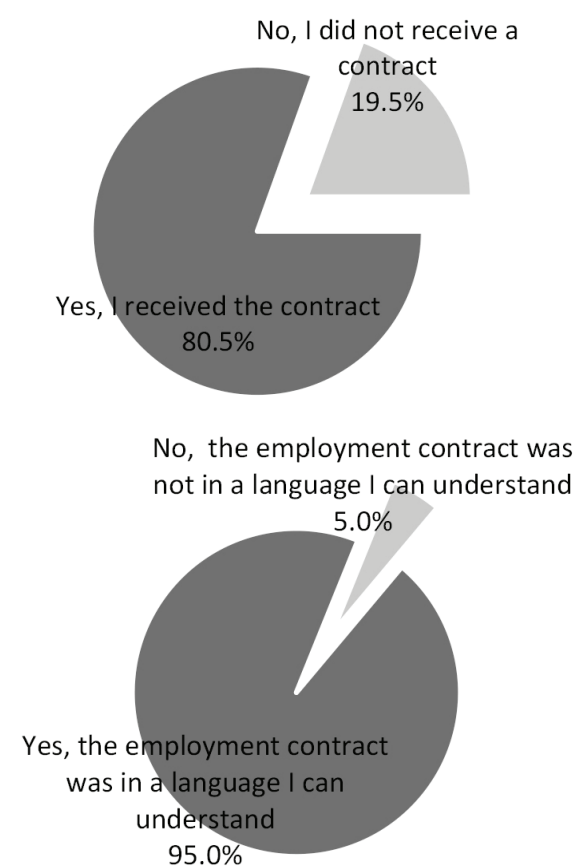
It is interesting to note that the analysis of the reviews also shows that 20.8 per cent of the reviewer ‘migrant workers’ mentioned to not have taken any pre-departure orientation training. Among the reviewers, 48.1 per cent received orientation on all three major components i.e., the rights and obligation of migrant workers, complaint registration, and useful contacts and services in the destination country. Similarly, there was a significant difference with regard to pre-departure orientation training between male and female reviewers. 51.6 per cent of the female reviewers (N=31) did not receive any pre-departure orientation training compared to 33.8 per cent of male reviewers (N=834). This indicates that Nepal needs to make its pre-departure orientation training and awareness programmes more effective.

2.4 Employment Contract

Migrant workers should be provided with a written contract for employment detailing the conditions of the worker’s employment. Such contract is fundamental to ensuring that migrant workers are not subjected to labour exploitation or other violations of their rights such as abuse and wage theft. Provision of employment contract has been mandated by the Foreign Employment Act which specifies that each migrant worker must receive a written employment contract with the employer in the country

⁵¹ Joelle Mak, Ligia Kiss and Cathy Zimmerman. 2019. ‘Pathways to Prevent Labour Exploitation in Nepal: Do Pre-migration Interventions Work?’ London School of Hygiene & Tropical Medicine.

FIGURE 4
Employment Contract Prior to Departure (N=1593)



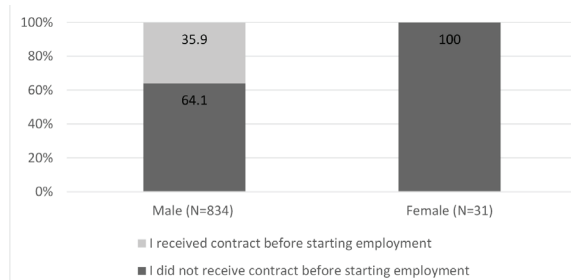
of destination specifying ‘the terms and conditions of service and remuneration of the worker and the terms to be observed by both parties.’⁵² Additionally, such a contract is necessary to obtain prior approval for recruitment from agencies as well as for obtain-

⁵² Government of Nepal, *Foreign Employment Act 2007* (Kathmandu: Government of Nepal, 2007).

ing labour permits by workers prior to their departure. Contrary to the stipulation, however, recruitment agencies in Nepal often fail to provide migrant workers with an employment contract.⁵³ As reported by the migrant workers who provided reviews to Recruitment Advisor, 19.5 per cent did not receive an employment contract for their work abroad.

In terms of the gender of the migrants, all the female reviewers reported to have received work contracts prior to their employment. In comparison, a significant proportion of the male reviewers had not received the contract (Figure 5). However, it should be noted that this analysis is based on a small number of female reviewers compared to that of male.

