

An Overview Paper on Overseas Employment in Nepal





An Overview Paper on Overseas Employment in Nepal

Series **4**

by Mr. Ganesh Gurung for
International Labour Office in Nepal.

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An Overview Paper on Overseas Employment in Nepal

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This new report published by the ILO office in Nepal, provides an important synthesis of information on labour migration from Nepal.

The document offers a critical overview of statistics on migration, and details a range of limitations and holes in the available data. In addition, the report paints a demographic picture of Nepal's migrant workforce. The author has analysed the caste, class and educational backgrounds of migrant workers in relation to their overseas destination and work opportunities.

For perhaps the first time, this report clearly illustrates the numerous bureaucratic steps that workers who seek employment overseas must pass. In particular, this includes a considered assessment of Nepal's 'manpower' agencies. The author clarifies in minute detail the necessary documents and signatures that are required to guarantee a visa, and demonstrates how this lengthy process creates an enabling environment for abuses. By offering vivid cases studies and personal accounts, the author shows us that it is always the migrant worker who suffers. The majority of Nepal's migrant workers are offered no protection from injury or exploitation by their employers and are not represented by any formal workers' organisation. This report explores these vulnerabilities and suggests interventions that may begin to offer Nepal's growing migrant workforce greater support.

The ILO Office in Nepal is very pleased to note that HMG/Nepal considers these issues a top priority and has agreed to provide technical advisory services to make migration safer, more productive and based on human dignity.

The ILO would like to thank the author for his work in producing an insightful document, to Mr. Lalit Bahadur Thapa, Joint Secretary and Mr. Sitaram Upreti, Under Secretary, Ministry of Labour and Transport Management for their valuable comments and to Mr Jamie Cross for editing the report.

Even though this report is the product of the ILO assignment, much of the information used hails from the National Centres for Competence Research (NCCR), a study assigned to the author earlier. Therefore, the ILO would also like to thank NCCR.

Leyla Tegmo-Reddy

Director
ILO Office in Nepal

INTRODUCTION

1.1 Foreign Labour Migration From Nepal

Nepal has a long history of labour migration. For around 200 years, Nepali men (and to a lesser extent women) have been leaving their homes to seek employment and living abroad. Even before the well-known recruitment to British-Indian armies, poor Nepalese fled excessive taxation, corvee labour and exploitation from state agencies. At present a large proportion of labourers go abroad temporarily, with the aim of returning back to their homeland. Foreign labour migration and subsequent remittances prop up the country's ailing economy. Yet, this important sector continues to be neglected by policy makers and planners. In the distant as well as recent past, policy makers have turned a blind eye to this aspect of the economy. And they have looked down upon those who go to do menial work in other countries.

Plans for Nepal's development have tended to pay relatively little attention to foreign labour migration and flows of remittances back home; despite evidence of their substantial importance to rural households. Foreign labour migration is generally seen as an unfortunate, and essentially marginal, by-product of a stagnant rural economy. This is one of the reasons for a lack of statistics in Nepal regarding labour migration and income from remittances. Government agencies did not begin to maintain records of labour migrants and remittances until recently, and the informal nature of this economy continues to make formal recording difficult. Existing and often controversial data is based largely on estimates.

1.2 The Impacts of Foreign Labour Migration and the National Economy

In the last 4-5 years, the Nepalese government has recognized the significance of labour migration and remittances to the national economy. The government has shown some interest in developing institutional mechanisms to deal with labour migration and in channelling remittances through banks, not least because these represent a huge source of foreign exchange and income in the form of tax. Only in the last couple of years has new research generated information and data to reveal the extent of Nepal's dependency on foreign labour employment and remittances.

The nature of labour migration from villages and urban areas may vary between seasonal, temporary or longer-term strategies. Generally rural households combine all these types of migration to meet their livelihood needs (Adhikari 1996: 21). For a small proportion of households, however, labour migration is also an 'accumulative strategy'. Migrating outside Nepal for work is generally more remunerative than farming. Growing population pressure on land means that many rural households can subsist on food they produce for less than six months a year. The remainder

is fulfilled by the purchase of imported rice from Nepal's Terai belt, or from India. The income from remittances has helped to augment food security of a large majority of rural households.

The contribution of the agricultural sector to the national economy has declined significantly in recent years. Its contribution to the nation's GDP has been below 40% for the last 3-4 years. Yet, it is clear that even a modernized agricultural sector could not absorb a labour force that is growing by around 300,000 people each year. The nation's industrial and service sectors are still in a rudimentary state. And competition from cheap goods and commodities produced by technologically advanced neighboring countries means that manufacturing industries have seen little growth. Against this background, foreign labour employment plays an important role in absorbing a growing labour force. It is a process that relieves some of the pressure arising from 4.9% unemployment and 47% underemployment rates.

Foreign labour migration is not without its negative impacts, though. The trafficking of women, the migration of child labourers across international borders (especially to India), national labour shortages and the flow of immigrants into Nepal (especially from India) are phenomena that occur alongside foreign labour migration. Policies related to foreign labour migration must seek to address this range of issues.

1.3 Reporting Structure

This report is the first attempt to consider in a systematic and holistic way the main features and dimensions of foreign labour migration and the contribution of remittances from abroad to the economy of Nepal. It examines the impact of current policies, institutional features and the legal framework adopted by successive governments on the promotion of foreign labour migration. It investigates the significance of labour migration and remittances for Nepal's economy, the effects of a shortage of skilled labour, and the processes involved in travelling abroad for work. It draws attention to the pattern of migration from different segments of society and the problems faced by migrants, with particular reference to the trafficking of women and children across national borders.

The information and data collected for this report are obtained from Department of Labour and Employment Promotion (DLEP), and various study reports conducted in this field. In some cases primary information and data were also obtained from Recruiting Agencies (RA). While some data collected from these different sources does not match, the overall picture seems to reflect reality.

INSTITUTIONAL AND LEGAL FRAMEWORK

2.1 A History of Labour Migrations and Institutions

The history of formal labour administration in Nepal is about 70 years old. Its origin can be traced to the start of organised industry in the 1930's, but national structures took form only after the outbreak of the 1947 labour movement in Biratnagar. With the installation of a democratic government in 1951, the labour administration underwent a process of reform to cope with increasing labour problems and to undertake labour welfare measures. The establishment of regional labour offices in the 1960s began with the creation of the first labour office at Biratnagar under the Department of Industry. A Department of Labour was established in 1971, followed in 1981 by a Ministry of Labour.

In the past, the Government of Nepal has adopted no specific policies to deal with foreign employment. In the 1740's, the process of unifying Nepal provoked large scale foreign migrations. Unification brought hardship to peasants and the poor in the form of corvee labour, over taxation, and exploitation from state agencies and their functionaries. As a consequence mass numbers of people migrated to India, where newly established tea states and the opening of land in Assam, Sikkim and Nagaland had made work available. While British rule in India was encouraging such immigrations, the Government of Nepal faced a shortage of labour and initially attempted to discourage labourers from seeking work abroad.

As political relations with the British government in India changed, the Nepali government began to encourage large numbers of Nepalese to migrate for work in what was then the British-Indian army. By World War II, around 20% of Nepal's economically active males were employed by the British-Indian army. Their employment brought the Nepali administration tremendous material benefits and was highly organised and well managed. The process was regulated by bilateral agreements between the respective governments, and did not require any specific policy framework in Nepal.

Until the 1980s, labour migrations mainly took people to India where work permits and passports were/are not required. In this context, regulations to control and manage foreign employment were deemed unnecessary. In the mid 1980's, however, Nepali citizens began to seek work in the Gulf countries and the government of Nepal took steps to formulate foreign labour related regulations.

The Ministry of Labour is the apex body in labour administration and mainly functions at the policy level. It operates under the general guidance of the Minister and the direct supervision of the secretary, who also acts as the principal executive authority of the ministry. This Ministry is responsible to formulate policies and programs for promotion, control and management of domestic and foreign labour employment. Nepal's constitution incorporates several provisions

concerning labour matters, which form the foundation of labour administration in the country. These include the prohibition of slavery and forced labour; freedoms of assembly, association and speech; freedoms of trade, business, and profession; the promotion of social justice, the economic well-being of the people and the eradication of social evils. All national legislation, including that related to foreign employment, is based on the constitution. At present labour related issues are dealt with by Labour Act, 2048 (1992) and Foreign Employment Act, 2042 (1987).¹ The Foreign Employment Act has been revised twice; most recently in 1997. The aim of the Act is to regulate foreign employment, especially in the Gulf countries, and to this end it fixes minimum wages and other conditions of work. In addition, Nepal has ratified several labour conventions (for a complete list see Appendix 3).

2.2 The Legal and Policy Framework Related to Overseas Employment

Various government agencies are directly and indirectly related to the promotion of foreign employment, for example, by providing training and legal support. The Ministry of Labour and Transport Management (MLTM) and the Department of Labour and Employment Promotion (DLEP) are the principal government agencies that regulate the activities of licensed recruiting agents. In addition to the MLTM and DLEP, the government of Nepal has formed from time to time, other agencies to look after foreign employment. Of particular importance is the Employment Promotion Commission (EPC).

The DLEP is the main agency for the implementation of Acts, Rules and Regulations in the field of labour administration and industrial relations. The DLEP has responsibility for registering foreign employment companies and recruiting agencies. It issues recruitment licences to foreign employment companies, and has the power to renew or cancel such licences. It works to promote programmes of foreign employment, collect overseas employment information and initiate training/welfare activities for migrant workers.

The Foreign Employment Act makes it compulsory for foreign employment companies in Nepal to register with the DLEP. Registration requires a deposit of Rs. 500,000 (or 5 Lakh). Companies are then given a recruiting licence, which permits them to recruit workers for employers' abroad. The government is thinking of raising the necessary deposit to Rs 2,000,000 (20 Lakh).

According to official records held by the DLEP, at present more than 280 recruiting agencies hold a license to operate a foreign employment business. The agreements that registered recruiting agencies in Nepal make with workers contains conditions that are consistent with Nepali labour rules and international (ILO) regulations. The DLEP offers a comprehensive package of services free of charge to license holders. Their major functions are as follows:

- To refer any demands that come direct from foreign employers or through Nepalese Embassies to private agencies.

¹ For domestic labour, The Labour Rules, 2050 (1994) covers matters such as workmen's compensation, provident fund contribution, gratuity, compositions of bipartite and tripartite forums, etc. After discussion with other concerned ministries, trade unions and employers organisation the Trade Union Rules, 2050 had been published in Nepal Gazette for enforcement. They include matters such as registration and recognition of trade unions at plant level, consultation of authorised unions for collective bargaining purposes and registration of trade union federations, as well as general federations of trade unions. Minimum wages have been revised and amendments are being made in the legislation.

- To participate in interviews organised by licensed recruiting agencies for the selection of candidates.
- To ensure that the selected candidates abide by the terms of contract, as mutually agreed upon between workers and employers.

There exist, however, a large number of unlicensed agencies. Estimates suggest that more than two hundred unlicensed agencies are clandestinely involved in this business and by-pass all official channels. Although the Foreign Employment Act specifies a maximum charge that agencies can make for their services (Rs. 3,000) this is regularly abused by unregistered agents. In the DLEP, a complaint section has been set up to register malpractices by brokers and foreign employment companies. The Labour Court, envisioned by the Labour Act (1992), can deal with cases of fraud and malpractice in relation to foreign workers. So, there are mechanisms in place for foreign workers, who have used a registered recruiting agency, to sue if their agreement is violated. These mechanisms, however, only apply if a person has sought employment abroad through a registered agent. Using a registered agent essentially means seeking the permission of HMG/Nepal to work overseas.

2.3 The Promotion and Regulation of Foreign Employment

In recent times, it seems that the government has recognized overseas employment opportunities as one way to alleviate poverty and unemployment in the country. This was the main aim of its ninth five-year plan (1997-2002). The ninth plan sought to increase employment opportunities for a rapidly growing labour force, by accelerating social development and improving access to basic infrastructure while reducing regional, gender and ethnic disparities. The basic objectives of the government with regard to foreign employment are:

- To conduct research into national and international labour markets; to develop labour market communication systems; and activate employment exchange services.
- To provide continuity for foreign employment agents, and make special attempts at its institutional development.

The intentions of the government as stated in the ninth plan have been to increase foreign employment, and to encourage foreign employment companies by making appropriate changes and amendments to the prevailing Foreign Employment Act. Towards this goal, the government has formulated the following working policies.

- In countries where the greatest possibilities for foreign employment exist, diplomatic missions of Nepal shall be mobilized and a labour attaché shall be kept in order to protect the rights and security of Nepalese workers.
- A high level advisory committee shall be constituted with the participation of the Ministries of Labour and Finance, the National Planning Commission and foreign employment organisations, in order to expand foreign employment opportunities and increment the reliability of agents.

