



International
Labour
Organization

► Rapid assessment of the impact of COVID-19 on private recruitment agencies in Nepal



▶ **Rapid Assessment of
the Impact of COVID-19
on Private Recruitment
Agencies in Nepal**

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Key findings

- ▶ At the time of the survey (July-September 2020), the business operations of most of the private recruitment agencies (PRAs) (84.4 per cent) in Nepal had completely stopped. Only 15.6 per cent of them were partially operating, and they were mostly conducting internal administrative work.
- ▶ None of the PRAs had recruited any workers after the country went into a complete lockdown in March 2020.
- ▶ One-third of the PRAs (32.8 per cent) had received grievances from workers that were related to the COVID-19 pandemic, most of which concerned a deduction of their wages, loss of employment, the non-payment of wages, and violations of their other rights.
- ▶ Due to the outbreak of the pandemic, none of the PRAs, excluding four, were able to deploy workers whose recruitment process had already started. Among them, 77 PRAs were unable to deploy a total of 2,176 workers whose labour permits had already been issued. The remaining PRAs had a total of 10,575 workers whose recruitment process had been partially completed, but they had not received their labour permit. The PRAs reported this as a loss of their investments.
- ▶ Over two-thirds of the PRAs (68.8 per cent) had experienced a significant decrease in the demand for migrant workers from employer companies. Indeed, the demand from all the major destination countries of Nepalese workers had declined. In terms of the employment sectors that suffered the greatest drop in demand for workers from Nepal, hotel and tourism was the hardest hit, followed by construction, restaurants and security guards.
- ▶ Despite this, a quarter of the PRAs (33) reported an increase in the demand for migrant workers. Twenty PRAs had received increased labour demands from Malaysia, while six PRAs had experienced a higher demand for workers from the United Arab Emirates (UAE), and five had an increased demand from Qatar. None of these PRAs, however, were able to deploy workers because the issuance of labour permits and international flights from Nepal were suspended.
- ▶ Among PRAs reporting increased demand, a majority (12) reported demand originated from companies in Malaysia producing gloves and masks, while three agencies had received demands for construction workers in Qatar, and another three had been approached for workers for the agricultural and fishing sector in Malaysia. A couple of PRAs reported a higher labour demand for domestic workers in Jordan and Cyprus.
- ▶ The PRAs were experiencing a number of constraints and challenges in operating their businesses. Most of the agencies identified their major business constraints as being the fear of COVID-19 among workers, the suspension of international flights, and the suspension of the issuance of labour permits. Two-fifths of the PRAs also cited lockdowns in the destination countries, the ensuing lack of labour demand and the closure of employer companies as being major hurdles.

- Most of the PRAs reported that their companies were facing multiple challenges, of which their main one was a cash crunch to maintain security deposits or run their offices.
- The most common measure adopted by the PRAs was to postpone the deployment of migrant workers to a later date. Some PRAs had also reduced the size of their staff to reduce their expenditure. None of the PRAs reported receiving any government support to face their economic challenges.
- An overwhelming majority of the recruitment agencies (112 - or 87.5 per cent) did not consider that the government's measures to address the COVID-19 crisis applied to them or took their problems into account. They were concerned that the foreign employment agencies were particularly undermined in the recent national budget of the financial year (FY) 2020/2021.
- The majority of the PRAs reported that it would take over six months for them to fully restore normal operations, even if travel restrictions were lifted within the coming two months in all the countries. About one fourth of the agencies regarded the current situation too volatile to assess.





1

Background and research objectives

The COVID-19 pandemic has impacted all aspects of human life, leading to an unprecedented reduction in economic activity that has globally affected workers and business alike¹. While limitations on international travel have significantly restricted workers' mobility across borders, businesses are likely to continue recruiting workers nationally and internationally, specifically in sectors considered essential such as care work, manufacturing and construction².

The challenges brought about by the pandemic have exposed the flaws of labour migration regimes and exacerbated the vulnerability of migrant workers, particularly those in low-wage occupations and in the informal sector. They have given rise to violations of rights and a lack of social protection in countries of destination and in systems of return and repatriation of workers. Services involved in facilitating and governing labour migration have been under unprecedented pressure, and many private recruitment providers have failed or are at risk of failing as a result.

In a context in which both workers and businesses are facing increasingly precarious circumstances and seeking ways to cope and survive, there is room for exploitative and deceitful practices to spread.³ It is therefore critical to understand the challenges affecting the labour migration and recruitment stakeholders, and to identify actions and approaches that can secure and enable their commitment to international labour standards.⁴ In particular, it is essential to ensure that recruitment and employment services operate in a policy and business environment that promotes respect for the rights of those involved, addresses the needs of communities of origin and destination, and takes into account the legitimate needs of employers and recruiters.⁵

1 The fifth edition of ILO Monitor estimated that working hour losses had worsened during the first half of 2020, reflecting the deteriorating situation, especially in developing countries. During the first quarter of the year, an estimated 5.4 per cent of global working hours (equivalent to 155 million full-time jobs) had been lost relative to the fourth quarter of 2019. See: ILO Monitor: Covid-19 and the world of work, available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/briefingnote/wcms_749399.pdf

2 ILO: Ensuring fair recruitment during the COVID-19 pandemic (June 2020), available at: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_748839.pdf.

3 United Nations Office on Drugs and Crime (UNODC): [Impact of the COVID-19 pandemic on trafficking in persons](https://www.unodc.org/documents/Advocacy-Section/HTMSS_Thematic_Brief_on_COVID-19.pdf) (2020), available at: https://www.unodc.org/documents/Advocacy-Section/HTMSS_Thematic_Brief_on_COVID-19.pdf

4 In particular the ILO Employment Service Convention, 1948 (No. 88) and the ILO Private Employment Agencies Convention, 1997 (No. 181), in addition to the ILO general principles and operational guidelines for fair recruitment (GPOG), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and the ILO Migration for Employment Convention (Revised), 1949 (No.97).