FIGURE 5:
Employment Contract by Gender



Additionally, it must be ensured that the contract is finalised and signed only after migrant workers understand the terms and conditions written in the contract including the provision of remuneration.⁵⁴ It has been reported that migrant workers often receive the contract along with other travel documents such as visa and passport days or hour before the time of their departure from Nepal, which can inhibit them from backing out and/or speaking about unfavourable conditions mentioned in the contract, if any.⁵⁵ On the other hand, the contract may be in a language not understood by the migrant workers. In some instances, recruitment agencies verbally share the contents of the contract with the migrant workers. This can further make migrant workers

53 Amnesty International, *False Promises: Exploitation and Forced Labour of Nepalese Migrant Workers* (London: Amnesty International, 2011)

54 Ibid.

55 Amnesty International, *False Promises: Exploitation and Forced Labour of Nepalese Migrant Workers* (London: Amnesty International, 2011)

vulnerable to deception regarding their salary, benefits, working hours and other working conditions. Among the reviewers who received the employment contract, 5 per cent mentioned that it was not in a language they could understand. Even among those who reported that the contract was in a language they understood, some reported that the information about their salary and other working conditions was explained to them verbally.

TABLE 3:
Information contained in the contract

	Per cent
Salary	97.8
Job description	87.1
Job location	77.5
Working time	93.3
Leave days	76.1
Accommodation	96.2
Health care coverage	62.4
Other	2.3
Total	592.7 (N=1282)

In the case of reviewers who mentioned that the contract was in a language they understood, 97.8 per cent mentioned that the contract had information on their salary. Comparatively, 62.4 per cent mentioned that the contract covered information on their health care coverage for the duration of their employment. Given the situation, it is crucial that governments and related stakeholders tailor their policies and programmes on enhancing informed migration so that migration can be made safer, managed and beneficial for all.⁵⁶

2.4.1 Employment Contract and Salary

Despite receiving written contracts specifying the salary and other benefits from the employment, migrant workers frequently become victims of deception as the terms and conditions mentioned in the contract vary from the actual scenario after arriving in the destination country.⁵⁷ Relating to this, the re-

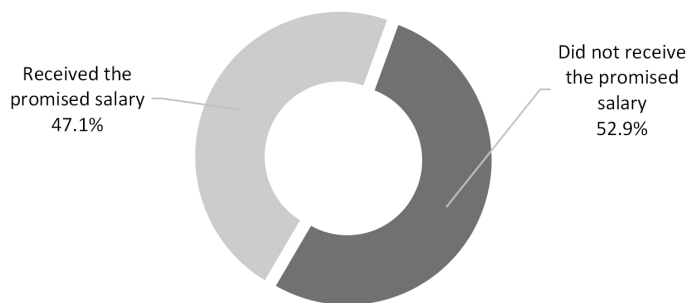
56 UN. *Making Migration Work for All: Report of the Secretary-General (A/72/643)*. <https://undocs.org/A/72/643>

57 Amnesty International, *Turning People into Profits: Abusive*

sults of the analysis of the reviews also demonstrate that more than half of the reviewers (52.9 %) reported not receiving the same salary as promised prior to their departure or as per their contract. This was explained by one of the reviewers who shared,

‘I was promised by the local sub-agent that I would get a very easy job and an attractive salary. But after reaching there, I had to work for longer hours than [what was written] in the written contract. I had to work long hours but did not get overtime benefit.’

FIGURE 6:
Deception about salary



Gender disaggregated data regarding deception about salary showed that a significant proportion of both male and female reviewers did not receive the salary as they were promised. This shows that deception about salary is faced by a significant proportion of migrants irrespective of their gender.

FIGURE 7:
Deception about salary (by Gender)



Recruitment, Trafficking and Forced Labour of Nepali Migrant Workers (London: Amnesty International, 2017).

Disaggregated data on deception about salary based on whether the migrant worker had received an employment contract or not indicates that even those who had received a work contract faced deception. Half of the reviewers who claimed to have received a work contract said the salary was not as per the contract (Figure 8). Similarly, looking at the data on where the migrant workers learnt about the employment, almost two-thirds of the reviewers who heard about the job from brokers or sub-agents were deceived about the salary. The proportion was 38.3 per cent in the case of recruitment agencies.