- Foreign employment institutions shall be established with the participation of the private sector, for the development of foreign employment opportunities.
- Training programmes shall be conducted in rural and urban areas with the participation of local bodies, to increment employment.
- To encourage skilled labourers to seek foreign or self-employment opportunities, loans at concessionary rates without collateral should be provided.
- Foreign employment services and opportunities must be expanded, in order to create a favourable environment for sending the maximum number of Nepalese workers to the maximum number of countries for employment. For this purpose, training programmes should provide skills to Nepalese workers according to the demands of foreign employers. The private sector will be taken into consideration as an active partner in the provision of such training programmes.
- Special programmes shall be conducted to provide security for workers who are willing to go to a foreign country for employment.

Many of the above mentioned policies have yet to be implemented. As a foreign employment programme is, in essence, an inter-agency programme its success depends upon the active participation of Ministries, police, immigration officials, banks, airlines and Royal Nepalese Embassies abroad. The Foreign Employment Act, however, does not clearly demarcate the role to be played by each pertinent agency in their respective area. As a result many critical issues have remained unresolved.

2.4 Support and Training for Workers Seeking Employment Abroad

Alongside its analysis and dissemination of labour market information, the DLEP offers various services aimed at workers themselves. These services revolve around the provision of professional skills, and the DLEP has prepared programmes of study and educational materials for Skill Development Training Centres. There are 14 skill development training centers and 2 vocational training centers under the DLEP. A syllabus has been formulated in each of the following areas: carpentry, house wiring, masonry, automobile mechanics, weaving, general mechanics, plumbing, press composing, tailoring, textiles, cane/bamboo furniture, knitting, pottery, machine maintenance, leather and shoe making, wooden furniture, hairdressing, welding, mills machine mechanic, sheet metal mechanic, terracotta, leather sewing, 'D' class contractor, pipe fitting, masonry building, drainage and canal, pump-set mechanics, computer, electronics (T.V. and radio maintenance), typing, carpet weaving, wood carving, fabric painting, hosiery, tube-well boring, bicycle repairing & maintenance, embroidery, motor driving, leather & synthetic etc.

In the fiscal year 2000/2001, training was provided to 5,835 people in skill oriented and vocational subjects that were in demand on the labour market. During the current year 2001/2002, trainings were provided to 3,107 people in different skill oriented and vocational subjects. How far such training is actually useful for workers overseas is yet to be seen.

The Employment Promotion Commission (EPC) plays the role of coordinator and facilitator. Its function is to tap domestic and foreign employment opportunities and conduct skill oriented and

promotional activities in a coordinated manner. Its activities include studies on skill development, the collection of data on the status of employment overseas, the promotion of foreign employment opportunities, and medical transcription training based on labour market information and information technology, (With the assistance of the Commission, transcription training of nine months was provided to 1,350 unemployed persons of Western, Central and Eastern regions).

In 1996, under the EPC, the government announced a programme to send 200 people, from poor families in each of the nation's 205 election constituencies, overseas for employment. Not a single person was sent under this program. In 1997, the EPC announced another programme that aimed to provide loans of Rs. 100,000 per person to 100,000 people, for the purpose of them seeking employment overseas. These loans were supposed to be given to poor people who could not raise the minimum amount of money required to travel overseas for work. Until today, no such loan has been given to any individual. Problems about the bank's willingness to undertake such activities have not yet been solved and the government does not actually send any person overseas for employment. Due to lack of budget and controversy between ministries, Labour attaches are not placed anywhere so far.

The Government does have a policy of keeping a labour attaché in countries with at least 5,000 Nepali workers, although such a position is rarely filled. Where this is the case most problems faced by workers in the country of destination can be solved. The most frequent problems are related to wages; a salary may not be received on time or may not include benefits that had been agreed upon, or a worker may be cheated outright. Where they do exist, labour attaches can help to solve such problems.

2.5 Bilateral Agreements

The DLEP is also responsible for bilateral agreements between countries that send and receiving migrant workers. The Nepalese Government has discussed bilateral agreements with Saudi Arabia and Qatar, and it is hoped that agreements can help to promote employment in these countries.

At present, the government has given recruiting agencies permission to send labourers to 20 countries. The Government has the authority to add other countries to this list, if a recruiting company or a foreign employer makes a valid request. Countries which the government permits agencies to send workers include: Qatar, Saudi Arabia, UAE, Oman, Kuwait, Bahrain, Iraq, Israel, Maldives, Malaysia, Singapore, Hong Kong, Brunei, Macao, Saipan, South Korea, Kosovo, Latvia, the Seychelles and South Africa. Of course, there are people working legally in the USA, UK, France, Germany, and other countries too.

2.6 Gaps and Problems in Legislation and Implementation

Although the Foreign Employment Act (1985) is well intentioned, its implementation has not effectively promoted foreign employment and protected the migrant workers. For the Act to be effectively implemented there must be a coordinated effort by all agencies involved in labour migration. The active participation of the police, immigration, banks, airlines and foreign missions abroad is equally important.

Licensed recruitment agencies deplore existing legal provisions relating to migration clearance. In particular, the need to receive governmental approval for job offers, for the advertising of job offers, and for the selection of applicants causes delays in sending people abroad. As a result, agents claim, the business is being retarded. Similarly, prospective migrant workers complain about the excessive cost of securing foreign employment. License holders and unauthorized recruiting agencies often charge in excess of the legally permissible service charge. Malpractices, graft, corruption and the exploitation of workers have become common phenomenon in the recruitment of workers for employment overseas.

There is a high incidence of fake employment contracts, visas, and forged documents for migration clearance and traveling. The result is that many Nepalese become stranded or get deported from countries where they have gone for work. As discussed above, a foreign worker who feels cheated can take their problem to the DLEP. After the submission of their case and with the permission of a court, offenders can be kept in police custody for up to 30 days while an investigation is conducted. However, there is no set time limit in which cases must be submitted. Among the cases filed by the DLEP to date, a District Court has given its verdict against 'Everest Foreign Employment', 'Manakamana Manpower', and 'International Manpower Nepal'. With the support of the DLEP Rs. 24,461,640 has been paid to victims.

TABLE 2.1 PRESENT STATUS OF THE RECRUITING AGENCIES

● Number of license holder agencies	334
● Number of license cancelled	41
● Number of black listed agencies	13
● Number of operating employment agencies	280
● Number of cases filed by the Department in the District Court	136
● Cases against the agencies	8
● Individual cases	128

2.7 Protection of Children and Women

The Foreign Employment Act (1985) and the Labour Act (1992) also contain provisions that specify under which conditions women and minors should not be employed. These provisions are made to protect women and minors from health hazards, abuse, immoral activities and exploitation. The Government takes its stand from 'ILO Convention 111 on Discrimination on Employment and Occupation'. An amendment to the Foreign Employment Act states that: "Notwithstanding anything contained elsewhere in this Act, the license-holder shall not have the authority to provide foreign employment to minors and women." The Government considers its measures to be protective, even though they are actually discriminatory for adult women. Employment in certain countries can only be provided to women with the permission of His Majesty's Government and their guardians. For number of years, the government had totally banned women from working in Gulf countries following an incident in which a Nepali woman who suffered greatly committed suicide. Such an outright ban, however, was considered discriminatory and has been recently been lifted. Today it is possible, but difficult, for a woman to obtain government approval to go for work in the Gulf. As a result, women continue to travel going to Gulf countries through other channels.

The Labour Act (1992) makes the following provisions, regarding work for minors and females. These provisions also apply to foreign labour migrants.

- No child shall be engaged at work in any enterprise.
- Minors and females may be engaged at work from 6 am in the morning till 6 pm in the evening, except in the prescribed conditions.
- By making an appropriate arrangement with mutual consent between a proprietor and a worker or employee, female workers may also be engaged in work similar to male workers.

There is a huge gap between rhetoric and practice when it comes to issues related to the rights of children. The gap is glaringly visible when observing children who are employed to work in different sectors of the economy, both in Nepal and abroad. At present, about 2.6 million children provide their labour in different sectors of the economy. On average, Girls aged 10-14 years work twice as long as boys in the same age of group. At least 40,000 Nepalese children remain bonded while around 5,000 children work and live on the streets. 34% percent of marriages involve children below 15 years of age.

Despite a ban on child labour, about 127,000 children continue to work in the seven worst forms of child labour.

In Nepal, these worst forms include: portering, rag-picking, trafficking, bonded child labour, domestic work, mining and carpet weaving. These children make up 1.8% of all Nepalese children aged between 5-14 years; they make up 2.0% of all working children; 7.6% of all economically active children; and 41% of all waged child labourers.² Approximately, 12,000 girls aged between 5-18 are trafficked from Nepal each year. Under ILO Convention No. 182, all girls and boys under 18 years of age are to be protected against trafficking, exploitation and inhumane work.

BOX 2.1

SECTORS ASSOCIATED WITH THE WORST FORMS OF CHILD LABOUR

- Bonded Labour - It has been estimated that there are about 33,000 bonded child labourers in Nepal. Bonded child labourers are working in hotels, brick kilns, stone quarries, and the carpet industry, domestic services.
- Domestic Child Labour - There are an estimated 83,000 children under the age of 18 working as domestic servants in Nepal.
- Portering - The estimated number of long distance child porters in Nepal is 46,000 while there is an estimated number of 3,900 short distance child porters in Nepal.
- Ragpicking - There are an estimated 4000 children engaged in rag picking in the various urban centers of Nepal.
- Mining work - There are about 115 children working in mines. This is especially so far and mid western Nepal, where there are small mines.
- Trafficking - Estimates of the total number of girls under the age of 18 trafficked annually vary, but it is likely that at least 7000-12,000 girls are trafficked to India alone and that as many as 30,000 Nepalese girls are exploited in Indian brothels.

² Project Document on the 'time-bound programme on the elimination of the worst forms of child labour in Nepal'. HMG/MLTM and ILO. 2002. p. 14.

About 80% of children employed in these 'worst forms' have migrated from their homes for work. About 86% of children engaged in the worst forms of child labour work away from home. With the exception of bonded children working in agriculture and long-distance porters, these children usually end up in urban areas. Parents and relatives are primarily responsible for engaging their children in work.

The main factor that pushes children into the worst forms of child labour is their poverty. In rural areas, families with little or no land send their children for non-farm work in Nepal's cities or abroad (mainly India). Other factors like domestic violence, conflict within a family, alcoholism, as well as lack of love and care, can also be responsible for pushing children into the worst forms of child labour. Often parents put their children in a vulnerable position, which can lead them towards the worst forms of child labour. Poverty is also correlated with education, and families with children in the worst forms of child labour are also likely to be un-educated. Parents either do not have money to send their children to school or do not see any value in doing so.

In the past, trafficking and prostitution are said to be common among certain cultural groups but it is felt that this is no longer the case. All castes and cultural groups share a problem of trafficking. Many efforts have been made to combat trafficking and child labour, yet the actual number of child labourers seems to be increasing in recent years. Nepal's growing conflict may also be responsible for this increase. Men, women, and children are migrating to India from the far- and mid-west districts of Nepal in increasing numbers to escape recruitment into the Maoist army. As they are often poor and un-skilled their children are likely to join a labour force, perhaps entering one of the worst forms of child labour.

THE CHANNELS OF MIGRATION OUTFLOWS

Although people traveling overseas for work may use a variety of channels to secure their jobs and documents, foreign labour migration is basically in the hand of the private sector. Many Nepalese who go beyond south Asia for work make use of 'recruiting agencies', which mainly send laborers to countries in the Gulf. Obviously, such procedures are not applicable to those who go to India; where visas, passports or work permits are not required.

Recruiting agencies are more popularly known as 'manpower agencies'. These agencies generally have contacts in destination countries and with the relevant government offices in Nepal. Private manpower agencies are the main channel through which employers in Gulf countries can procure foreign labour. Accordingly, only a few individuals can access the Gulf's labour market illegally. Estimates suggest that only about 5% of people entering Gulf countries for work do so illegally. The strict laws and cruel punishments associated with countries in the Gulf also means that people are reluctant to risk traveling and working there illegally.

Of course, there are also people who migrate without using these more official channels. Such people generally migrate under the pretext of traveling, studying, or participating in an event. Outside the Gulf, the majority of Nepalese labour migrants have found work there illegally.

The following section discusses the official and unofficial processes involved in seeking work overseas, with a particular focus on those followed by 'Recruiting Agencies'.

3.1 The Licensed Recruiting Agent Channel

The following section outlines both formal and informal procedures in the recruitment of prospective labour migrants by licensed agents.

The formal procedure is described in the Foreign Labour Act.

3.1.1 Authentication of Demands for Labour

Licensed recruiting agents (see Appendix 4, for the process of gaining a license) are authorized by the Government to recruit personnel for foreign employment on behalf of overseas employers against vacancies procured by them. They make direct contact with overseas employers to identify job vacancies. Their negotiations result in a 'demand letter' (see Appendix 6, for a sample). On receipt of documents that authenticate job vacancies from the overseas employer, the licensed recruiting agents should apply for permission to the Secretary, in the Ministry of Labour and Transport Management, for permission to recruit.