5 ILO: Ensuring fair recruitment during the COVID-19 pandemic, op. cit.

► COVID-19 and labour migration in Nepal

With over 4 million labour permits⁶ issued during the past decade⁷ and a volume of remittances reaching USD 8.79 billion in the fiscal year (FY) 2018/2019, which accounted for the equivalent of 28 per cent of GDP for that year - labour migration is a defining feature of the Nepalese economy⁸. The pandemic has had numerous effects on labour migration in Nepal, in particular:

Decline in the number of labour permits issued

The number of labour permits issued for overseas employment has plummeted, while many workers are waiting for repatriation with uncertainty. Despite the pandemic, there have been some positive signs in this sector. There has been a consistent – albeit small - demand for Nepalese workers,⁹ and the Nepal government took the decision to partially reopen labour migration from Nepal;¹⁰ however, the number of workers leaving for employment is still extremely low. Only 1,525 labour permits were issued in a one-month period from 17 August to 16 September 16,¹¹ while this figure was over 30 times higher in the corresponding period, from 13 February to 13 March,¹² preceding the government-enforced nationwide lockdown in response to the pandemic. Furthermore, most of the recently issued labour permits have been for ‘re-entry’; only 198 of the 1,525 permits were for the ‘new entry’ of migrant workers,¹³ suggesting that new labour demands are still scarce.

Erosion of labour rights and working conditions

It has been reported that the overall labour rights of migrant workers have further declined during the pandemic. Migrant workers have experienced higher levels of discrimination, food insecurity, reduction and non-payment of wages, poor working and living conditions and increased restrictions on mobility.¹⁴ Nepalese migrant workers have had their basic rights violated on a daily basis.¹⁵ Furthermore, they have been at a higher risk of infection due to

6 “Labour permit” refers to the formal permission granted to a worker to travel abroad for work (other than India). The permit is issued by the Department of Foreign Employment (DoFE) (Foreign Employment Act, 2007). Workers going to India to work do not require a labour permit in accordance with the 1950 Indo-Nepal Treaty of Peace and Friendship.

7 Women migrant workers accounted for 8.5 per cent of the migration flows in 2018/2019

8 Ministry of Labour, Employment and Social Security (MOLESS): Nepal Labour Migration Report, 2020, available at: <https://moless.gov.np/wp-content/uploads/2020/03/Migration-Report-2020-English.pdf>.

9 C. K. Mandal: ‘Small but improving demand for Nepali workers offers hope for foreign employment sector’, in The Kathmandu Post, 9 October 2020, available at: <https://kathmandupost.com/national/2020/10/09/small-but-improving-demand-for-nepali-workers-offers-hope-for-foreign-employment-sector>

10 Ibid.: “Government partially reopens foreign employment hit by pandemic for months”, in The Kathmandu Post, 31 August, 2020, available at: <https://kathmandupost.com/national/2020/08/31/government-partially-reopens-foreign-employment-hit-by-pandemic-for-months>

11 Nepal Ministry of Home Affairs, DoFE: Monthly Progress Report of the month of Bhadau of 2077, 2020.

12 Ibid.: Monthly Progress Report of the month of Fagun of 2076, 2020.

13 Ibid.: Monthly Progress Report of the month of Bhadau of 2077, 2020.

14 ILO: Protecting migrant workers during the COVID-19 pandemic: Recommendations for Policy-makers and Constituents (Geneva, 2020), available at: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/--migrant/documents/publication/wcms_743268.pdf.

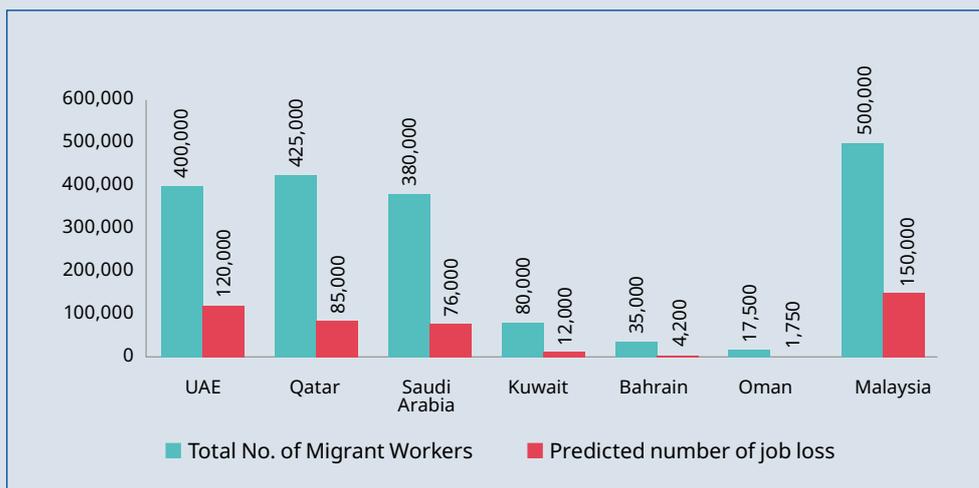
15 J. Baniya, S. Bhattarai, B. J. Thapa and V. Pradhan : COVID-19 and Nepali labour migrants: Impacts and responses (Centre for the Study of Labour and Mobility, Kathmandu, 2020)

crowded labour camps and a lack of personal protective equipment such as gloves, masks and hand sanitizer at the workplace. Those who have been infected have been deprived of health services in their major destination countries.¹⁶ Nepalese workers have also experienced massive layoffs, forced return and the non-payment of wages.¹⁷

Job losses and the mass return of Nepalese migrant workers

The number of workers returning - and waiting to return home - has soared, with some estimates putting this figure at over 400,000.¹⁸ The Nepal Association of Foreign Employment Agencies (NAFEA) estimated that 20 to 25 per cent of about 2.5 to 3 million Nepalese workers, or between 500,000 to 600,000 workers, would have to be repatriated from countries (excluding India) due to employment loss.¹⁹

▶ **Figure 1.1. Predicted job losses for Nepalese migrant workers in key countries of destination**



Source: NAFEA, 2020

NAFEA predicted that the highest number of Nepalese workers to lose their jobs would be in Malaysia, followed by the United Arab Emirates (UAE), Qatar and Saudi Arabia (figure 1.1).