FIGURE 8:
Deception about salary based on whether work contract was obtained

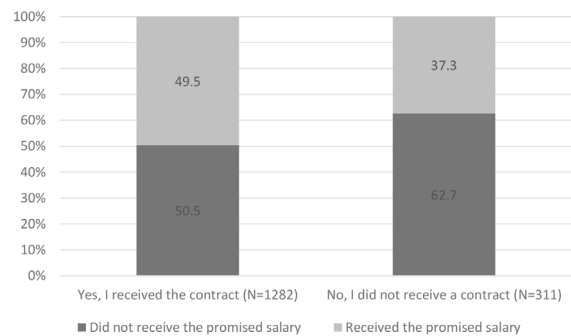


TABLE 4:
Source of information and salary in the destination

	Did not receive the salary promised	Received the salary promised	N
Broker/Sub-agent	65.3	34.7	614
Friends	58.8	41.2	136
Relatives	48.8	51.2	172
Newspaper	46.9	53.1	81
Radio	55.6	44.4	36
Recruitment agency	38.3	61.7	504
Social media	65.0	35.0	20
TV	25.0	75.0	8
Other	55.6	44.4	9
Missing Answer	53.8	46.2	13

2.4.2 Employment Contract and Job

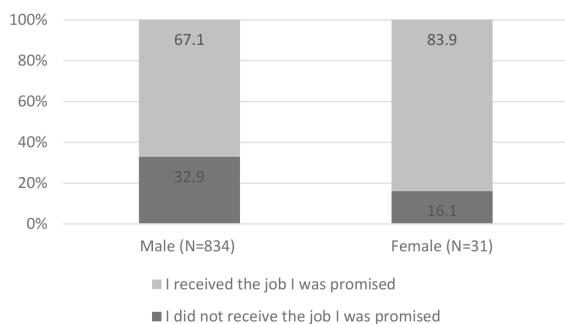
The deception that migrant workers face is not only limited to working conditions and salary.⁵⁸ According to the migrant workers who provided reviews regarding their experience with recruitment, a significant proportion of them also (35 per cent) shared that they were deceived, and that the job was not the same as they were promised.

FIGURE 9:
Deception about job



A significant difference can be observed about whether migrant workers received a job as promised in terms of the gender of the migrant. A higher proportion of female reviewers reported to have received the promised job compared to their male counterparts. This contrasts with deception about salary as reported by male and female reviewers whereby the proportion of migrants who were

FIGURE 10:
Deception about salary



cheated about their salary was quite similar. However, the results should be interpreted with caution as

⁵⁸ Amnesty International, *Turning People into Profits: Abusive Recruitment, Trafficking and Forced Labour of Nepali Migrant Workers* (London: Amnesty International, 2017).

the number of female reviewers is less in comparison to male reviewers.

Compared to the findings on salary deception faced by the migrant workers as discussed above, a smaller proportion of reviewers (32.8 per cent) who received work contracts were deceived about their job (Figure 11). Similarly, looking at the data on the

FIGURE 11:
Deception about job based on whether work contract was obtained

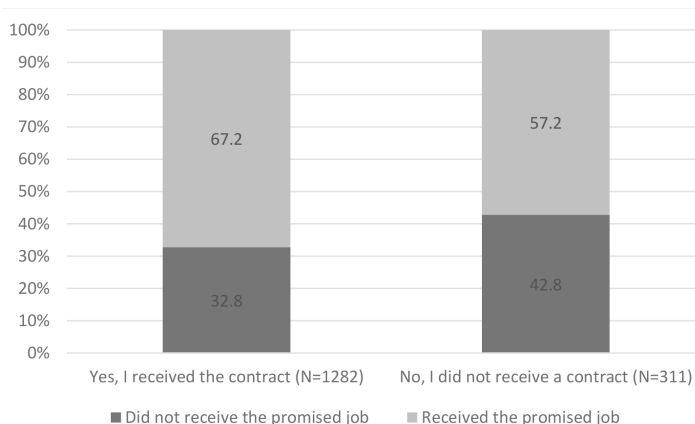


TABLE 5:
Source of information and job in the destination

	Did not receive the job promised	Received the job promised	N
Broker/Sub-agent	46.9	53.1	614
Friends	33.8	66.2	136
Relatives	35.5	64.5	172
Newspaper	23.5	76.5	81
Radio	27.8	72.2	36
Recruitment agency	22.2	77.8	504
Social media	55.0	45.0	20
TV	12.5	87.5	8
Other	11.1	88.9	9
Missing Answer	38.4	61.5	13