The following documents are necessary:

- A copy of power of attorney duly authenticated/attested/ issued by the foreign employer in favour of the recruiting agent to act on his/her behalf.
- A copy of the demand letter from an employer containing details of vacancies, which should be duly authenticated.
- A model of the employment contract or service agreement outlining wages and benefits (including accommodation, food, medical facilities and leave).
- A copy of visa advice / consular letter / entry permit, duly authenticated.

3.1.2. Recruitment Permission

Upon receipt of the application, the Ministry of Labour and Transport Management scrutinizes the documents. Once satisfied that the demand is genuine and that the terms and conditions offered conform with government regulations, the Ministry of Labour and Transport Management can grant permission to the agency permission to recruit.

3.1.3. Selection of Candidates

The selection process is as follows:

- Once granted permission to recruit, the recruitment agents should publish an advertisement in authorized daily newspapers to collect applications from interested and qualified persons.
- Applications received/collected are scrutinized by a committee and short listed as per the requirements of the employer. The particulars of short listed applicants are sent to the employer, if so advised, or are kept ready for interviews and final selection by the employer's selection team.
- The employer or his representatives carry out interviews and select candidates, for whom the Agent will provide all necessary logistical assistance.

3.1.4. Medical Examination

Persons finally selected have to undergo a medical examination in an authorized hospital or clinic. Only candidates who are found to be physically fit for foreign employment are eligible to sign an employment contract.

3.1.5. Departure Formalities

The departure formalities are as follows:

- **Passports:** The Recruiting Agent assists the selected candidates to get their passports as quickly as possible.
- **Visa:** The Recruiting Agent arranges the stamping of visas on the passports of the selected workers with the cooperation of the employer.
- **Ticketing and Migration Clearance:** The employers are required to send a P.T.A. for the selected candidates. The employer may remit traveling expenses to the recruitment agent to enable the selected candidates to travel. The Recruitment Agent must obtain all necessary documents for emigration clearance from the Department of Labour and complete all formalities for departure.

3.1.6. Training

The Recruitment Agent provides basic pre-departure orientation to the selected workers before they travel abroad. During this orientation, workers learn about their duties and responsibilities while abroad. They are also provided with first hand information about the work environment and labour laws in the country of employment.

3.2 Informal Procedures

In addition to the formal procedure specified in the Foreign Labour Act, recruitment agencies take a number of further steps to send clients overseas. Interviews were taken with a range of recruitment agencies to illustrate their informal procedures and the costs involved.

The detailed example given below outlines the additional steps necessary for a recruitment agency to send Nepalese labourers to Saudi Arabia. These are generally followed in the case of most Gulf countries. In total, there are 15 steps to be followed and agencies commonly try to send about 30-50 people at the same time. Completion of all 15 steps can take between one and three months. As the example illustrates, recruitment agencies embark on an extremely complicated process.

- A recruitment agency must first market its services in destination countries and make contact with companies that have a demand for labour. It draws up contracts, fixes the number of labourers required and pays a commission (at the rate of Rs 35,000 - Rs 40,000 per person).
- The recruitment agency takes receipt of signed contract papers from companies in the destination country. These papers include: letters of demand and power of attorney (which have to be attested to by the Chamber of Commerce and the Foreign Ministry); a company to company agreement (between the potential employer and the Nepali recruiting agency); an employment contract letter (see Appendix 8, for an example of a contract letter); the company's registration papers; and a receipt for 2000 Riyal paid to the Saudi Arabian government. The conditions specified in the Foreign Employment Act make it mandatory that letters of demand specify wages not below Rs 9,500/month, and a maximum of eight hours' work per day, six days per week (i.e. 48 hours per week).
- All the above papers and an application form should be submitted to Nepal's Ministry of Labour and Transport Management. The Ministry checks whether the demand for labour is in accord with the standards specified by the Foreign Employment Act and the ILO. They then issue a Pre-Agreement Paper, which may take 4-5 days to receive.
- After receiving a pre-agreement paper from the Ministry of Labour and Transport Management, the recruiting agent must go to Dhaka, Bangladesh, and apply for an 'Inquiry Paper' from the Saudi Arabian Embassy. Only one person is authorized in each licensed recruiting agency to deal with the embassy.
- Once the Inquiry Paper is received, the recruiting agent can publish advertisements to recruit labourers.
- The requisite number of individuals are selected from among the applications received, and interviewed. A representative of the Ministry of Labour and Transport Management should be present during the interview. Following their selection, individuals are sent for medical checks.

- Medical reports and passports are taken to the Ministry of Labour and Transport Management, who conduct further interviews with the candidates. The recruiting agency must pay the ministry Rs 150 per candidate.
- The Ministry issues letters of confirmation for each candidate. The recruiting agency receives two copies of this letter. One copy is kept for their records and another copy must be submitted to the Saudi Arabian Embassy in Dhaka.
- The agency issues open flight tickets for Saudi Arabia.
- A candidate is insured for between Rs 100,000 - 1,000,000 (1-1.5 lakh). In some cases, their prospective employer may provide a candidate with insurance. In such cases they must be insured for at least Rs 50,000.
- The recruiting agent travels to the Saudi embassy in Dhaka with tickets, letters from the Ministry, passports and medical reports.
- An application form, a letter from the recruiting agent, and the agreement must be typed out in Arabic. This costs Taka 50 per individual. In addition, 2 Black and White photos (2"x2") of each candidate should be submitted. Each candidate documents are kept in a bag, on the outside of which must be written the address of the recruiting agency, their license number, and the date of submission.
- The recruiting agent has to pay Taka 820 per candidate into the Grindleys Bank in Dhaka. On the day following submission, and with a receipt from Grindleys Bank, the embassy issues the visas.
- Generally visas will not be issued for all candidates; most often because there are mistakes in the documents. Around 20% of cases are rejected. The recruiting agent then has to lengthen their stay in Dhaka, and make the necessary corrections. For example, in some cases the profession written on the candidate's passport must be changed so that it fits with what is written in the demand letter. These passports must be taken to the Nepali embassy in Dhaka, and changed, at a cost of Taka 80 .
- Back in Nepal, each visa is photocopied (one copy is kept by the candidate, the other by the agent). The recruiting agency then submits a copy of the ticket, the medical report and the passport to the Department of Labour along with an application form. After about four days, a candidate is given final consent, and the flight tickets are confirmed. The recruiting agency takes money from the candidate, and they sign an agreement paper. Following the orientation training, the successful candidate can board a flight for the Gulf.

Recruitment procedures for other countries in the Gulf and in East Asia are much the same as those described above.³

3 There are, however, some variations. With regards to the UAE and Qatar, for example, employers are more involved in the process. Company representatives come to Nepal to interview potential employees. The company representative takes a copy of all documents (bio-data, certificate of experience, photos, and passport) and submits them to the emigration office in their home country. The emigration office checks if these candidates are included on a blacklist. If the first name of a candidate matches the first name of blacklisted persons, they will not be accepted. If the checks are completed successfully, the company will send a confirmation letter. The candidate's medical report must also be sent to the employer. If this is also satisfactory, the company will submit process the visa application in the destination country itself. The visa will be given within 3 months. Once the visa is granted the Nepalese recruiting agency must pay between Rs. 35,000-40,000. Then only, will the recruiting agency receive confirmation and a photocopy of the visa. The original visa will await the candidate in the airport upon their arrival in the Gulf. When all these steps are complete, the Labour Department gives its 'final consent', confirmation is sent to an airline and a ticket is issued.

3.3 Costs

Manual laborers from Nepal who use recruiting agencies to go for work in the Gulf or to Malaysia have to pay between Rs 70,000-75,000. This figure includes all costs involved in the processing of documents, the medical tests, and the price of an air ticket. Depending on the availability of candidates and the employer's urgency, the cost can be reduced to around Rs 55,000. For some skilled labourers, the company itself will bear the visa costs. In such cases, the Nepalese recruiting agency will charge between Rs 10,000-15,000 only. Recruiting agencies claim that they make a profit of only Rs 5,000-7,000 per labourer.

Box 3.1 (below), follows on from the example given above, and details the expenses of the recruiting agency in sending one individual to work in Saudi Arabia

BOX 3.1 RECRUITING AGENCY'S EXPENDITURE IN SENDING ONE INDIVIDUAL FOR WORK TO SAUDI ARABIA	
Items	Costs (NRs)
1. Commission to agent (company in Saudi Arabia)	35,000-40,000
2. Advertisement in Newspaper	5,000 - 7,000 at once (depending upon no. of labourers - but generally 50)
3. Revenue to Ministry of Labour	150 per labourer interviewed
4. Tax for the candidate	1,200 (25 % of first monthly salary)
5. Profession change in Dhaka	113 (80 Taka) per labourer
6. Visa fee	1,164 (820 Taka) per labourer
7. Translation of document in Arabi	71 (50 Takka) per labourer
8. Insurance	350 per labourer
9. Air Ticket for Labour	26,000-35,000 (per labourer)
10. Overhead cost (RA's cost)	7,279 per labourer*

* This cost has been computed on the basis of cost involved in travelling to Dhaka (twice - Rs 32,000), accommodation and food expenses there for 15 days (Rs 31,950), and with the assumption that they deal with 50 cases (labourers) in one lot. The overhead cost of the Recruiting Agency (salary, rent and utilities - 1 Recruiting Agency sending 400 individuals in a year spends about Rs 2.4 million) is about Rs 6,000.

Table 3.1 (below) lists the total costs of using formal channels to migrate for work in other Gulf countries and Malaysia, against the prospective wages of an unskilled Nepalese employee. The costs for people who use informal channels and migrate illegally are unknown. The cost of immigrating for work to Europe or countries like Japan can range from around Rs 600,000 to Rs 1 million.

TABLE 3.1 EXPENSES INVOLVED IN MIGRATING FOR WORK AND PROSPECTIVE INCOMES

Countries	Usual Salary Range NRs (with accommodation only)**	Expenditure (NRs)***	Remarks
Saudi Arabia	8,000-12,000	70,000 - 75,000	
Qatar	8,000-10,000	70,000-75,000	
UAE	8,000-12,000	65,000-70,000	
Bahrain	10,000-12,000	70,000-75,000	
Oman	10,000-12,000	65,000-70,000	
Kuwait	10,000-12,000		
Malaysia	8,000-10,000	70,000-75,000	100 Ringit (NRs 2000 should be paid as levy)
Israel	20,000-30,000	-	Most for domestic labour

** In a few cases food is also provided without cost. This salary range is mainly manual and semi-skilled labour. Nepal generally sends these types of labour.

** If the employer provides a visa or air ticket (which is often the case for skilled labourers), this cost can be reduced to between Rs 10,000-15,000.

3.4 Independent Channels for Seeking Employment Overseas

The Foreign Labour Act makes it relatively easy for potential migrants to seek work overseas on an individual basis. According to Article 23 of the Act, if any individual wants to go abroad for employment, they should submit an application form; documents specifying the nature of work, the conditions and facilities of employment; a contract and work permit from their employers; and letters of consent from their guardians in Nepal. In addition, an individual should submit copies of their citizenship certificate, passport, and visa. Furthermore, they are required to produce an insurance certificate for Rs 100,000. If the Labour Ministry is satisfied with all these documents, it can grant permission for an individual to immigrate. About 14,070 people have traveled overseas for work on this basis in the past two years. Labour migration on an individual basis is comparatively cheap, and does not involve the payment of various fees.

A large proportion of illegal labour migrants have found opportunities through family connections and informal channels. Family connections may enable a person to arrange a temporary visa (as a visitor for business or for a seminar/conference). Once they reach their destination, an individual makes contact with other labour immigrants who can help to secure them a job. This is a common pattern in the case of Japan, the United States, and other European countries.

At home, the decision to migrate illegally or legally is a family decision. Families arrange funds for this purpose and look after the family of the person(s) undertaking the migration.

3.5 Malpractices in the Recruitment and Employment of Foreign Labour Migrants

The recruitment of foreign labourers has many problems. Reports of labourers being cheated by recruitment agencies appear regularly in Nepal's media. Brokers and recruitment agencies have ruined many people from disadvantaged economic backgrounds. People struggle to gather money, either by selling whatever assets they have or by taking high interest loans. If they are cheated and they lose this money, they then face very hard times.

Some risks are reduced if individuals seek work directly through a recruiting agency. They are, however, still vulnerable to the corrupt practices of government officials. Exploitative labour practices can be blamed on exploitive employees in the destination countries, but unscrupulous businessmen and corrupt officials both overseas and in Nepal are responsible for defrauding labour migrants. A recruitment agency cannot commit fraud alone. They are helped by a wide range of important stakeholders; from foreign employers to Nepalese civil-servants.

Five particularly significant areas of malpractice are described below.

3.5.1 Subagents or Brokers

The majority of problems faced by potential migrants arise because of the involvement of subagents or brokers. The Foreign Employment Act, 1985, gives a registered recruitment agency the legal authority to send Nepalese to work in other countries. These agencies, however, may also use subagents to recruit potential labourers. Subagents travel to villages across rural Nepal and collect people eager to travel abroad for work. Potential candidates are then brought to a recruiting agent. Subagents get paid a commission for each candidate they bring to a recruiting agency. Subagents are likely to take potential candidates to a recruitment agency which can offer them the highest commission. Subagents do not have any legal status.