¹⁶ National Human Rights Commission of Nepal (NHRC): Nepali migrant workers' rights during the COVID-19 pandemic: A research report, (NHRC, 2020)

¹⁷ Ibid.

¹⁸ This figure does not include workers returning from India. See J. Baniya et. al., op. cit.

¹⁹ NAFEA: COVID-19, Crisis and Solution, 2020.

Reduction in remittances

Remittances have been the lifeline of Nepal's economy for a number of decades, and their significance has even risen in recent years, with the country consistently receiving remittances equivalent to above a quarter of its GDP since 2012.²⁰ With the pandemic, remittance inflows to Nepal have already declined by 3.3 per cent (in USD value) in the FY 2019/2020,²¹ and are further forecast to decline by 14 per cent in 2020, from USD 8.1 billion in 2019.²² The sharp decline in remittances is likely to have a multiplier effect on the country's economy, including a reduction in foreign currency reserves as well as an economic and psychosocial impact on migrant workers arising from their job losses and subsequent livelihood challenges.²³

Delay in deployment

In addition to the migrant workers affected in their countries of destination, over 100,000 workers in Nepal, who were in the process of leaving the country for foreign employment, have been unable to travel due to lockdowns and travel restrictions imposed by the government of Nepal - as well as by some countries of destination.²⁴ Those who had returned home for their annual leave have been unable to return to their work due to the travel restrictions enforced in Nepal and the host countries. Both these categories of workers are at risk of losing their jobs due to their delayed deployment. Workers who may have paid fees and costs related to their recruitment or deployment are likely, despite ILO standards and guidelines stating that such fees and costs should not be borne by migrant workers,²⁵ to incur prolonged debt and risk losing deposits or collateral provided to secure loans²⁶.

20 World Bank: Personal remittances, received (% of GDP) - Nepal, accessed on 12 August 2020 from: <https://data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS?locations=NP>

21 Nepal Rastra Bank: Current macroeconomic and financial situation of Nepal (based on annual data of 2019/2020), accessed on 28 August 2020 from: <https://www.nrb.org.np/contents/uploads/2020/08/Current-Macroeconomic-and-Financial-Situation.-English.-Based-on-Annual-data-of-2019.20.pdf>

22 World Bank and the Global Partnership on Migration and Development (KNOMAD): Covid-19 crisis through a migration lens, Migration and Development Brief 32, April 2020, available at: <https://openknowledge.worldbank.org/bitstream/handle/10986/33634/COVID-19-Crisis-Through-a-Migration-Lens.pdf?sequence=5&isAllowed=y>.

23 United Nations Development Programme (UNDP): Rapid assessment of socio economic impact of Covid-19 in Nepal (2020, Lalitpur, Nepal).

24 NAFEA, 2020, op.cit.

25 ILO: General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs (Geneva, 2019), available at: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/--migrant/documents/publication/wcms_536755.pdf

26 International Trade Union Confederation (ITUC): Covid-19 and migrant workers' rights (Geneva, 2020)

Impact on recruitment agencies

The pandemic's profound effects on the global economy and on mobility have already had a significant impact on the recruitment industry in migrant workers' countries of origin. A study on the industry in Bangladesh found that many agencies were relying on personal reserve funds, loan sharks and the sale of assets to survive, while the possibilities of bankruptcy and the shutting down of their businesses were looming.²⁷ While a majority of migrants rely on the services of Private Recruitment Agencies (PRAs) in Nepal,²⁸ there has been no systematic study on the impact of the pandemic on the recruitment industry in Nepal, leaving aside occasional media reports. This study was therefore conducted to try and understand the effects of the pandemic on the recruitment industry in Nepal.

► Private recruitment agencies in Nepal

PRAs in Nepal facilitate labour migration by connecting jobseekers with employers abroad and helping migrants to navigate bureaucratic hurdles in the migration process.²⁹ Nearly 90 per cent of the 236,211 labour permits³⁰ issued in the 'new entry'³¹ category in the FY 2018/19 were processed through the PRAs.³²

At the time of writing, there were 854 PRAs operating in Nepal,³³ all of which were registered with their umbrella organisation, the Nepal Association of Foreign Employment Agencies (NAFEA). The PRAs in Nepal are classified into three categories based on the number of workers they supply annually, and they are required to provide cash deposits and bank guarantees on a correspondingly rising scale for the operation of their business:

- i. PRAs sending up to 3,000 workers annually need to deposit NPR 5 million (USD 41,667) cash and provide a bank guarantee of NPR 15 million (USD 125,000);

27 K.A, Mannan, G. M. Chowdhury, and K.F. Farhana: 'The COVID-19 pandemic impacts on manpower export: An econometric analysis of survival strategies of recruiting agencies in Bangladesh', in *The Cost and Management*, 48(3), May-June 2020.

28 There are over 847 PRAs licensed to operate by the Government of Nepal. In addition to these, there are a host of other actors who are involved in the labour migration process - ranging from health screening clinics to pre-departure orientation providers, travel agencies, hotels and so on - to facilitate the recruitment process. Section 19 of the Foreign Employment Act (2007) states that in order to acquire a labour permission sticker to work abroad, migrant workers must obtain insurance, undergo medical screening and attend pre-departure orientation courses.

29 Nepalese PRAs are required to be registered at the Company Registrar Office, and to obtain a license from the Department of Foreign Employment (DoFE) for the operation of their business (Foreign Employment Act, 2007, section 10).

30 This figure does not include those headed to India since labour permits are not required for the Nepalese to work in India.

31 The recruitment agencies process the migration of those workers who are placed in the official data under the 'new entry' category of labour migration. The returning migrants, who are placed in the 're-entry' category, only have to renew their labour permits - and they normally do this themselves or with minimal support from some intermediaries. 'Re-entry' permits are issued to those migrant workers who are returning to the same job on a renewed contract.