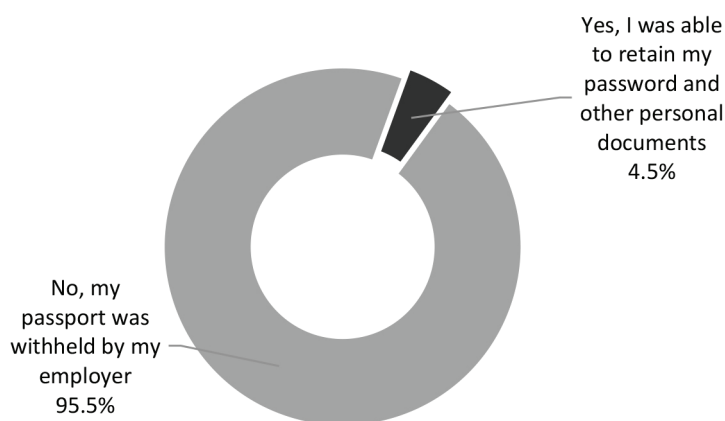
source of information about the job abroad, around 46 per cent reviewers who heard about the job from brokers or sub-agents did not get the job they were promised abroad (Table 5). The proportion was 22.2 per cent in the case of recruitment agencies.

2.5 Retention of passport by employers

Migrant workers, at all times, should be in possession of their passport or travel documents prior to and after their migration. Various internal human rights and labour rights related instruments as well as BLAs have also prohibited withholding or confiscation of identity documents of migrants.⁵⁹

However, withholding of passport of foreign employees by employers has become a multi-sectoral practice in many destination countries as employers confiscate the passport and other documents of migrant workers after their arrival to prevent them from leaving. This is considered as an abusive employment practice and a sign of forced labour. Only 4.5 per cent of the reviewers mentioned that they were in possession of their passport and other personal documents in the destination country (Figure 12). Furthermore, 2.6 per cent of the male reviewers

FIGURE 12:
Retention of passport by employer



(N=834) reported to have been able to retain their passport and other personal documents compared

59 UN General Assembly, 'International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,' United Nations Treaty Collection, accessed 29 August 2021; Migration for Employment Convention (Revised), 1949 (No. 97) and Recommendation (Revised) 1949, (No. 86) Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955 (No. 100) Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the Migrant Workers Recommendation, 1975 (No. 151); The ILO Declaration on Fundamental Principles and Rights at Work.

to 16.1 per cent of the female reviewers (N=31).

Confiscation of passport is a severe violation of migrant workers' freedom of movement and right to return home. It may also hinder migrant workers' access to basic services in the destination country and make them vulnerable to mistreatment and forced labour. Retention of passport by recruitment agencies should be for the propose of processing of migration-related documents and migrant workers should have access to their passport anytime they want. Similarly, employees should keep the passports of foreign workers only on the request or with consent of migrant workers and it should be for the purpose of safekeeping.

2.6 Freedom to Leave Employment and Return

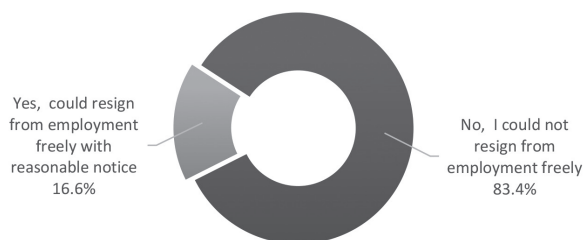
Migrant workers have the right to be able to leave their place of employment and the destination country without any constraints after fulfilling the contractual obligation as enshrined in national and international legal instruments as well as bilateral agreements.⁶⁰ Violation of these rights is seen as an element of forced labour. Recruitment Advisor asked reviewers to share about their freedom to leave the employment and return. More than three quarters of the reviewers mentioned that they could not resign from their job freely by providing reasonable notice. Sharing about freedom to return home, a reviewer shared,

'If I had to return to Nepal for some reason, the company would make me pay compensation. Even the flight fare, I had to pay by myself.'