When an individual pays money directly to a subagent or Dalal (broker) they risk being cheated. There are cases of Dalals taking groups of four to five people to Delhi, Bombay or Dhaka under the pretence of sending them overseas directly, and then fleeing with their money. In some cases, Dalals have won a community's confidence by arranging work for several people. After which, they can be cheated more successfully.

3.5.2 Abuse of Contracts

The most common complaint of migrant labourers regards the abuse of their contracts. Some receive less salary than was agreed upon; some find that they are not being employed in the job that was specified, and some have to work more hours than was stipulated. People complain about the harsh conditions of work, the lack of medical treatment and of going several months without a wage.

3.5.3 False Circumstances

Some recruitment agencies in Nepal knowingly send individuals overseas under false circumstances, and are paid for doing so. In some cases, recruitment agents actually explain to potential labourers that they will not receive what is written in their Agreement Papers. They explain that the employers have sent these documents simply to satisfy the Ministry of Labour and Transport Management. (The Ministry will not grant permission to labourers unless their agreement meets minimum labour standards; for example, a salary of more than Ns 9,500/month).

3.5.4 Manipulated Demand Letters

Most problems arise from manipulated demand letters. As described before, demand letter is the starting point for the recruitment process, and must be sent to Nepal by an authentic company in the destination country. In this letter, the number and type of labourers, the nature of work (or the profession), and the salary should be described. Letters may be manipulated to change the number of workers needed) These alterations are made by unscrupulous recruitment agents to attract more labourers. There are many cases of recruitment agencies collecting money in advance from potential labourers and then disappearing.

3.5.5 Apparently "Independent" Labour Migrants

As outlined above, the Government does allow potential labour migrants to process their employment documents on an 'individual basis', independently of any recruitment agency. This channel is taxed less, while that of the recruitment agency is taxed more. To avail the opportunity, some recruitment agencies send people on an 'individual basis'. Of course, recruitment agencies continue to charge high fees but are able to save a large portion, which would otherwise have gone directly to the state treasury. In such cases, there is a high degree of co-operation between manpower agents and officials of the state.

3.6 Labour Migrants and their Vulnerabilities

This section outlines the most common problems and vulnerabilities facing migrant workers:

3.6.1 Women Workers

Nepal's foreign labour legislation discourages and disables women from migrating for work. The unpleasant experiences of some women workers in the past, means that until recently women are not legally allowed to travel for work in the Gulf countries. Despite the conditions, Nepalese women find ways to travel for work in the Gulf. These alternatives often involve higher costs and a greater degree of vulnerability. Women face considerable problems at home during the recruitment process and at work in the destination country.

Women are less likely to have access to the financial resources to pay the costs involved in such a trip.

To obtain passports and work documents from the Ministry of Labour and Transport Management, women need to have the written permission of guardians or a husband. As they can travel overland into India with ease, most find their way to Gulf States through Delhi and Mumbai. They can travel overland into India with ease. Various excuses can also be used to board flights from Nepal to India; perhaps for medical treatment or for a visit to relatives.

Women domestic servants overseas are extremely vulnerable to sexual harassment in their workplace, and mental harassment from employers. There are no bilateral agreements between governments to address the vulnerabilities of women labour migrants. Although Nepal has signed nine international conventions so far which are aimed at protecting domestic workers, these conventions are not effectively implemented. As a result most women who migrate for work are not protected by insurance, have limited access to health facilities, have no provident fund and no guarantees of wages or leave.

Nepalese women who find employment as domestic helpers overseas may not be familiar with 'modern' kitchen and household appliances, which can present them with problems. Women who are struggling to deal with such 'culture shock' may face verbal abuse from their employers.

3.6.2 Children

Of the worst forms of child labour associated with cross border migration, trafficking is of particular importance. It is one of the worst forms of child labour under ILO Convention No. 182, and must be eliminated as a matter of urgency. In the context of Nepal, the trafficking of girls for sex is a severe problem. A recent ILO report suggests that figures may be as high as 12,000 per year (far more than popularly held estimates of between 5,000 and 7,000). The estimated number of trafficked girl children in Indian brothels alone is over 200,000 (Ghimire, 1998). There are moral as well as legal obligations to rescue and rehabilitate these unfortunate people, particularly in view of the fact that 40% of them are children.⁴

3.6.3 Illegal Labour Migrants:

There is no record of the number of people who migrate for work illegally, and who are often the most vulnerable. Spotlight Magazine (7-13 June, 2002) reports that about 1,000 Nepalese in different parts of the world are currently serving jail terms for working illegally.

3.6.4 Occupational Health and Safety:

There are many occupational safety and health issues for labourers in all areas of work. Several migrant workers have returned to Nepal from Japan, Korea, India and the Gulf countries having lost parts of their body in the workplace. There are some victims of occupational hazards in Korea, who are now physically handicapped, and have successfully won cases for compensation in the Korean courts.

3.6.5 HIV/AIDS:

Nepalese domestic workers in foreign countries in the Gulf are particularly vulnerable to sexual assault, and rape. No studies have been conducted so far to determine HIV/AIDS rates among women who return from Gulf countries.

BOX 3.2

CASE STORY NO.1: RETURNING HOME IN A COFFIN

Kani Sherpa of Sindhupalchowk district, wife of Nim Pashang Sherpa was sent to Kuwait for the job of a house-maid by 'New Sun Manpower' foreign employment agency on 1998. But later, her family in Nepal was informed that she had fallen ill and was admitted in Alraji Hospital, where she committed suicide, hanging herself in the midnight on 11-August-'98. Moreover, it was known that she had been severely beaten and thrown out of the window at 1 am by the eldest son of Md. Alat Miya, the employer, and as a result, her left leg was broken. Kani Sherpa, a young mother of four children and the wife of a disabled husband left her country and accepted the job of housemaid only to support her family. But, she was raped, beaten, harassed and finally she lost her life. (Maiti Nepal Vol 1. Issue 2 1999)

⁴ The estimated number of female sex workers in Nepal is reported to be around 25,000; a significant proportion of whom could be girls below 18 years of age. An unpublished report by UNIFEM, in 1998, suggests that more than 20% of total sex workers in Nepal are under the age of 16, with some as young as 11 years old.

Men who have easy access to Commercial Sex Workers (CSW), especially male labour migrants in India, are at risk from STDs. A JICA team has recently found ten percent of migrant workers in far west Nepal to be HIV positive (Dr. Zimba et al 2001). Research in Dadeldhura district, undertaken by Dr. Georgi Pkhakadze (ILO 2001), shows similar findings.

3.6.6 Deaths Overseas

There are problems when labourers die in a foreign country due to accidents at work. There are no legal provisions that stipulate what should happen in such cases how the deceased's body can be brought back to Nepal, or who should take responsibility for it.

According to information from the Department of Labour and Employment Promotion, 96 Nepalese labour migrants are reported to have died overseas between 1985 and 2001. Of these, 53 died in Saudi Arabia, 39 in Qatar, and 4 in Malaysia. Each case created many problems in relation to the dead body and the financial responsibility for dealing with it.

3.6.7 Problems of Reintegration

Returning to their home villages can cause difficulties for people as they need to re-adapt to traditions, rituals, rules and regulations. There are no provisions to provide services to help with reintegration or to offer advice on the investment of money brought from overseas. Only the British Army provides reintegration training in Nepal, for their retired personnel.

Unemployment for returnees is also a serious issue. Many migrants who returned from overseas have ambitions to go again, to a better country with better opportunities. (In this way, the cycles of migration continue).

3.7 Areas for Reform

The Foreign Employment Act entrusts HMG/Nepal, with a central role in foreign labour migration. The State takes responsibility for regulating all formal channels of foreign labour migration. It manages the agency licensing process; it collects license and renewal fees; it has final approval over contract papers for employment. These responsibilities are ineffectually addressed or are neglected.

All recruitment agencies consider the procedures for sending labourers overseas to be unnecessarily complicated. They must, for example, obtain documents from government offices four separate times in the course of sending one individual. Such complicated procedures provide numerous opportunities for corrupt practices and can be reformed.

Unregulated subagents provide a breeding ground for malpractice. Subagents are difficult to track, because they are not legal and their existence is not formal, which makes it difficult to recover any money or punish fraudsters.

Despite legally recognizing recruitment agencies, The Industrial Act (2049) does not consider them to constitute a service industry. This means that recruitment agencies cannot avail the facilities that are provided to other service industries. A detailed analysis of what advantages this might offer is not given in this report.

3.8 Provision of Citizens Advice and Support

There is no clear authority from which the victims of malpractices in the process of foreign labour migration can seek neutral advice or to whom they can take complaints. In Nepal few if any civil society organizations have the resources and the professional mandate to offer support to foreign labour migrants; either during their recruitment or after their return.

Nepalese embassies are not present in all countries where Nepalese labour migrants work. Even where labour attachés are needed, and legislated for, they do not exist. Accordingly, Nepali workers abroad can find few institutions that will work to protect their rights.

Foreign employers sometimes provide the cost of a worker's insurance, to cover the period of employment. This money is provided through Nepalese recruiting agencies to prospective labourers, and insurance is sought locally. However, there are no insurance agencies in Nepal which will provide the required insurance for more than one year. Thus, labourers are rarely able to find insurance policies that will cover them for more than one year.

QUANTITATIVE DATA FOR LABOUR MIGRATION FROM NEPAL

It is difficult to find out exact how many people work overseas. Government statistics may record those who do so legally, but has no record of the people who go abroad illegally. In addition, the nature of labour migration to India makes it difficult to estimate the number of labourers who go there for work.

4.1 Census Data 1991 and 2001

The 2001 census data puts Nepal's absentee population - people who have been abroad for at least 6 months prior to the survey - at 762,181 people (Table 4.1). This accounted for about 3.2% of the country's total population or 6% of the working population. Of this absentee population, 77% of people were working in India and the remaining 23% (173,126 people) were working in other countries. A breakdown of the number of labour migrants by country is given in Table 4.1, below. David Seddon et al (2001) have argued that the total number of Nepal's migrant workers may be as high as 1.1 million. Yet, the Department of Labour and Employment Promotion - which provides permission for workers to go abroad - records the number of migrant workers at only 223,834. These figures do not give any information on workers who have returned to Nepal, or who took permission to migrate for work but did not go.

Ten years earlier, the 1991 census recorded that 660,000 Nepalese had migrated to foreign countries. This was the equivalent of 3% of the country's total population, and 6% of the working population (CBS 1996). With this data, we can see a slight increase in the number and proportion of the population working abroad over the past ten years. This increase is far less than other countries in South Asia. For example, 10-30% of the Indian, Pakistani, and Bangladeshi labour force work overseas (Nair 1998: p66).

4.2 Analysis by Gender

A gender analysis of census data for the absentee population throws up some interesting features. Overall, 10.8% of the absentee population were women and about 83% of them went to India for work. Only 17% of female labour migrants went to other countries for work. Although the census reports that only around 2,000 women are working in the Gulf (see Table 4.1, below), a range of different estimates claim that between 8,000 and 10,000 women are actually working in Gulf countries. What is clear is that data on the number of foreign labour migrants is inconsistent and contradictory.

TABLE 4.1 ABSENTEE POPULATION BY COUNTRIES IN 2001

S.N	Country	Male	Female	Total	%
1.	India	520,500	68,550	589,050	77.28%
2.	Pakistan	466	92	558	0.07%
3.	Bangladesh	784	168	952	0.12%
4.	Bhutan	511	99	610	0.08%
5.	Sri Lanka	176	25	201	0.02%
6.	Maldives	334	36	370	0.04%
7.	China	1,018	336	1,354	0.17%
8.	Korea	2,433	246	2,679	0.35%
9.	Russia and other	633	114	797	0.10%
10.	Japan	3,087	639	3,726	0.48%
11.	Hong Kong	8,143	3,858	12,001	1.57%
12.	Singapore	2,679	684	3,363	0.44%
13.	Malaysia	6,742	71	6,813	0.89%
14.	Australia	1,991	500	2,491	0.32%
15.	Saudi Arab	66,629	831	67,460	8.85%
16.	Qatar	24,208	189	24,397	3.20%
17.	Kuwait	3,044	644	3,688	0.48%
18.	UAE	12,298	246	12,544	1.64%
19.	Baharian	2,616	121	2,737	0.35%
20.	Other Asian Countries	3,130	719	3,849	0.50%
21.	UK	5,997	1,274	7,271	0.95%
22.	Germany	1,420	218	1,638	0.21%
23.	France	197	53	250	0.03%
24.	Other European Countries	1,640	358	1,998	0.26%
25.	USA, Canada and Mexico	7,227	2,330	9,557	1.25%
26.	Other countries	1,566	311	1,877	0.24%
Total		679,469	82,712	762,181	100%

Source: CBS, 2001.