32 MOLESS: Report on Final Approved List New RA Wise from 2018-07-17 to 2019-07-16 (Kathmandu).

33 A complete list of the recruitment agencies was obtained from the Department of Foreign Employment.

- ii. PRAs sending from 3,000 to 5,000 workers annually need to deposit NPR 10 million (USD 83,333) cash and provide a bank guarantee of NPR 30 million (USD 250,000);
- iii. PRAs sending more than 5,000 workers annually need to deposit NPR 20 million cash (USD 166,667) and provide a bank guarantee of NPR 40 million (USD 333,333).^{34, 35}

The Department of Foreign Employment (DoFE) deposits 90 per cent of the cash deposits furnished by the PRAs in a fixed account at a commercial bank, and the interest accrued from that amount is spent for two different purposes: 75 per cent of the interest amount is used for workers' welfare through the Foreign Employment Welfare Fund,³⁶ and the remaining 25 per cent is used for the welfare of the registered recruitment agencies and research on foreign employment through the Foreign Employment Business Fund (although the Business Fund was yet to be established at the time of writing).³⁷ Currently, only two PRAs are authorized to send more than 5,000 workers annually, while three PRAs are listed as being allowed to send 3,000 to 5,000 workers annually. The rest of the PRAs have been registered to send only up to 3,000 workers annually.³⁸

Among several conditions that PRAs must fulfil to renew their licence, the government of Nepal added a provision of an annual threshold of 100 workers' deployment under an amendment of the FEA in 2019.³⁹ The PRAs failing to send a minimum of 100 workers annually in two consecutive years would lose their licence under this new amendment, which has been attracting growing attention recently. Indeed, many PRAs have reported their difficulty in meeting this threshold because of disruptions in regular migration flows resulting from the pandemic.

34 Some Nepal Laws Amendments Act, 2019. (Note: This Act also amends the Foreign Employment Act, 2007, to increase the size of cash deposits required from the PRAs for the operation of their business.)

35 Exchange rate as of 20 August 2020: 1 USD = NPR120.

36 The Foreign Employment Welfare Fund also includes migrant workers' contributions and registration fees collected from recruitment agencies. See also footnote 25.

37 Foreign Employment Rules, 2008 (5th Amendment, 2019), section 25.

38 DoFE: Record of Additional Cash Deposit and Bank Guarantee, 2020.

39 This provision was added to section 13 of the FEA, 2007.

▶ The government of Nepal's policy responses to the COVID-19 pandemic

In response to the increasing cases of COVID-19 globally, the government of Nepal made a number of policy decisions relating to labour migration in Nepal, as listed below:

- ▶ Suspension of the issuance of labour permits on 13 March 2020⁴⁰ and of the operation of international flights about a week later,⁴¹ as precautionary measures to protect migrant workers and to stop the virus from spreading to Nepal.
- ▶ Issuance of the 'Directive for the Rescue and Repatriation of Nepali Workers Stranded Abroad due to COVID-19 Pandemic' on 29 June 2020.⁴²
- ▶ Resumption of the issuance of labour permits for "re-entry" from 2 July 2020 onwards, allowing migrant workers on their home holiday to return to their employment abroad.⁴³
- ▶ Waiver offered to the PRAs on the annual threshold of 100 workers' deployment in a financial year for their licence renewal this year (FY 2020/2021).⁴⁴
- ▶ Resumption of the issuance of labour permits for 'new-entry' from 2 September 2020 onwards.⁴⁵
- ▶ Resumption of regular international flights from 2 September 2020 onwards.⁴⁶

Two of these policy decisions were directly related to the recruitment agencies in Nepal. First, the Directive concerning the repatriation of workers placed the primary responsibility on the recruitment agencies to ensure that the employer companies paid the workers' full salary, return ticket and other benefits.⁴⁷ The PRAs were also held responsible for verifying and sending workers' details to the government agencies for repatriation. The government assumed the responsibility of covering the repatriation costs (from the Foreign Employment

40 DoFE: Notice for Postponement of Labour Approval, accessed on 7 August 2020: <https://dofe.gov.np/Modules/News/Document/OriginalDocument/OPMCM%20Decisions.pdf>

41 'TIA suspending int'l flight from this midnight', in My Republica, 22 March 2020, available at: <https://myrepublica.nagariknetwork.com/news/tia-suspending-int-l-flight-from-this-midnight/>

42 MOLESS: 'Directive for the Rescue and Repatriation of Nepali Workers Stranded Abroad due to COVID-19 Pandemic', in Nepal Gazette, 20 July 2020, available (in Nepalese) at: <https://bit.ly/30QIIT5>.

43 C. K. Mandal: 'Government starts issuing labour permits to migrant workers on job break and with renewed contracts', in The Kathmandu Post, 3 July 2020.

44 'Notice of the Ministry of Labour Employment and Social Security', in Nepal Gazette, 13 July 2020, available (in Nepalese) at: <https://bit.ly/2XZPIKG>.

45 DoFE: Notice about Labour Permit, 2 September 2020, available at: <https://dofe.gov.np/DetailPage.aspx/id/156/lan/ne-NP>

46 'International flights resume after five months', in The Himalayan Times, 1 September 2020, available at: <https://thehimalayantimes.com/nepal/international-flights-resume-after-five-months/>

47 MoLESS: Directive for the Rescue and Repatriation of Nepali Workers Stranded Abroad due to COVID -19 Pandemic, op. cit.

Welfare Fund)⁴⁸ of stranded workers whose air tickets and other expenses were not borne by the host countries or the employers, and who did not have the capacity to pay by themselves.

The next policy decision was the flexibility offered to the PRAs for their licence renewal. This policy came in response to the lobbying of the PRAs and NAFEA, but it also reflected the government's realization of the impact of the pandemic on labour recruitment in Nepal. More than 500 recruitment agencies were believed to have benefited from it, although this is a one-time concession and the agencies are still required to have sent a total of 200 workers in the preceding two fiscal years for the renewal of their licence next year (FY 2021/2022).⁴⁹

► Research objectives

A number of policy decisions relating to the PRAs have been made in Nepal, and there have been some news reports of these decisions benefiting the agencies. However, there is still a dearth of information on the extent of the pandemic's impact on Nepalese PRAs, their coping mechanisms and the recruitment industry in Nepal as a whole. It was in this context that this study was undertaken. Such an understanding is essential for the formulation of policies in support of a well-functioning labour migration system that enables and promotes fair recruitment practices and truly benefits migrant workers.