In terms of the gender of the reviewers, 83.7 per cent and 80.6 per cent of the male and female reviewers respectively reported not being able to resign from the employment freely with prior notice. Analysis of reviews from migrant workers (Figure 14) shows an overwhelmingly large proportion of workers whose

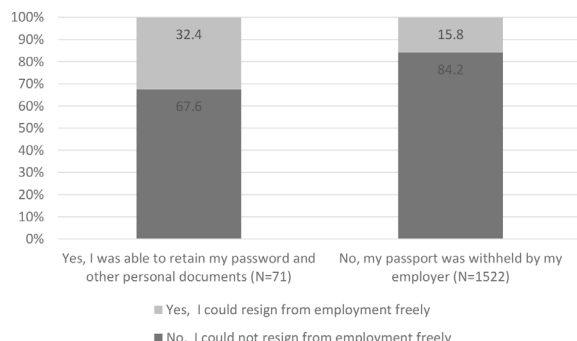
60 Chandan Kumar Mandal, Nepali workers aren't much hopeful about Qatar labour reforms. <https://kathmandupost.com/2019/10/26/nepali-workers-aren-t-much-hopeful-about-qatar-labour-reforms>; Chandan Kumar Mandal. Labour market reforms. <https://kathmandupost.com/national/2019/12/31/labour-market-reforms>

FIGURE 13:
Ability to leave employment and return



passports were retained by the employer did not have freedom to leave employment even with prior notice.

FIGURE 14:
Retention of passport by employer and ability to leave employment



2.7 Access to a trade union or workers' association

Evidence shows that migrant workers are among the most vulnerable groups facing different form of exploitation and labour and human rights violations during the recruitment stage and in the workplace.⁶¹ Moreover, concerns of exploitation, abuses and inequalities have been raised particularly for irregular and women migrant workers, many of them are engaged in domestic and care sector. This is particularly because the domestic sector and irregular migrants are frequently outside the coverage of national labour laws in host countries. In this context, trade unions are integral to promote fair recruitment and ensure protection of migrant workers and their rights, including through social dia-

61 ILO, *Trade Union Action to Promote Fair Recruitment for Migrant Workers* (Geneva: ILO, 2020).

logue and tripartite discussion and by influencing policy dialogue and formulation of policies on fair recruitment, monitoring recruitment practices and delivering services (creating awareness, protecting, informing and organising workers, as well as identifying and reporting abuses) to workers.⁶² Freedom of association or the right to form and join workers' associations and trade unions is a fundamental right under international law and international labour standards such as the Universal Declaration of Human Rights, 1948; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990; and the ILO Declaration on Fundamental Principles and Rights at Work, 1998, among others.⁶³ Workers' access to trade unions or workers' associations in destination countries can play an important role in ensuring the protection of rights and interests of migrant workers. Unions or workers' associations provide a platform for migrant workers to share their issues and grievances and achieve justice and remedies. The review also tried to assess migrant workers' access to trade unions or workers' associations. The study found, an overwhelming majority of reviewers (96.2 per cent) mentioned that they did not have access to

FIGURE 15:
Access to a trade union or workers' association



62 ILO, *Trade Union Action to Promote Fair Recruitment for Migrant Workers* (Geneva: ILO, 2020).

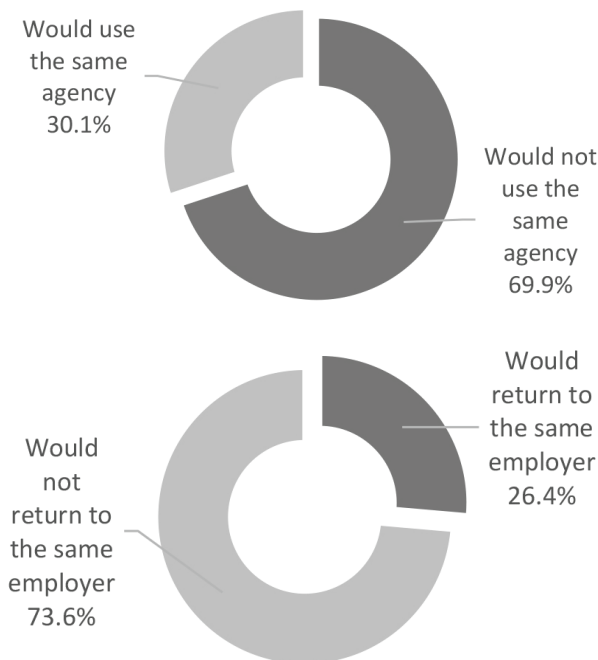
63 United Nations General Assembly, 'Universal Declaration of Human Rights,' United Nations, accessed 21 August 2021, <https://www.un.org/en/universal-declaration-human-rights/>; United Nations General Assembly, 'International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,' United Nations Treaty Collection, accessed 29 August 2021, https://treaties.un.org/doc/source/docs/A_RES_45_158-E.pdf; 'ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up,' accessed 29 August 2021, https://www.ilo.org/declaration/thedeclaration/textdeclaration/WCMS_716594/lang--en/index.htm.