4.3 Foreign Labour Migrants and Types of Work

The 2001 census asked people who had previously migrated for work to detail the 'type of work' that they were engaged in (see Table 4.2). The majority of migrants (66.41%) listed their work as personal service; a smaller number (12.3%) recorded their work as institutional service and a minority of people (4.16%) listed their work as study/training. Personal service essentially means domestic service. Most Nepalese who migrate for work in India, both male and female, are employed as domestic workers in households. People may be employed as watchmen or maidservants, kitchen helpers or household helpers. (Household helpers are commonly called Bahadur in India). In the Gulf too, most women migrant workers are employed as domestic workers.

TABLE 4.2 POPULATION ABSENT BY REASON				
Reasons	Male	Female	Total	%
Agriculture	6,608	1,155	7,763	1.01%
Business	11,140	910	12,050	1.58%
Personal service	481,278	24,943	506,221	66.41%
Industrial service	91,007	3,322	94,329	12.37%
Study/training	24,929	6,818	31,747	4.16%
Marriage	2,157	11,944	14,101	1.85%
Others	62,350	33,620	95,970	12.59%
Total	679,469	82,712	762,181	100%

Source: CBS, 2001.

4.4 Department of Labour Data

So far, our discussion of the size of an absentee population number and the nature of their work has been based upon census reports. To travel beyond India for work, however, migrant labours who are using formal channels must obtain permission from the Department of Labour and Employment Promotion (DLEP). As outlined in the chapter three, they can obtain the necessary documentation through legally registered recruitment agencies or on an individual basis. Records obtained from the DLEP list 223,834 persons who travelled abroad for work between 1985 and 2001 (see Table 4.3, below).

A report released in May 2002 by the Ministry of Labour and Transport Management (MoLTM) states that 214,839 people have gone abroad legally, and are registered with the Ministry. The breakdown presented by the Ministry of Labour is shown below (Table 4.4), and differs from those figures given by the Department of Labour.

TABLE 4.3 NEPALESE LABOUR MIGRANTS AND THEIR COUNTRY OF WORK, AS RECORDED BY THE DLEP (1985-2001)

1	Saudi Arabia	81,493
2	Qatar	52,722
3	U.A.E	24,852
4	South Korea	3,102
5	Kuwait	2,960
6	Malaysia	58,705
Total		223834

Source: DLEP 2002

TABLE 4.4 NEPALESE LABOUR MIGRANTS AND THEIR COUNTRY OF WORK, AS RECORDED BY THE MLTP (BAISAK, 2059)

Country	Number
Saudi Arabia	77,686
Malaysia	52,581
Qatar	48,869
UAE	23,321
South Korea	3,040
Bahrain	2,929
Kuwait	2,821
Hong Kong	1,639
Others	1,956
Total	214,839

Source: MoLTM 2002

The differences in figures produced by the Ministry and the Department of Labour may be due to the time period under scrutiny. What they both attest too, however, is that the number of Nepali workers going abroad has increased tremendously in recent years.

TABLE 4.5 NUMBER OF DOCUMENTED MIGRANT WORKERS AS OF JULY 2002

Country	1993/ 1994	1994/ 1995	1995/ 1996	1996/ 1997	1997/ 1998	1998/ 1999	1999/ 2000	2000/ 2001	2001/ 2002	Total
Saudi Arabia	2,290	1,041	1,469	1,959	4,825	14,948	17,867	17,966	17,337	79,702
Kuwait	361	13	18	107	137	609	465	885	307	2,902
Oman	43	-	-	-	7	90	32	68	86	326
Qatar	391	245	505	477	1,802	9,030	8,791	14,086	15,203	50,530
UAE	132	-	23	95	284	1,417	6,360	8,950	6,784	24,045
Bahrain	91	-	-	-	111	787	583	904	556	3,032
Hong Kong	63	86	59	67	155	301	209	331	406	1,677
		-								
Singapore	-	774	-	-	-	1	-	-	16	17
S. Korea	234	-	55	455	192	267	766	245	87	3,075
Brunei	-	-	-	51	-	-	-	-	46	91
Malaysia	-	-	-	-	89	151	171	11306	43,697	55,414
Saipan	-	-	5	48	143	-	1	11	113	221
Macao	-	-	-	-	-	102	119	82	47	350
Maldives	-	-	-	-	-	46	71	35	38	190
Kosovo	-	-	-	-	-	-	27	21	34	82
Israel and others	-	-	-	-	-	47	81	135	250	513
Total	3,605	2,159	2,130	3,259	7,745	27,794	35,543	55,025	54,907	222,173

Source: DLEP 2002

TABLE 4.6 WOMEN WHO WENT TO FOREIGN COUNTRIES THROUGH DEPARTMENT OF LABOUR (1985-2001)

S.N.	Country Name	Individual	Recruiting Agency	Total
1.	Hong Kong	35	17	52
2.	South Korea	16		16
3.	UK	2		2
4.	Saipan	10		10
5.	Israel	64	17	81
Total		127	34	161

Source: DLEP 2001

TABLE 4.7 GUESTIMATION OF DOMESTIC WORKERS IN DIFFERENT COUNTRIES

S.N.	Country	No. of Domestic workers (guestioned)	Salary in U.S.\$ /month	Lodging & Fooding	Week end
1.	Saudi Arabia	1,000-3,000	100-200	✓	✗
2.	Bahrain	500-1,500	100-200	✓	✗
3.	UAE	2,000-3,000	100-200	✓	
4.	Qatar	1,000-2,000	100-200	✓	✗
5.	Kuwait	500-1,500	100-200	✓	✗
6.	India	50,000-100,000	20-60	Yes/No	✗
7.	Korea	250	200-500	✓	✓
8.	Malaysia	25-50	100-200	Yes/No	Yes/No
9.	Israel	100-200	400-500	✓	Yes/No
10.	Hong Kong	1,000-2,000	400-500	✓	✓
11.	Japan	1,000-1,500	1000-1200	✗	✗
12.	UK	600-700	500-700	yes/No	✓
13.	USA (New York only)	200-300	500-800	✓	✓

Sources: 1,2,3,4, 5, 8, 10, 11, 12 and 13 from information provided by Nepali Associations based in the country of work (2002); 6 from research by Susan Thieme (2002); 7 from a Female Migrant Worker's Report by Madhuri Singh (2001); 9 from a document by Pioneer Overseas (2002); 11 from data collected by Yamanaka (2000) in Graner (2001).

4.4 Gaps in Data on Labour Migration in Nepal

There are many Nepalese workers who migrate abroad outside these official channels, and whose data does not appear on official records. Compared to other South Asian countries, the volume of labour migration from Nepal through official channels is relatively insignificant. There is some need to go beyond the official data in trying to understand the contemporary situation of foreign labour migrants. The distribution of Nepalese migrants by country, such as is given above, cannot be taken to reflect the actual situation. In each case, the number of clandestine migrants will far exceed official numbers.

There is no data, for example, on women migrating overseas for work, as government data is not disaggregated by sex. Although government policy does not encourage women to work abroad and restricts women working in the Gulf region, various sources show that women have not stopped migrating for work. The government has not even been able to prevent Nepalese women reaching the Gulf for work. An estimated 8-10,000 Nepali women are working in the Gulf at present (UNIFEM / SAMANATA 2002).

A case study of a Manpower Agency (Lumbini Overseas Concern) reveals that it formally sent 124 women overseas for work between 1994 and 1998. In addition the same company managed to send 659 women on an individual basis. So, altogether, the company enabled 783 women to migrate for work. About 84% of these women went to work in South Korea (Pandit 1999).

According to the Department of Labour and Employment Promotion's records, only 161 women travelled overseas for work between 1985 and 2001. See Table 4.6, above, for a breakdown by country. HMG/Nepal does not issue permission for women to work as domestic workers in any country, except Hong Kong.

However, it is generally recognised that most Nepalese women who migrate for work are employed as domestic workers. Field observations of domestic workers in India, the Gulf countries, the US and the UK suggest that data given by the Department of Labour and Employment Promotion in Nepal dramatically underestimates the situation. Although there is no accurate data available on the total number of domestic workers from Nepal, by enlisting the support of various organisations and by making use of currently available reports, it is possible to arrive at more accurate 'guesstimates'.

Table 4.7 shows that there are about 12,000 Nepalese working as domestic workers in foreign countries, except India. These people are almost all women.

Furthermore, it is estimated that 5,000 to 7,000 girls are trafficked from Nepal to India and other neighbouring countries each year, and about 200,000 Nepalese girls and women are currently working in the Indian sex industry (UNIFEM 1998). In an article published in the *The Kathmandu Post*, Prativa Subedi argued that only 20% of women trafficked to other countries actually return home, and when they do return they are treated derogatively (15 Sept 2002: p4).

4.6 Age and Education Data for Foreign Labour Migrants

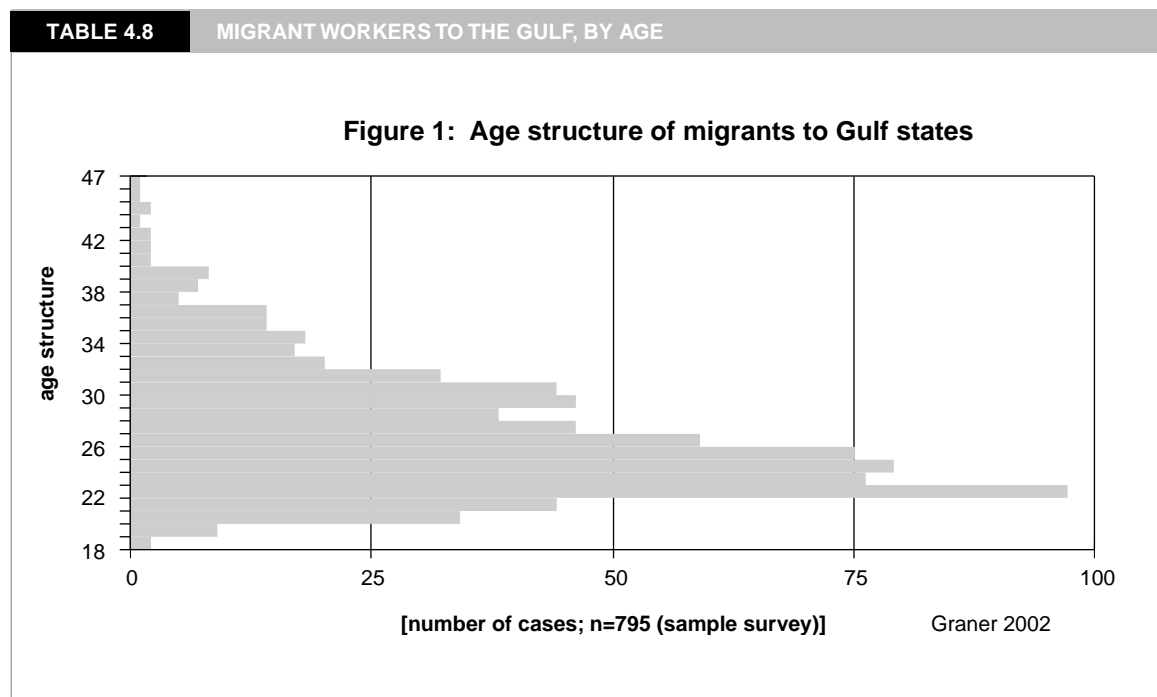
The ages and educational background of 795 randomly selected migrants who sought work in the Gulf is shown in the graphs and maps below. Graph 1 clearly shows that a majority of migrant workers are within the 20-30 years age bracket. Regarding educational background, an overwhelming proportion of migrant workers have failed their School Leaving Certificate (SLC) or are high school dropouts. About 20-30% seem to have passed their SLC, and an almost insignificant proportion seems to have access to higher education.