The study was also designed to guide the ILO's Integrated Programme on Fair Recruitment (FAIR) by offering insights into the changed context under which the project will be working in Nepal. The ILO has been working with Nepalese PRAs to increase their understanding of "fair recruitment", as well as to identify and build the capacity of Nepali licensed private employment agencies that are committed to core human rights instruments including international labour standards. This assessment will also inform the future discussion of ILO with its constituents, particularly the government.

48 This Fund was established under the Foreign Employment Promotion Board to primarily support migrant workers and their families who are injured or deceased while working abroad. The workers migrating with a labour permit contribute to the Fund in the range of NPR 1,500 -2,500, but the exact amount of the contribution varies as per the contract period: workers migrating with a contract of less than three years make a one-time payment of NPR 1,500, while those with contracts of more than three years make a payment of NPR 2,500. While the migrant workers' contributions are the main source of income for the Fund, the other important funding sources are the PRAs' registration fees and the interest accrued on their cash deposits.

49 C. K. Mandal: 'Government lifts licence renewal provision for recruiting agencies this year', in The Kathmandu Post, 20 July 2020, available at: <https://kathmandupost.com/national/2020/07/20/government-lifts-licence-renewal-provision-for-recruiting-agencies-this-year>.

▶ Methods of data collection

The study is primarily based on the survey data collected from a sample of 128 PRAs selected from a pool of 854 PRAs registered in Nepal. This sample yields generalizable results with a +/-7 per cent margin of error at the confidence level of 95 per cent.

A complete list of the PRAs was obtained from the DoFE. In order to make the sample representative, all 15 PRAs recruiting domestic workers and another five PRAs sending over 3,000 workers annually were included, while the remaining 108 PRAs were randomly selected. However, only 78 surveys could be completed from this list of sampled PRAs. This was mainly due to the fact that it was difficult to establish contact with the sampled agencies (because their offices were closed) and that some agencies refused to participate in the study. Hence, we used a snowball sampling method - a non-probability sampling method - to reach the targeted sample of 128 PRAs. We also had assistance from the NAFEA and the PRAs we had already contacted in this process.

The surveys were conducted over the telephone in July 2020 using a Kobo toolbox, a data processing software package, and the findings were later analyzed using the statistical software SPSS (Statistical Package for the Social Sciences).

The survey data were supplemented with 30 interviews with recruitment agencies, and an additional six key informant interviews with the officials of NAFEA, MoLESS, and organizations working in the sector of foreign labour migration (Pravasi Nepali Coordination Committee, People Forum for Human Rights, and Nepal Foreign Employment Orientation Agency). The organizations and individuals for the interviews were identified through a mapping exercise and a discussion with ILO Nepal.





2

Research findings

The findings presented below are based on the data from surveys and interviews conducted in July 2020 while the country was still under nationwide lockdown (for most of the data collection period).⁵⁰ They may not always reflect the conditions of the labour migration sector in Nepal post-July 2020, although attempts have been made to update the information on policy decisions until the first week of November 2020. In many cases, the respondents were asked to make a comparison between conditions in their agency during a 'normal' period of business operations - i.e., prior to the government of Nepal's enforcement of various measures to stop the spread of the virus in March 2020 - and the present situation. This information still remains valid.

► Characteristics of the sampled recruitment agencies

Location and operational areas

All the PRAs sampled for this study were located in Kathmandu Valley, and only a few of them had branch offices in other parts of the country.

Nearly all of the PRAs (96.9 per cent) recruited workers solely for foreign labour markets and, as expected, they were only licensed to recruit workers for international markets. Only four PRAs recruited workers for both the international and internal labour markets, and they each had separate licences for these markets.

A larger number of PRAs were also interested in recruiting workers for the domestic labour market. Indeed, 30 PRAs (23.4 per cent) were considering recruiting for the domestic labour markets in the near future, as the recruitment for foreign markets had been on hold due to the pandemic. Another 39 PRAs (30.5 per cent) would recruit workers for the domestic labour market if the environment were favourable. The majority, however, were reluctant to recruit for the domestic market on account of its small size, the scarcity of jobs, and the lack of job guarantees in Nepal.

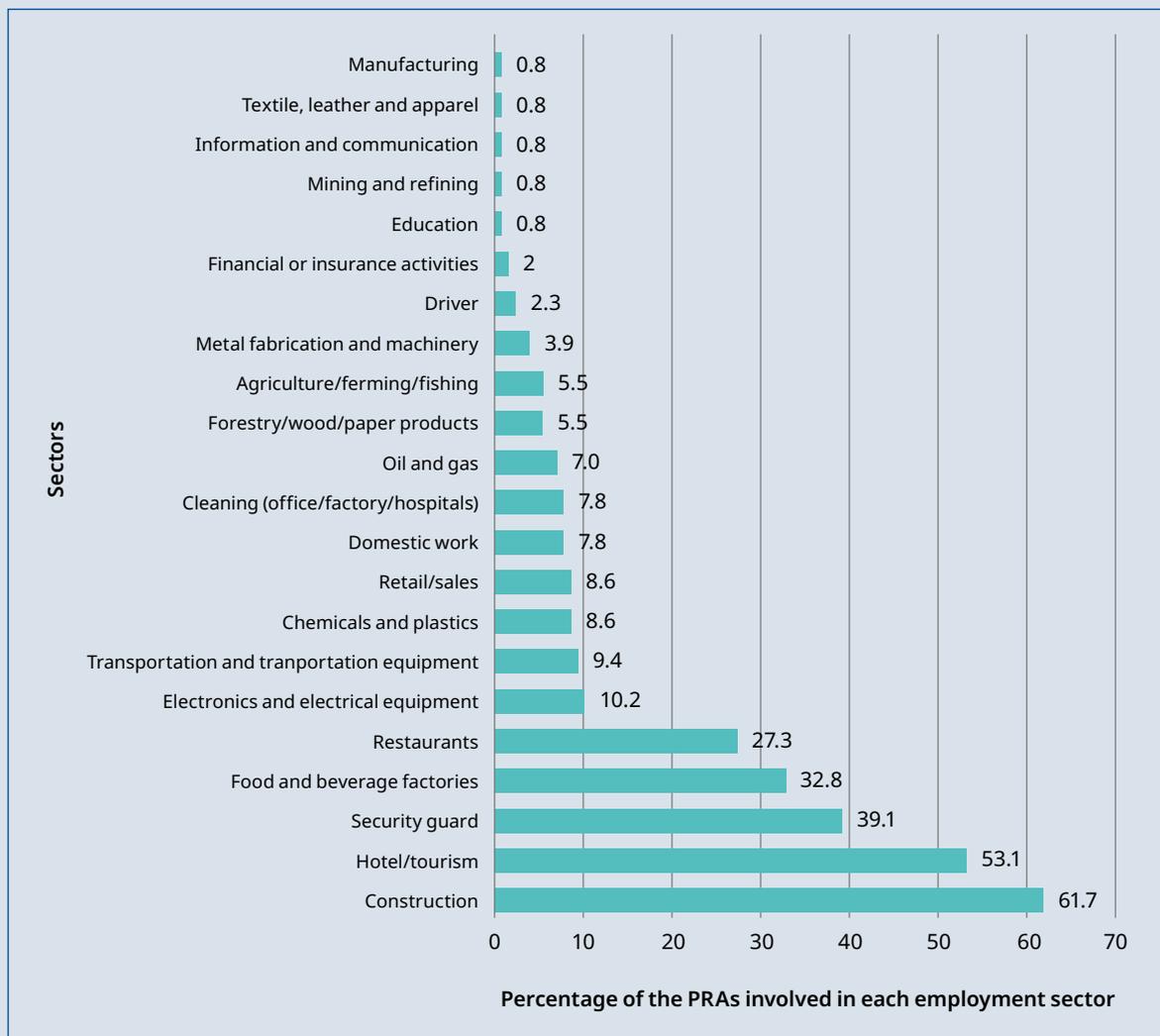
⁵⁰ The nationwide lockdown was lifted on 22 July 2020.