workers' associations or they were not aware about workers' association in destination countries (Figure 15), indicating gaps as well as the need for trade unions to reach out to and organise migrant workers in the destination countries.

2.8 Reviewers' rating of agencies

Reviewers were also asked about their willingness find recruitment through the same agency and return to the same employer. Around 70 per cent of the reviewers reported that they would not use the same agency in the future for migrating abroad. Similarly, 74 per cent mentioned they would not return to the same employer. Additionally, it should also be noted that not all reviewers had negative experience with the recruitment agency and employer, as 30 per cent and 26 per cent of the reviewers stated that they would use the same agency and go back to the same employer in the future respectively.

FIGURE 16:
Experience with recruitment agency and employer



Furthermore, with regard to migration to the same country in the future, 64 per cent gave negative responses (Figure 17). A cross analysis of reviewers' willingness to go to the same destination country

and deception about job and salary was also carried out. The analysis showed that a significant proportion of reviewers who mentioned that they will not return to the same country of destination in the future have been cheated about their salary, job or both. This may show that the experience of migrant workers, hence, determines the impression workers have of the destination countries.

FIGURE 17:
Experience in the destination country

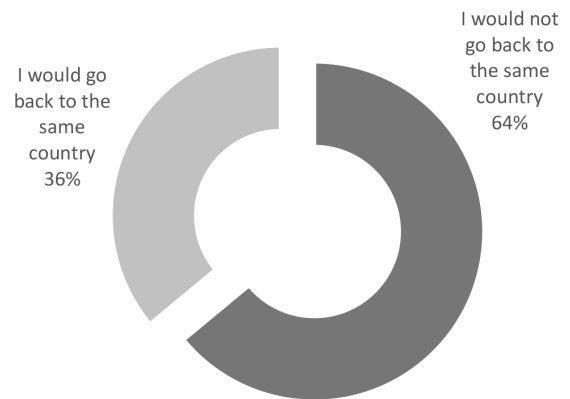
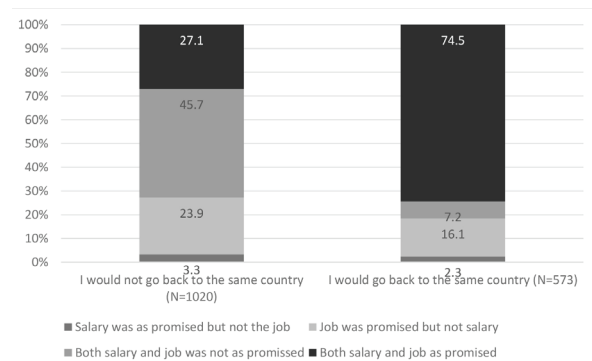


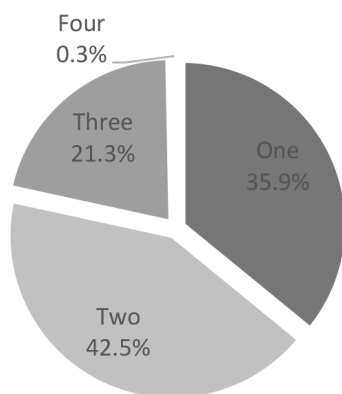
FIGURE 18:
Experience in the destination country (based on experience regarding salary and job in destination country)



As also mentioned in the methods section above, based on the answers for the review questions submitted by the reviewers (see Annex 2 for the questionnaire), Recruitment Advisor calculated a rating for the recruitment agency. The ratings of recruitment agencies can shed light on their unscrupulous behaviour and help inform and warn others about the good, the bad and the ugly based on the impression a migrant worker forms from his/her own

experience with the agencies and employers. Unsurprisingly, a significant number of recruitment agencies received a rating of two (42.5 per cent) and one (35.9 per cent) from reviewers. This clearly shows that most migrant workers who provided their reviews to Recruitment Advisor had negative experiences with the employment and recruitment. This also corresponds to the reviews from the migrant workers about the exploitative nature of recruitment agencies and of being lied to about the salary and job.