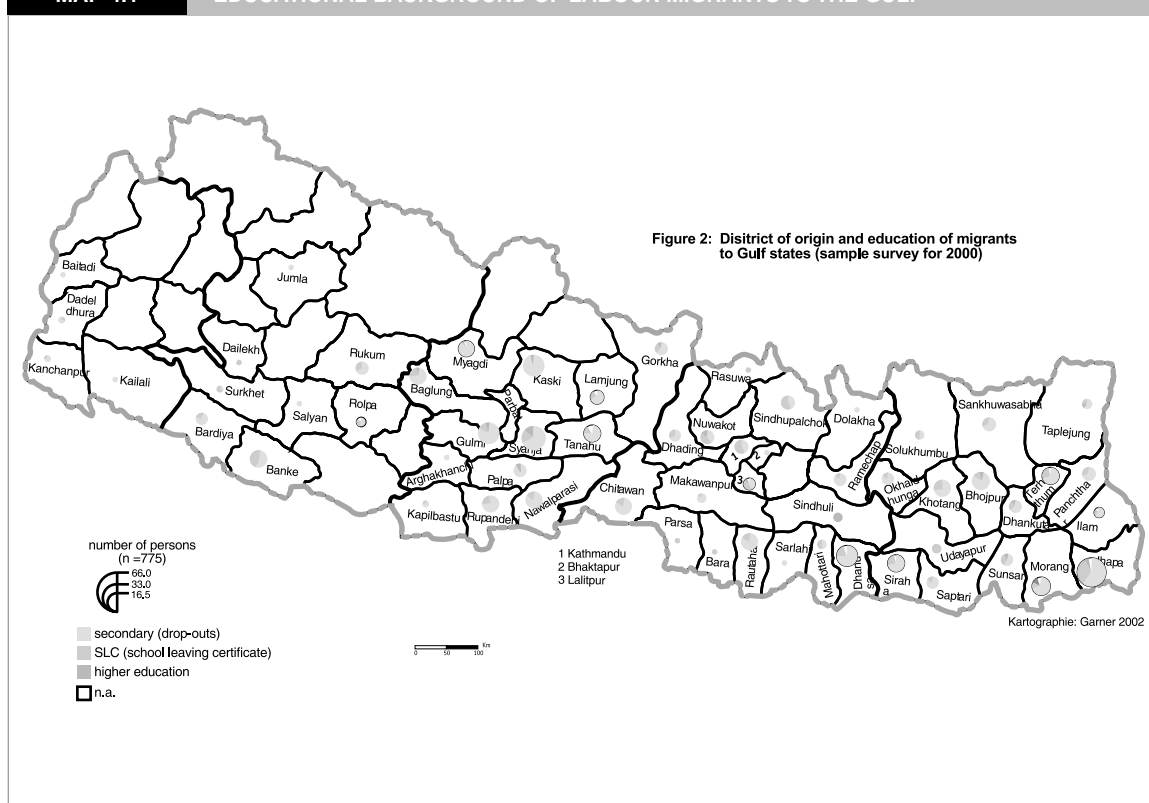
It is common for people from the lower middle classes, and especially those who have failed their SLC exams, to consider going to the Gulf for work. People from poorer backgrounds are more likely to go to India if they can. Such variables also affect regional patterns. The home districts of migrants to India are concentrated in the mid and far west of Nepal. The home districts of migrants to Japan, Hong Kong and European countries are concentrated in central Nepal.

These descriptions, however, must be generalized very cautiously. There are many Nepalese who migrate to foreign countries for work who do have a higher education. In the case of illegal migrants to Japan, many have passed their SLC and some have a higher education.

TABLE 4.8

MIGRANT WORKERS TO THE GULF, BY AGE





4.7 Ethnic and Class Background of Foreign Labour Migrants

It is almost impossible to present an overall picture of the ethnic and class background of migrant workers. Such data simply does not exist at the national level. There are some local studies that can give some insight into the ethnic and class backgrounds of migrant workers. These case studies, however, can only offer us a partial picture.

- Ethnic groups like the Gurungs and Magars from central Nepal and Rais and Limbus from eastern Nepal have traditionally worked in the Indian and British armies. They remain predominant in today's migrant population. Migrant workers from Gurung and Magar communities are concentrated in army jobs, and in high paying countries (like Japan, Singapore, Brunei and Saipan) where they find work as security guards.
- Chettris and Brahmins who migrate for work are sometimes able to use stronger social networks in India to secure work. In the mid and far west of Nepal, it is mainly Chettris who migrate to India for seasonal and temporary work. Higher educated Brahmins and Chettris have also found jobs in the USA and Europe.
- Members of occupational castes (dalits) also migrate in large numbers. Many uneducated and poor people from Nepal find low paid jobs in India, (see Case Study 3).
- Thakalis, even though a minor ethnic group in Nepal, are predominant in Japan's Nepalese migrant labour community. They also form a majority of people who work as illegally in Japan and in European countries (see Case Study 4 below).

- Mainly lower caste labourers or those from lower middle class Brahmin and Chettris families migrate for work in the Gulf. Their home districts are concentrated in eastern Nepal.

In 1999 a study was conducted in the Brahmin-Chettri village of Lahachok by David Seddon et al (2001). This study revealed that out-migration, for both domestic and foreign employment, is highly skewed in favour of wealthier classes. Of the 630 households studied, there was only one household from the poorest 10 % of households (63 households), which had access to such employment. Among the poorest 20 % of households, only 8 % had jobs away from home. By contrast, the figure for the wealthiest group (the top 10 per cent of households in the wealth ranking) was 87 per cent; in other words, 55 of these 63 households had access to such employment. Similarly, proportionately more members per household from this richest group were involved in 'off-farm' work

BOX 4.1 CASE STUDY NO. 2: NEPALESE MIGRANT LABOURERS IN SOUTH KOREA

There is evidence that Nepalese migrant workers in South Korea receive higher salaries and more fringe benefits compared to those in other countries; although many are employed as Trainee Workers and do not have work permits. Working in South Korea has twin benefits: a higher salary than in Gulf countries and opportunities for skill development. Recently, the South Korean government has decided to increase the quota for migrant workers from Nepal from 1,754 to 4,880 people. An agreement between the recruitment agency 'Lumbini Overseas Concern Pvt. Ltd' in Nepal and the South Korean Federation of Small and Medium Businesses makes good use of this quota.

BOX 4.2 CASE STUDY NO. 3: LIVING CONDITIONS FOR LABOUR MIGRANTS IN INDIA

Mr. S. is working as a watchman for a single household. He lives in a slum next to the Jamuna River, in Pandar Nagar, Delhi. He has been living in this slum for 4 years and shares his hut with four other people. They all originate from the same village in Nepal. In the last two years he has never been certain that their hut will not be demolished. Government representatives have visited them twice, with threats that the slum will very soon be demolished. To find a substitute home if the slum is torn down, he needs a ration card. A ration card is attainable only when you have been living for a long time in the area, or you can bribe the local authorities. So to have security, you must know the right people and have enough money. Unfortunately, Mr S. lacks both. The fact that he is an unregistered immigrant makes this situation worse. Seven other people from Mr S.'s village in Nepal also live in the slum and there are another ten Nepalese who originate from neighbouring villages. All of them are employed as watchmen.

About 500 people live in the slum. The area is devoid of basic infrastructure, like water, electricity and proper drainage. Their water supply comes through seven manual pumps. Lining up to collect water is a daily routine and slum inhabitants use the same pumps, regardless of their caste. There is no legal power supply, although inhabitants manage to light up their huts with illegal connections from the nearest electricity pole. The slum is unhygienic and there are open drains full of muck. The authorities have, at least, paved the narrow alleys. Garbage is dumped just outside people's huts or in the neighbouring Jamuna River. The public authorities have installed some permanent WCs in the slums, but this sanitary equipment is insufficient for the population. Thus, inhabitants are forced to defecate elsewhere; mostly popularly in the Jamuna River.

How many people work as illegal migrants? It is difficult to tell. Most migrant workers from Nepal in Japan, Europe, and the USA are there illegally. This is particularly the case in Japan, where the government has policy of giving workers legal status only if they have Japanese descendents. Accordingly, Japanese from South America (mainly Brazil) make up the largest proportion of the legal migrant labour force. Illegal workers are called Nikkeijin. In 19995, about 200,000 documented Nikkeijin were working in Japan. Research into their circumstances was conducted by Yamanaka (2000) and the following case study is based on that work.

Nepalese began to enter Japan for work in the mid 1980s, and increased until the early 1990s. It was found that the annual number of Nepalese entering Japan for work tripled between 1986 and 1989; from 986 people in 2,964. It remained at an average of 2,200 until 1995. Labour migration to Japan (by overstaying a visa) is so lucrative that a potential migrant must usually pays around Rs 1million. They can usually earn enough to cover this cost within one year, after which all earnings can be saved.

Age: The study of 189 Nepalese migrant workers (159 men and 30 women) revealed that their average age of men was 33, and the average age of women was 31. The majority of men (70.4%) and women (76.7%) were married, and had left their children in Nepal with their extended family.

Ethnicity: The largest group of men according to their ethnicity was Gurungs (23.9%), followed by Magars (13.2 %), Newars (10.7%), Thakalis (10.1%), and Rai (6.9%). The Tibeto-Mongoloid group accounted for 77.9 % of male migrants from Nepal in Japan. The 'Tibeto-Mongol' group (Gurung, Magar, Thakali and Newar) also comprised a majority of women (86.7%).

Education: The study found that most of Nepalese labour migrants in Japan had completed their school leaving certificate. Before going to Japan, many men had been engaged in retail or tourist businesses (30.2%), some had been professionals or civil-servants (7.5%), while others had once been teachers or social workers (6.3%). There were also ex-British Gurkhas (8.8%), farmers (13.2%), and former students (23.9%). Women migrants had previously been teachers, social workers or nurses (26.7%); students (23.3%) and housewives (33.3%).

4.8 Migration as a Result of Nepal's Maoist Insurgency

In the following section, those characteristics of Nepalese labour migration that have come about as a result of the Maoist insurgency are discussed.

4.8.1 Changes in the Distribution of Labour

The manmade disasters that have been triggering migration are mainly of a political nature. The Maoist insurgency has been the single most decisive factor in sparking mass migrations of young people from villages in the mid and far west of Nepal. Some villages are now in such a state that only women remain to manage village life and farms. Women often find themselves engaged in work that was previously regarded as a male domain. Ploughing the land and roofing a house or shed, for example, were tasks not previously performed by women. But today, in the absence of men, there is nothing to be done except break traditions.

4.8.2 Male Migrants

Men from such villages have often migrated to the nearest Indian cities where they work as manual labourers. If they stay in the village, they risk being asked to work for the Maoists and this carries a risk of being arrested or killed by the army. If the army somehow discovers that Maoists have obtained food from a village, they give its residents a very hard time. Thus people are caught between the two the Maoists and the Army. To escape many people have no choice except to migrate. This is clearly the case for the highly affected areas of Rukum, Rolpa, Salyan and Pyuthan.

4.8.3 Migration to Regional Centres and India

Migrants fleeing such areas may seek shelter in the district headquarters. If life in the district headquarters is unbearable, as it generally is, reasonably well off people may migrate to the regional centres of Nepalgunj, Mahendranagar, Pokhara and also to Kathmandu. The migration of economically well off migrants to such cities has, in turn, increased the prices of real estate; especially plots of land. It should also be noted that poorer households have always undertaken seasonal or temporary migration to India. Many poor people from the mid and far west districts travel directly to India rather than going to Kathmandu or other regional centres. In the current situation, however, those migrating to India include those who have greater financial assets.

4.8.4 Tertiary Sector Workers

The Maoist insurgency has affected people who have secured jobs in Nepal's villages, like teachers, village secretaries and development workers. Because of their political differences with the Maoists and the possibility of persecution by both Maoists and the Army, such people often found it hard to remain in work. These 'office workers' are also hit hard, and were sometimes forced to pay a large portion of their salary to the Maoists. Such people are likely to leave their jobs to migrate for work in India or to the Gulf.

4.8.5 Increasing Costs and State Revenue

Middle class people who manage to escape to Kathmandu may contemplate seeking work in the Gulf. Compared to other countries, the costs of travelling to the Gulf or Malaysia for work are much less. The massive influx of people wanting to go to the Gulf and Malaysia, however, means that recruiting agencies have raised their fees. Those who want to go to Malaysia, for example, may find that they have to pay between Rs. 70-80,000 per head. This is an increase of around 25%.

The rapid increase in the number of people wanting to go abroad for work, has also increased the demand for passports. One effect has been to increase government revenue, as passports cost slightly more than Rs 2,000.

4.8.6 Asylum Seekers

Many people have sought asylum in these countries, sometimes providing documents which identify them as Maoist sympathisers who are being threatened by the security forces. Similarly, other people are able to seek asylum by asserting that they are the victims of the Maoists' uprising.

4.8.7 Diaspora Communities

Maoists have strong links to Nepali migrant communities in India. These migrants may support the Maoists financially and morally. The Maoists have also been collecting funds from migrant workers in Japan and European countries.

4.9 Migration as a Result of Natural Disasters

Landslides and flooding are two of the main natural hazards in Nepal. Landslides and river flooding can permanently destroy land, and property. In 2002, more than 500 people died in landslides and several thousand were made homeless. Between 1989 and 2001, 6,126 people have died in landslides.

For many people who are made homeless by landslides or flooding, the disaster brings considerable damage to their cultivated land. Their only option is to migrate to district headquarters or regional cities in search of work. In the Terai, extensive flooding has prompted many victims to migrate for work in India. When the natural environment returns to normal, they may return home to cultivate their land. Many other internal migrants hold hopes of migrating overseas. Some victims of natural disasters who have strong social networks may be able to take loans (as much as Rs 60,000-70,000) and are able to migrate to the Gulf. Others remain in Nepal's urban slums. It is said that about 15% of Pokhara's slum dwellers arrived there because of landslides.

Natural hazards have certainly helped to increase the number of potential migrants, but such factors are difficult to quantify as they often remain unreported.

THE INFLOW OF FOREIGN WORKERS TO NEPAL

Non-Nepalese workers, other than Indian citizens, are required to obtain work permits from the Department of Labour and Employment Promotion. Indian migrant labourers do not require any visa to stay in Nepal. Therefore, almost all Indian citizens who work in Nepal do so without work permits. Official records for the year 2001/2002 show that only 479 foreign citizens were granted a work permit. This was a drop from 806 people in 2000/2001. The figures for other years are even lower, and none of them present an accurate picture of reality.