Recruitment sectors

Most of the PRAs recruited workers for multiple sectors of work in foreign countries. Only 11 PRAs (8.6 per cent) sent workers to one sector.

A large number of Nepalese PRAs recruited workers in the tourism sector, including hotels and restaurants - a sector particularly hard hit by the pandemic.⁵¹ Construction and hotel/tourism were the two most popular sectors among the Nepalese PRAs, with more than half of the PRAs recruiting workers in each of these sectors. The next important recruitment sectors were security guards, food and beverage factories and restaurants (figure 2.1).

► Figure 4: Sectors of recruitment



(Multiple responses; N=128).

51 ILO: The impact of Covid-19 on the tourism sector, ILO Sectoral Brief, May 2020, available at: https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/briefingnote/wcms_741468.pdf

Number of employees

The sampled PRAs had 11 employees on average. However, significant differences were observed among them in terms of the size of their office staff: the lowest number of employees was two and the highest was 45. Half of the PRAs had nine or less employees.

Size of business

There were marked differences among the sampled PRAs in terms of the size of their business. While one-third of the PRAs deployed 200 or less workers annually. Four PRAs had fairly large-scale business operations, with three of them annually recruiting between 2,000-3,000 workers - and one PRA recruiting more than 5,000 workers. About one-tenth of the PRAs (12.5 per cent) had fairly small business operations, sending only 100 or less workers annually (table 2.1).

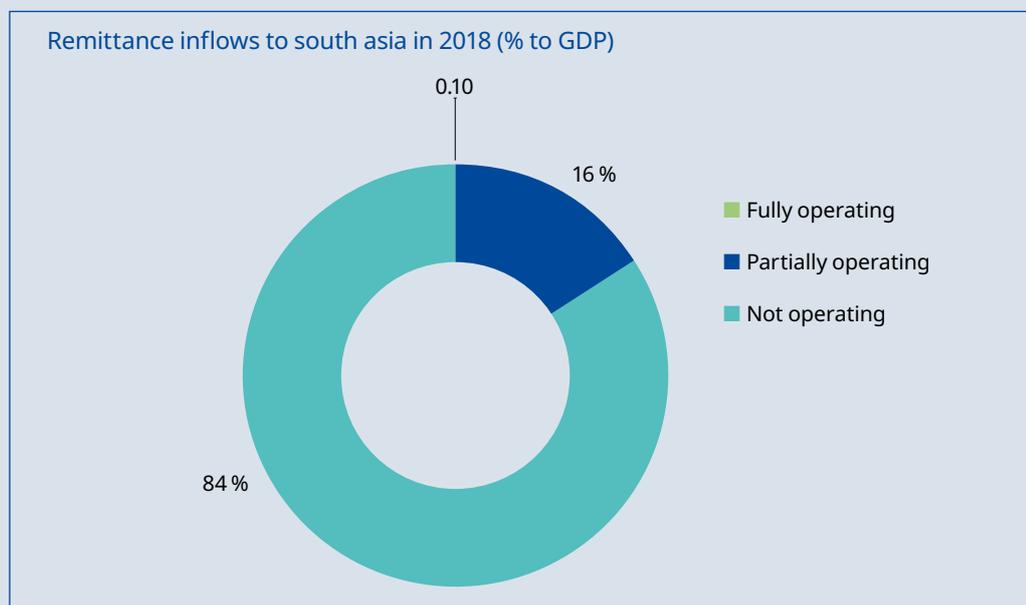
► **Table 2.1. Number of workers recruited annually by the PRAs prior to lockdown**

Annual figures	Number of PRAs	Percentage of PRAs
1-100	16	12.5
101-200	27	21.1
201-500	43	33.6
501-1,000	22	17.2
1,001-2,000	16	12.5
2001-3000	3	2.3
Above 5,000	1	0.8
Total	128	100

Current status of business operations

At the time of the survey, the business operations of most of the PRAs (84.4 per cent) had completely stopped. Many of the agencies were engaged in some administrative work relating to the closing of the financial year, such as the preparation of annual financial reports, tax filing and licence renewal.⁵²

► Figure 2.2. The PRAs' status of business operations in Nepal (March-July 2020)



(N=128)

► Impact of COVID-19 on workers and the responses of recruitment agencies

About a quarter of the recruitment agencies (29 PRAs) reported that some of the workers they recruited had been infected with COVID-19. All of them responded in some way after learning about their workers' infection, usually contacting the employer companies and workers regularly to remain updated about their health conditions. Some PRAs contacted the family of the infected workers in Nepal and asked them to let the agencies know if they needed any kind of support.