FIGURE 19:
Reviewers' rating of recruitment agencies



2.9 Migrants' experiences in destination countries

Recruitment Advisor, further, allowed reviewers to provide any comments regarding their experience with recruitment agencies and employers abroad. The major comments written by the reviewers are presented below.

- If we had to return due to some problem at home during the contract duration, the company made us pay a fine and we had to pay for our return ticket ourselves.
- I paid NPR 150,000 to the recruitment agency but received a receipt of only NPR 10,000. This is deception. Complaints about such deception should reach the concerned authority and necessary action should be taken.

- I was told that if I have to return prior to the end of the work contract period, I will have to pay for the ticket and also pay fine to the company.
- Some amount was deducted from my salary every month.
- I was told everything verbally [about the contract]. But after reaching the destination country, neither did I get the said job nor the salary. When I wanted to return, the company did not allow me to do so. I was told to pay if I wanted to return. I had to continue [working] due to compulsion.
- I did get the amount of salary I was promised [prior to departure] but I had to work overtime. I did not get money for overtime.
- I will go abroad again; I have an obligation. But I will only go through a good manpower. I will not choose the current one.
- I did not know whether there were trade unions in the country I went to or not.
- Despite talks of 'free visa, free ticket', I did not receive a free visa or a free ticket. I was told there were other candidates willing to pay NPR 100,000 if I did not want to go. Hence, I paid NPR 60,000 and went. I did not get the promised salary for six months after I reached the destination country. After six months, I started to get a better salary than what I was told.
- [I] returned without completing the contract because of difficult work and lower salary than what I was promised, filed a case against RA.
- I could not get anything, work, salary, overtime which was promised by the sub-agent. I could not work for the complete agreement period and returned. I was cheated by the sub-agent, the recruitment agency here in Nepal and also by the employer. I never want to go again to Malaysia. Now I am back in Nepal and will try to work in my village rather than looking for a foreign job.
- I received better salary than what I was told in Nepal.
- I could come back home every year. I had to work for nine hours [a day].

3. Conclusion

Migration for foreign employment contributes significantly to the country and families of migrant workers in the form of remittance income. However, the benefit from migration for migrant workers is not without cost. Evidence shows that migrant workers' exposure to exploitation often start during the pre-migration phase or the recruitment phase at the hands of labour recruiters. Unethical recruitment practices and rampant deception and extortion by recruitment agencies has made Nepali migrant workers vulnerable to human and labour rights violations. In this context, this study aimed to analyse the experiences of Nepali migrant workers with recruitment agencies based on reviews provided to Recruitment Agency.

Findings from this study reiterate that brokers and sub-agents continue to play an important role in linking migrant workers to jobs abroad and to recruitment agencies. Most migrant workers pay a relatively large sum of money to labour recruitment agencies for placement in jobs abroad irrespective of the limitation put by the government on recruitment fees that can be charged by these agencies. The findings from this study also indicate that migrant

workers pay various kinds of fees including for recruitment services and often a significantly high amount. Migrant workers must pay the recruitment agency a significant sum as service charge despite the 'Free Visa Free Ticket' policy of the government of Nepal. Similarly, false promises about salaries and jobs were reported by a significant proportion of reviewers. This was also visible in the rating given to recruitment agencies—almost four-fifths of the recruitment agencies received a rating between zero and three from reviewers. A majority of the reviewers also reported having had poor experience with recruitment agencies and employers with more than two-thirds stating that they would not use the same recruitment agency or return to the same employer in the future. However, not all migrant workers faced deception, some had positive experiences with their recruitment agency and employers.

This study suggests that Nepal needs to go a long way in terms of enhancing fair and ethical recruitment and realising the 'Employers Pay' model and calls for effective monitoring and improvement in the overall migration governance system in Nepal.