It is commonly recognized in Nepal that a large number of foreign workers, especially from India migrate to Nepal for work. Many semi-skilled or skilled jobs in Nepal's technical sector are filled by Indian workers. The space created by out-migration and a technically unskilled Nepali labour force are often given as reasons for this phenomena. This chapter explores some policies related to foreign migrant workers in Nepal, their numbers and their engagement in different sectors.

5.1 Policy and Legislative and Provisions for Employing Foreign Labour

The national policy with regards foreign labour in Nepal is as follows.

- In case of skilled Nepalese labour being unavailable, work permits may be issued to foreign workers under certain conditions.
- In order to increase the opportunities for waged employment in Nepal, existing skill development programmes will be qualitatively and quantitatively reformed and expanded. Ultimately, non-Nepalese workers shall be replaced with skilled national labour, according to the demands of the labour market.

According to the Labour Act (1992-Amended), non-Nepalese citizens are prohibited to work in Nepal without work permits authorised by the Department of Labour and Employment Promotion. Some key provisions of the Labour Act regarding such matters are as follows:

- If a Nepalese citizen is not available for any skilled technical post, even after the publication of advertisements in national newspapers and journals, the Manager may submit an application to the DLEP for approval to appoint a non-Nepalese citizen.

- If it is found, upon conducting an inquiry into the submission of any application, that no Nepalese citizen is available for a skilled technical post, the DLEP may grant approval for a non-Nepalese citizen to work in Nepal for up to five years. In specialised or skilled technical post, the period may be extended up to seven years.
- Any manager, who engages non-Nepalese citizens at work, shall make arrangements for offering training to Nepalese citizens and for gradually replacing non-Nepalese workers.

5.2 Profiling the Foreign Labour Force (by Industry, Occupation, and Sex)

A project in the Department of Labour and Employment Promotion, called the Employment Exchange Service Project, collects labour market information and data on job vacancies. It gathers information from various targeted districts in both the service and manufacturing sectors. In 2000/2001 and 2001/2002, the project conducted studies in selected districts on the use of domestic and foreign labour. The data obtained covered only selected industries in the Terai and in the hill district of Kaski. The studies show that in the selected industries about 5-15% of the total labour force was non-Nepali, and male. The involvement of non-Nepali labour was much higher in skilled categories; where as many as 25-60% of labourers were non-Nepali.

Non-Nepali labourers work in a variety of sectors. Their number is particularly high in the agricultural and non-formal economy. A large number of barbers, shoe-makers and repairers, brick-makers, brick-layers, plumbers, plasterers, retailers and traders of fruits and vegetables are non-Nepali. Indian labourers migrate to the Terai on a seasonal basis, to find work transplanting and harvesting rice. There is no data on these sectors of the economy.

In a news report published recently, it was estimated that Indian barbers in Nepal send remittances worth Rs 2 billion annually to India. The migration of Kashmiris to Nepal has also increased with the violence in that region. This group accounts for a sizable proportion of tourist businesses in Nepal.

The Employment Exchange Project indicates that problems of unemployment and underemployment are prevalent in all surveyed districts; and the size of the labour market is increasing. The speed of migration from hill and mountain districts to the Terai, and urban regional centres is also increasing. A good number of employment opportunities have been created in non-agricultural sectors of the economy, particularly in the Terai. But due to a lack of skilled labour, non-Nepalese especially Indian nationals have consumed these opportunities. Often, their wages are higher compared than their Nepalese counterparts.

5.2.1 Wages and Salaries of Foreign Labour in Nepal

The daily wage rate for adult workers is set at Rs. 74; and for minors (aged between 14 and 16) at Rs. 60. However, non-Nepalese workers in the industrial sector are sometimes being paid ten times more than these minimum wages.

REMITTANCES AND RETURNEES

6.1 Mechanisms for Remitting Money to Nepal

There are four key mechanisms for remitting money to Nepal, these mechanisms are described below. Which mechanism a migrant worker decides to use depends largely on the country from where it is being sent.

6.1.1 Money Transfers using Banks

Transferring money from one bank account to another is one of the most reliable ways of remitting money to Nepal. For four reasons, however, this system remains unpopular.

- It takes a long period of time.
- The sender has to pay bank fees and commissions.
- The HUNDI system can offer a better exchange rate than the bank system, when converting foreign currency into Nepali Rupees.
- Money transferred through the bank system incurs more bureaucratic hassles.

A very small proportion of all remittance money is transferred through banks. Therefore, official records for the remittance economy can only touch the tip of the iceberg. Remittances are usually made through a bank system when there is no HUNDI system in a country. It is believed that money transfers through the banking system constitute only 5-10% of all remittances to Nepal.

6.1.2 HUNDI System:

The largest amount of money is remitted using the HUNDI system. This is an informal arrangement for sending money through business people who work overseas. The HUNDI system is widely used to send money from Hong Kong, Japan, the UK and other European countries.

The word HUNDI comes from the Marwadi community, which is noted in South Asia for business and entrepreneurial skills. HUNDI is an informal system for transferring money and is believed to be relatively efficient. There are 4 steps In the HUNDI system:

- A person wanting to remit money to their family or relatives, must pay the amount (in a highly valued foreign exchange currency) to a HUNDI whallah (a person who is involved in HUNDI).

- The recipient must collect this money from the HUNDI wallah's agent in Nepal.
- The money is received in Nepali Rupees, not in the same currency that was paid. As an incentive for people to use the HUNDI system, however, the HUNDI wallah offers a more favorable exchange rate than the banks in Nepal.
- The money can be delivered within two or three days.

Since the HUNDI system operates informally there exists very little written documentation. The system is based on trust and good faith between the senders and the HUNDI wallah. There are also relatively few cases of people being swindled by their HUNDI wallah, although incidents do happen.

It is estimated that there are at least twenty HUNDI wallahs in Kathmandu, with counterparts in Hong Kong, Singapore and Dubai. It is said that over 80 percent of the world's HUNDI wallahs are located in Hong Kong, as this is one of the largest business centres in Asia. About 80 percent of remittances to Nepal from countries other than India comes through HUNDI system.

6.1.3 Licensed Private Money Transfer System

As part of government efforts to discourage the HUNDI system and pass remittances through formalized systems, the Nepal Rastra Bank (NRB) and the Central Bank of Nepal have provided licenses to private companies to transfer money from foreign countries. In mid-2002 the NRB issued a permit to a private company, 'International Money Exchange Pvt. Ltd'. This company facilitates money transactions from Malaysia to Nepal. This system has no premiums; and requires only one percent of the transaction to be paid as a service charge. This kind of transfer can take between 2-10 days, depending on the location of recipient. The effectiveness and popularity of this system is not yet known.

6.1.4 The 'HUNDI Carry' System

The HUNDI system does not apply to the case of India. Generally, money from India is either carried personally in cash or sent to Nepal by bank. Since the banking system in Nepal does not have a large network, and is largely restricted to urban centres, thousands of Nepalese labour migrants from rural areas carry their savings home in cash. All homeward bound Nepalese workers carrying their savings in cash risk being robbed by thieves. Particularly dangerous areas are the frequently used railway junctions in the Indian states of Uttar Pradesh and Bihar.

It should be also noted that pensions for ex-soldiers in the Indian Army are distributed across Nepal by thirty pension distribution camps.

6.2 Volume of Remittances

How many Nepalese citizens are working in foreign countries? And how much money do they send back to Nepal? These two questions are extremely important to the Nepalese economy. Yet, there is no exact information available to provide satisfactory answers.

During the second half of the 1970s, the recorded value of remittances doubled. In 1974/75 the figure was put at Rs. 90.7 million. This had risen to 216.8 million by 1980/81. Over the next decade, the official value of foreign remittances increased three fold. By 1989/90 it had reached Rs. 676.8 million. This was equal to about half the country's income from tourism and equaled around around one seventh of the export economy. Furthermore, it is estimated that by the mid 1980s Nepal was gaining \$47 million annually in foreign exchange from the salaries, remittances and pensions of people employed as British Gurkha's. In addition, Indian currency worth \$100 million was brought to Nepal from Nepalese employed in the Indian Army (Seddon et all 1998).

In the 1990s, the official value of the remittance economy was put at 2.9 billion Nepali Rupees. This was around 7.7% of total foreign exchange earnings, leaving Nepal well below countries like Bangladesh. In Bangladesh, around 33% percent of foreign exchange earnings comes from foreign labour employment (Nair 1998).

It is widely believed that official records for the remittance economy represent just the tip of the iceberg; particularly as most remittances are transferred informally. Various studies conducted at the village level revealed that non-farm incomes make an important contribution to livelihood security. Such studies led to an important piece of research conducted by David Seddon and his colleagues. They attempted to estimate the total value of remittances reaching Nepal, from all sources. The findings of the study are summarized in Table 6.1, below.

Table 6.1 reveals that remittances worth as much as Rs 69 billion could have entered Nepal in 1997. This figure includes remittances sent from India, which is particularly difficult to estimate.

In recent years, remittances from all sectors have grown. The Nepal Rastra Bank says that the expenditure patterns of households have also grown, despite the problems facing the national economy which will record almost no growth (0.8 %) in 2002. These expenditure patterns can be attributed to the growing dependence of household economies on remittances.

TABLE 6.1		FOREIGN REMITTANCES REACHING NEPAL, IN 1997		
Region	Workers (Estimated)	Remittance (Estimated)	Workers (Possible)	Remittance (Possible)
The West	15,000	4.4 billion	--	--
The Gulf	40,000	1.5 billion	--	--
East/S.E Asia	44,000	23 billion	--	--
India	25,000	6.billion	1.billion	40 billion
Others	1,000			
Total	350,000	35 billion	1.1 million	69 billion

Source: Seddon et all (2002)

6.3 Returning Migrants and their Civil Associations

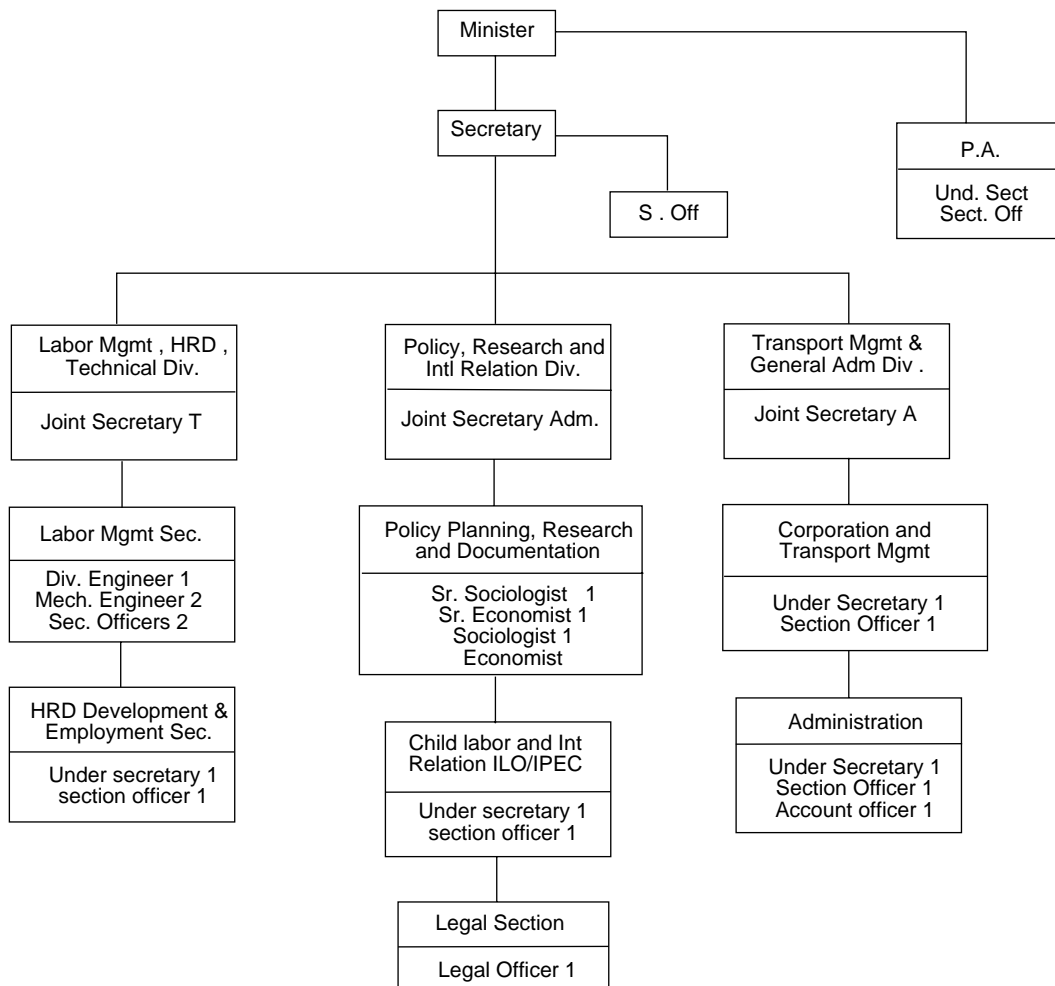
There is little information available on the number of labour migrants returning to Nepal. Over the past five years, however, returnees have to organize themselves; forming returnee associations and making space for themselves in civil society.