Most of the PRAs (67.2 per cent) reported that the workers they deployed had not faced any issues abroad as a consequence of the COVID-19 pandemic. However, one-third of the PRAs (32.8 per cent) had received a number of grievances from the workers, and most of these had

⁵² The Nepalese financial year ends on the last day of the Nepalese month Asar. This day falls around 15 July of the international calendar.

had to do with wage cuts, job losses, the non-payment of wages and other violations of rights (table 2.2).

► **Table 2.2 Major impacts of COVID-19 on workers, as reported by the PRAs**

Consequences	Number of PRAs	Percentage of PRAs
Cut in wages	15	35.7
Employment loss	14	33.3
Non-payment of wages	12	28.6
Other violations of rights	7	16.7
Lack of food	3	7.1
Lack of access to health and protective measures at work	1	2.4
Lack of access to healthy accommodation	1	2.4
Multiple responses; N=42		

Sixty-nine per cent of the recruitment agencies whose workers had been impacted by the pandemic had made some attempts to support them. But their involvement had been limited to contacting the workers and employer companies to obtain updates on their situation, and providing emotional support to the workers as well as their families in Nepal. The PRAs claimed that since the companies were taking good care of the infected workers, they did not need to do anything.

About a third of the PRAs had done nothing - even though their workers had experienced some difficulties due to the COVID-19 pandemic. They claimed that there was little they could do as this situation had resulted from an unexpected pandemic, and the employer companies were treating workers in accordance with their rules and provisions. They would have liked to help the workers but it was beyond their capacity. Some of the agencies reported that the workers had problems only for a short period; they had already resumed their work and the PRAs did not need to do anything for them.

► Impact of COVID-19 on the recruitment agencies

The PRAs reported the impact that COVID-19 had had on various aspects of their business operations, such as recruitment, deployment, and the decline of labour demand. These issues are described in the following paragraphs,

Recruitment

None of the PRAs had recruited any workers after the country entered a complete lockdown in March 2020. This is consistent with the government of Nepal's decision to suspend labour migration for 'new entry' after 13 March.⁵³

Deployment

NAFEA reported that a total of 115,000 workers with labour permits could not be deployed due to the suspension of labour migration from Nepal. The PRAs could not process the migration of a further 328,681 workers, despite the fact that the DoFE had offered pre-approval for their migration.⁵⁴

All the PRAs in the study sample, excluding four, had some workers whose recruitment process had already started but could not be deployed due to the outbreak of the pandemic. Among these, 77 PRAs had been unable to deploy a total of 2,176 workers whose labour permits had been issued through the DoFE and were ready for departure. The remaining PRAs had a total of 10,575 workers whose recruitment process had been partially completed, but their labour permits had not yet been issued. The PRAs reported this as a loss of their investments.

Labour demand

Over two-thirds of the PRAs (68.8 per cent) had experienced a significant decrease in demand for migrant workers from employer companies. They reported that the demand from all major destination countries for Nepalese workers - Malaysia, UAE, Qatar and Saudi Arabia - had declined. There had also been a drop in demand from the other GCC countries and Japan. As the management of a recruitment agency⁵⁵ explained:

Many workers have become jobless in the destination countries and they will be given jobs first. This way, the companies also get skilled workers but it has reduced the demand of workers from here.

⁵³ The government allowed the migration of only those who were in Nepal on a holiday and were returning to work for the same employer, while interviews were conducted in July. The issuance of labour permits for 'new-entry' was resumed a couple of months later, from 2 September 2020 onwards.

⁵⁴ NAFEA, 2020, op. cit.

⁵⁵ All the recruitment agencies and their representatives in this report remained anonymous. However, some individuals and organizations agreed to be identified.

An official of the Nepalese government also believed that the labour demand from foreign countries would significantly decline for a certain time as many of these countries had been affected by the pandemic.⁵⁶ The respondent added that the pressure on the foreign governments to provide employment to native workers could even lower the chances of job opportunities for migrant workers.

Among the employment sectors, “hotels and tourism” was the sector most affected by a decline in demand for workers from Nepal. This was followed by construction, restaurants and security guards (table 2.3).

► **Table 2.3. Employment sectors in which the PRAs are experiencing a decline in labour demand**

Sectors	Number of PRAs	Percentage of PRAs
Hotels/tourism	55	44.7
Construction	49	39.8
Restaurants	27	22.0
Security guards	15	12.2
Food and beverage	12	9.8
Electronics and electrical equipment	7	5.7
Retail/sales	6	4.9
Oil and gas	4	3.3
Cleaning	2	1.6
Beautician	2	1.6
Manufacturing	2	1.6
Chemicals and plastics	1	0.8
Transportation and transportation equipment	1	0.8
Domestic work	1	0.8
Forestry/wood/paper products	1	0.8
Multiple responses; N=128		

A quarter of the PRAs (33) nonetheless reported an increase in the demand for migrant workers. Twenty PRAs had received increased labour demands from Malaysia, while six PRAs had experienced a higher demand for migrant workers from the UAE, and five had experienced the same from Qatar. Some PRAs had also experienced an increase in labour demand from Saudi Arabia, Jordan, Romania and the Hong Kong Special Administrative Region (HKSAR). None of the PRAs, however, had been able to deploy workers on account of the suspension of the issuance of labour permits and international flights from Nepal. The PRAs had also approached the government to call for the resumption of international flights, accompanied by the adoption of certain health guidelines and precautions, so that workers whose labour permit had been already issued could be deployed (NAFEA's demand, however, did not include the issuance of new labour permits and the complete reopening of their businesses).⁵⁷

⁵⁶ Interview with Umesh Dhungana, Joint Secretary, MoLESS.

⁵⁷ Follow-up interview with the NAFEA representative.