Annex 1: Agency Review’s Weighting System

Weighting System for agency rating

This weighing system applies for all reviews posted in www.recruitmentadvisor.org. With this weighing system, user’s response to questions for “review an agency” will automatically be calculated by the system according to the value defined for each question. Below are the details of the weighing system:

Num	Question Section 1: Recruitment Fees & Related Costs	Weight for Yes	Weight for No
1	I paid for the following costs during the recruitment process: <ul style="list-style-type: none"> a) Recruitment Fees b) Medical costs c) Insurance costs d) Costs for skills & qualification test e) Costs for orientation f) Equipment costs g) Travel & lodging costs h) Administrative costs i) Costs for special skills training j) Please specify other: _____ 	5 to be deducted by points from selected items 0.5 0.5 0.5 0.5 0.5 0.5 0.5 0.5 0.5 0.5	5
	Total Weight	If all items selected = 0	5
	Question Section 2: Pre-employment Orientation	Weight for Yes	Weight for No
2	I received the following information during pre-employment orientation: <ul style="list-style-type: none"> a) Information about my rights and obligations b) Information about what to do if I have a complaint c) Information about useful contacts & services at destination d) Please specify other: _____ 	1.25 1.25 1.25 1.25	0
	Total Weight	If all items selected = 5	0
	Question Section 3: Employment Contract		
3	I received contract before starting employment	1,5	0
4	The employment contract was in a language I can understand	1,5	0

5	The employment contract contains clear information about: a) Salary b) Job description c) Job location d) Working time e) Leave days f) Accommodation g) Health care coverage h) Please specify other	0.25 0.25 0.25 0.25 0.25 0.25 0.25 0.25	0 0 0 0 0 0 0 0
	Total Weight	5	0
Num	Question Section 4: Working Conditions	Weight for Yes	Weight for No
6	My agency sent me to work in _____ (company name) My passport and other personal documents were taken by: a) My recruitment agency b) My employer c) Please specify other: _____	Not mandatory 0	1
7	I received the job I was promised	1	0
8	I received the salary I was promised	1	0
9	I could resign from employment freely with reasonable notice	1	0
10	There was a union or workers' association I could join	1	0
	Total Weight	5	0
Num	Question Section 5: Worker's evaluation	Weight for Yes	Weight for No
11	I would use the same recruitment agency again	2	0
12	I would return to the same employer	2	0
13	I would return to/stay in the same country for my future job	1	0
	Total Weight	5	0

After review is posted online

With the above weighing system, the rating and its weight will be as below:

General rating	Weight (total = 25)
★	≤ 5
★★	5.1 – 10
★★★	10.1 – 15
★★★★	15.1 – 20
★★★★★	20.1 – 25

Depending on the rating, a notification will pop-up after a review is posted online. Below are the 5 different notifications:

1. Ask for your rights! ★

Your recruitment agency doesn't comply with most of the labour regulations. Ask for your rights! Look for your local union **here**. If you have any questions or need further help, please fill in this **form** and we will get back to you shortly.

2. You are entitled to more! ★★

Your recruitment agency complies with very few labour regulations. As a migrant worker, you are entitled to more! Find out more about your rights. Get in touch with your local union **here**. Click **here** to learn more about your rights as a migrant worker.

3. Find out more about your rights! ★★★

Your recruitment agency complies with some labour regulations, but it doesn't fully protect your rights as a migrant worker. Click **here** to learn more about your rights as a migrant worker. If you have any doubts, contact your local union **here**.

4. Be aware of your rights in your country of origin and destination! ★★★★

Your recruitment agency complies with most of the existing national labour laws and policies. However, international labour standards are not always respected. Click **here** to learn more about your international rights as a migrant worker.

5. Get ready for your job abroad! ★★★★★

Your recruitment agency complies with both national and international labour standards. However, there is always room for improvement. Next time you want to get a job abroad, check out our website to make sure you make the right decision.

Descriptions of summary of agency review on an agency page

Current item	Change to	Definition
Recruitment Fees	Recruitment Fees & Related Costs ★★★★★	Higher rating indicates lower or zero fees & costs that workers have to pay for the recruitment
Pre-Departure Orientation	Pre-Employment Orientation ★★★★★	Higher rating indicates workers received necessary orientation
Employment contract	Employment contract ★★★★★	Higher rating indicates workers received contract that is understandable & contain clear info about workers' rights
Conditions in the Country of Destination	Working conditions ★★★★★	Higher rating indicates workers received the rights that were promised
On return	Worker's evaluation ★★★★★	Higher rating indicates workers are satisfied and willing to do recruitment again with this agency