There do exist six returnee associations but, as yet, none of them is very active or professionally organized.⁵ None of these associations have undertaken any concrete programme for the welfare of Migrant Workers. But the names of their associations suggest that they aim to provide support to migrant labourers who are cheated as they seek employment outside Nepal.

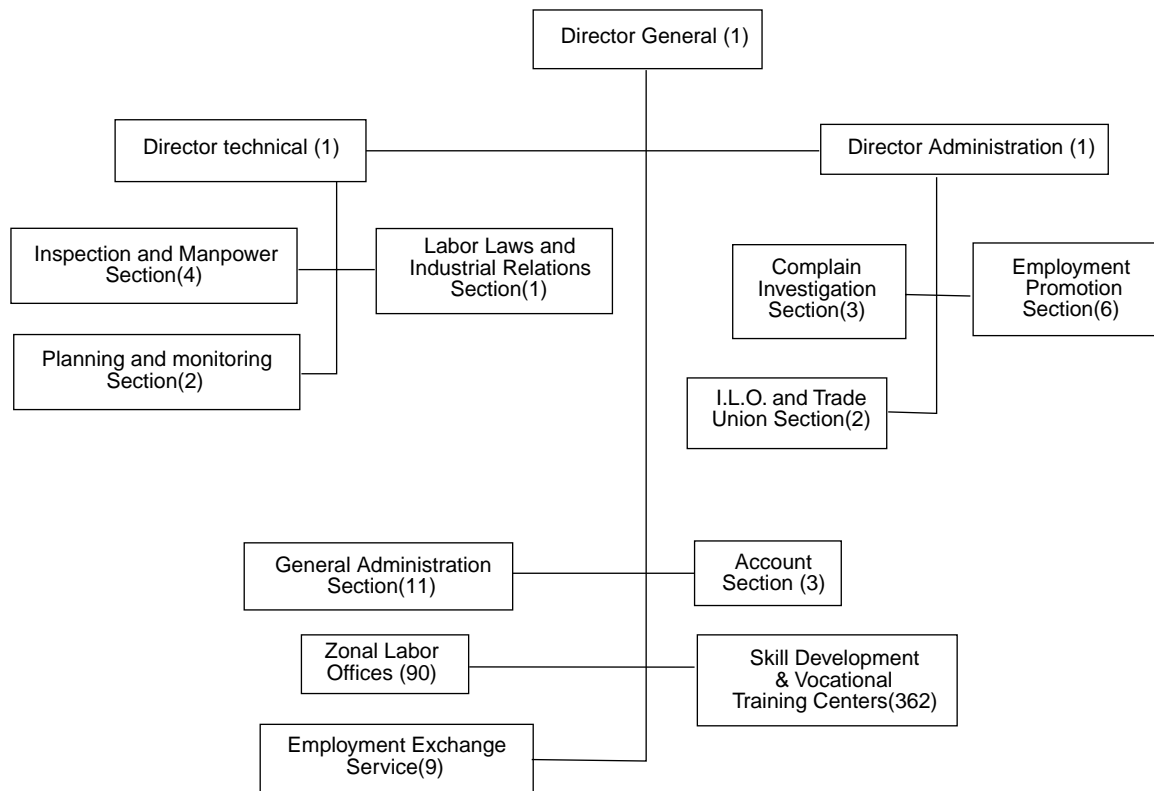
⁵ The six associations are: PIDIT UDDAAR SANGHA; PIDIT SAROKAR SANGHA; HERALO, Pokhara; NEPAL BATABARAN TATHA BAIDESIK ROJGAR KALYANG SANGHA; NEPAL KOREA SAMAJ; NEPAL BAIDESIK ROJGAR SAROKAR KENDRA.

APPENDIX 1:
Organogram - Ministry of Labour and Transport Management

HMG/Nepal
 Ministry of Labor and Transport Management



APPENDIX 2:
Organogram - Dept of Labour and Employment Promotion



APPENDIX 3: **Labour Related Conventions Signed by HMG/Nepal**

Nepal became the member of the International Labour Organisation (ILO) in 1966. Nepal has so far only been able to ratify the following nine conventions:

- a) Discrimination Employment and Occupation Convention No. 111, 1958.
- b) Equal Remuneration Convention No. 100, 1951.
- c) Minimum Wage Fixing Convention No. 131, 1970.
- d) Weekly Rest Convention No. 14, 1921.
- e) Tripartite Consultation No. 144, 1976.
- f) Right to Organise and Collective Bargaining Convention No. 98, 1949.
- g) Minimum Age Convention No. 138, 1973.
- h) Forced Labor Convention No. 29
- i) Worst Forms of Child Labor Convention No. 182

APPENDIX 4:

Legal Procedure and Necessary Documents to Obtain a License for a Recruiting Agency in Nepal

In order to apply:

1. Copy of income tax certificate.
2. Filled form obtained from Department of Labour for registration
3. Voucher of Rs 10 (from Nepal Rastra Bank) paid for the form.
4. Information about executive members - copy of citizenship certificate, description of three generations with their addresses, biodata and 3 copies of photo.
5. Scheme amounting to Rs 20 lakhs of the proposed company and the bylaws and constitution.
6. The description of the property (both fixed and non-fixed) of the founder/executive members. Copies of land certificates of these are also required.

After it is decided to give the license:

1. Rs 5 lakh deposit (now they are thinking of increasing to 25 lakhs) and the voucher of that amount submitted at Nepal Rastra Bank.
2. Certificate of registration in registrar's Office.
3. The voucher of Rs 3000 as license fee.

Conditions for granting license to an Recruiting Agency (Manpower Company):

1. Follow the Foreign Employment Act 2042 and other rules and regulations made later on.
2. If the employer company in destination breaches the contract, the recruitment agency should bear all the responsibility.
3. Should have capable communication system to contact the labourers working in foreign countries.
4. To get information from the labourers working in foreign countries about whether they are getting what was agreed, and then submit that report to the concerned foreign employment officials.
5. If the workers get punished going against the contracted conditions, the recruiting agency should be responsible.
6. To display the license certificate in the office so that people can see it clearly.
7. The location of the office should be in a place specified in the application form.

8. Submit the payments to government in time.
9. The recruiting agency should show the evidence that workers it sent abroad should exchange 10 % of foreign exchange in domestic banks, and the company itself should arrange this.
10. Make efforts to send mainly the skilled labour so that they can earn more.
11. Submit the progress report in every 4 months explaining where are the demands and how the workers sent abroad are doing.
12. The persons to be sent abroad for work should be Nepali citizens.
13. To make public advertisement about the work while sending people abroad.
14. Send only those individuals who were selected after interview where the representative of Labour Department.
15. Depending upon the nature of work and demand, it is necessary to arrange trainings for the labourers.
16. To conduct nicely and follow all rules and regulations.
17. While running an agency for foreign employment, it should be done without harming others.
18. If the employer arranges insurance for the workers, then the agency should make sure that it is at least of Rs 50,000. If not, it should arrange insurance for Rs 100,000.
19. If the company is to be scrapped or change in the shares, it should get permission from Labour Department.
20. Renew the license within 35 days of the lapse of previous license. With the application for renew, the company should mention the number of it send, the countries, nature of job and earnings of foreign exchange.
21. While asking for demand letter (for pre-consent from Labour Ministry), the company should make sure that demand letter has attested by government agencies, chamber of commerce or embassies (with their seals).
22. Consent will not be given to the demand sent by other than those employment exchange service agents and countries recognised by the government. Government from time to time updates the list of the countries where it gives permission to send labourers.
23. Once the company gets last consent for sending workers, it should give orientation to workers in presence of officials of the Labour Department.
24. The company, which gets license, should send at least 50 workers abroad in a year. If it could not do so, it should give appropriate reasons for that in the application for renewable.

**APPENDIX 5:
Specimen of Consular Letter**

Date:

The consular/Ambassador
.....
.....

Respected Sir,

I/We have appointed Mr/Messers (Name and address of the Recruiting Agency) holding recruiting License no. as our true and lawful attorneys/agents in Nepal by virtue of Power of Attorney, executed by me/us in his/their favor for processing and recruiting of my/our demand for manpower against my/our requisition letter no. dated issued by me/us under Visa No.

I/We request you to kindly endorse the visas at the request of my/our aforesaid attorneys/agents on my/our behalf.

Thanking you,

Yours faithfully,

(Signature and Seal of Employer)

Address:
Telephone:
Telex, Fax No.:

APPENDIX 6:
Specimen of Demand Letter

To, Mr/Messers (name of the Recruitment Agency)

Dear Sir(s)

With reference to my/our Power of Attroney executed by me/us in your favour, we hereby request you to kindly supply the following manpower to work in our organisation:

S.No.	Category of Job Title	No. of Persons	Salary per Month	Period of Contract	Working Hours	Holidays
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Other benefits:

1. Accommodation - Furnished accommodation free of charge.
2. Food - Free or 25 % of basic salary in lieu thereof.
3. Passage - Economy class air passage from the place of appointment to place of employment and back on completion of contract period.
4. Local Transport - Free

Other facilities such as insurance, medical, annual leave etc in accordance with Labour Laws of the country of employment.

Attested in the country of employment
by
1. The Chamber of Commerce
2. Ministry of Foreign Affairs
3. Embassy of Nepal

Yours faithfully
Signature and Seal of employer
Telephone No. :
Telex, Fax No.:

APPENDIX 7:
Specimen of Document Giving Power of Attorney

Known by all these present that I, duly authorised there to by the power granted to me by the Messers (Name of employing firms), to hereby appoint M/S (Name of the Recruiting Agency) to be our true and lawful attorneys in respect of handling all the affairs concerning recruitments and passages of the manpower demanded, such as registration of the demand with the Department after payment necessary fee, etc. If any, and to sign all the necessary documents required for the purpose of recruitment and passage of the required personnel and arrange their passports, visas and passages against visa no. date for nos. of personnel.

Attested in the country of employment

- by
1. The Chamber of Commerce
 2. Ministry of Foreign Affairs
 3. Embassy of Nepal

Yours faithfully
Signature and Seal of employer
Telephone No. :

APPENDIX 8: Model of an Employment Contract (used by recruitment agencies)

For the employment, the standard contract of the company may be used, but there shall be following main conditions :

This contract of employment is executed and entrusted and entered into by and between:

- (A) Employer : of represented in this contract by M/
S (local recruiting Agent) a licensed recruiting agency which shall be jointly and severally responsible for compliance herewith.
- (B) Employee Of both of which voluntarily bind themselves to the following terms and conditions:

Basic terms of the contract:

- 1. Employers job title or position:**
- 2. Basic monthly salary:** The basic salary shall not be below the minimum wages according to the laws of the country of employment or the minimum wages fixed by the government of labour supplying country, whichever is higher. At present, it is necessary that monthly salary should not be less than Rs 9,500, which is fixed by Nepali government.
- 3. Duration of contract:** The duration of contract should not be less than two years, but in special cases where salary is comparatively higher than the normal, lesser duration may be considered.
- 4. Travelling expenses:** Both way air passage shall be borne by the employer.
- 5. Accommodation:** The employer shall provide suitable accommodation free pf cost. In case of working in a community where lodging can be rented and employer wishes to pay cash in lieu of rent, it shall be paid at a rate suitable to the locality.
- 6. Food:** The employer shall provide three meals per day to the employees free of charge or 25 % of the basic salary in lieu there of.
- 7. Working days and working hours:** Normally working days shall be 6 days per week and one day paid holiday per week and working hours shall be 8 hours per day, 48 hours per week.
- 8. Overtime:** In case the employer request the worker to work overtime or on holiday, the employer shall pay for overtime or holiday work at 150 % of the basic salary rate.
- 9. Leave benefits:** The employer shall clearly state the weekly holidays, annual holidays and annual vacation specifying number of days, payment of wages or other compensation which shall be according to the laws of the country of employment.

10. **Medical treatment:** The employer shall provide free emergency medical and dental services, including medicine.
11. **Insurance:** The employer shall provide necessary insurance against death or injury according to the laws of the country of employment.
12. **Renewal of Contract:** The contract is renewable with mutual agreement of both the employer and the employee.
13. **Other terms and conditions:** Other terms and conditions favourable to the employee not covered herein and which are provided by the laws of the country of employment shall apply and form part of this contract.
14. **Certification :** The employer and the employee certify that they have read the agreement and that they fully understand its terms and conditions and both further certify that the foregoing terms and conditions together with the application constitute their entire agreement and that any other agreement or understanding aside from this contract shall be considered null and void.

In witness where of, the parties have here unto voluntarily signed their respective names below on this day of 200..... at Kathmandu, nepal.

.....
Signature of Employer

.....
Signature of Employee

.....
Date

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