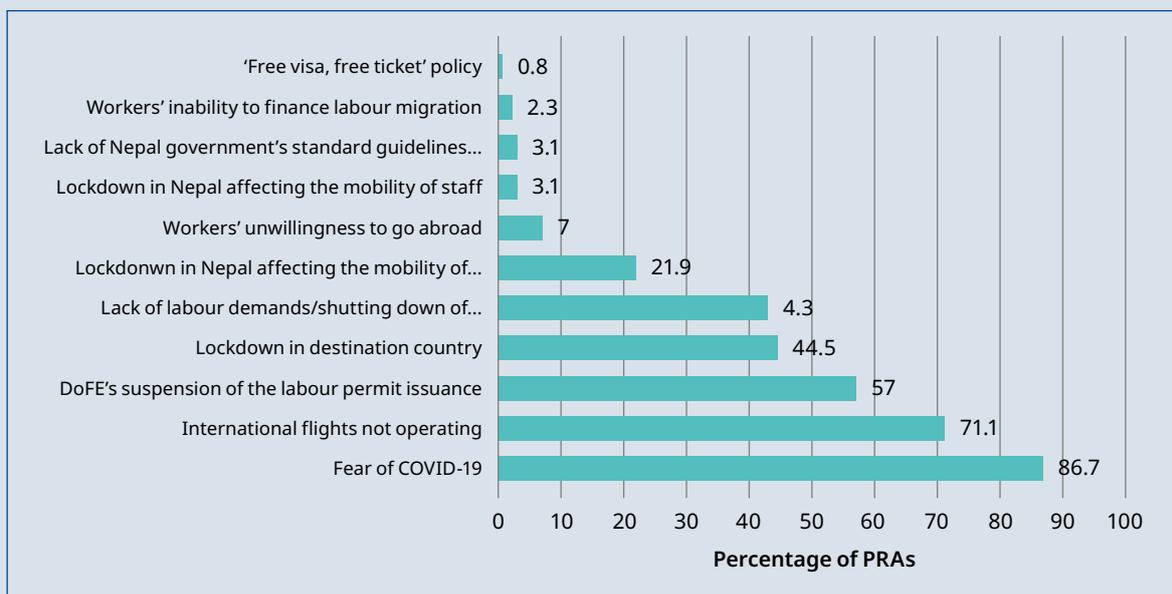
Twelve PRAs reported an increase in demand for workers from companies in Malaysia producing gloves and masks, while three agencies had received demands for construction workers in Qatar, and another three had been approached for workers for the agricultural and fishing sector in Malaysia. The increased demand from companies producing gloves and masks was a direct consequence of the pandemic, while the substantial increase in demand for construction workers in Qatar could be attributed to the pressure to complete the preparatory work for the 2022 World Cup on time.

A couple of PRAs reported higher labour demands for domestic work in Jordan and Cyprus; food and beverages in Qatar, Malaysia and UAE; security guards in Malaysia; hotels and tourism in Saudi Arabia; restaurants in UAE; and some factory works (plastics, electronics and oil/gas) in Qatar, UAE and Malaysia.⁵⁸

Major constraints for business operations

The PRAs were experiencing a number of constraints and challenges in the operation of their businesses. Most of the PRAs cited a fear of COVID-19 in general, the suspension of international flights, and the halt to the issuing labour permits, as being the major constraints to their business (figure 2. 3).

► Figure 2.3. Major constraints facing PRAs wishing to operate/send workers abroad



(Multiple responses; N=128).

Two-fifths of the PRAs also identified a “lockdown in the destination country” and a “lack of labour demands or shutting down of employer companies” as being major constraints.

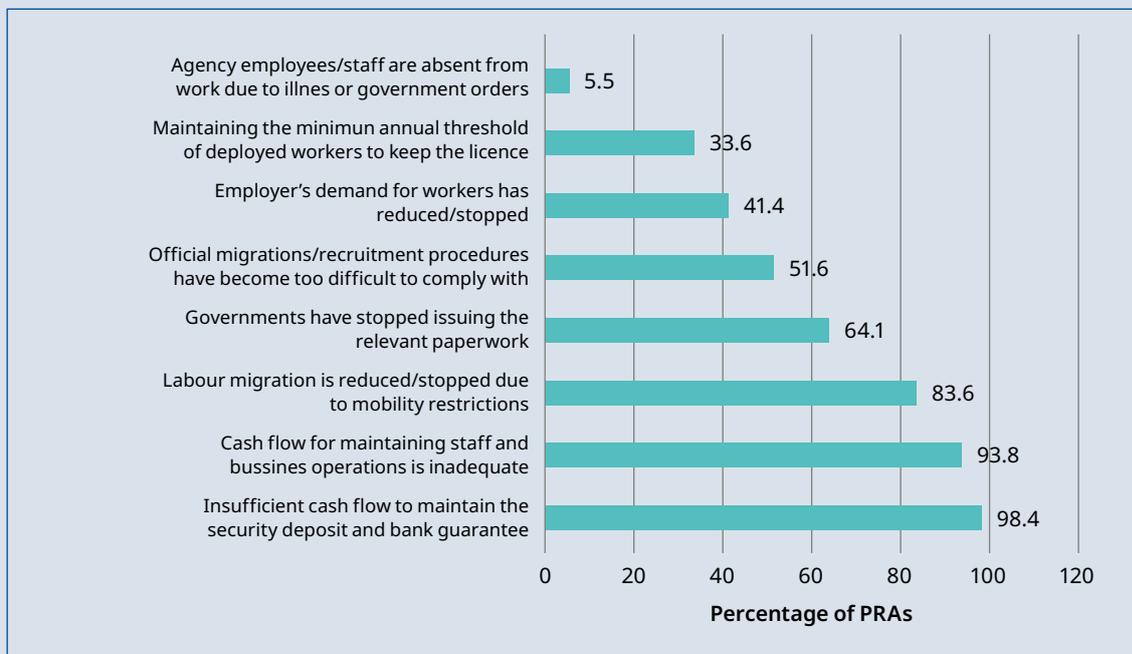
⁵⁸ Follow-up interviews with the NAFEA representative and PRAs revealed that demands for labour had only slightly increased in sectors other than the mask and gloves companies in Malaysia and the construction sector in Qatar.

Major challenges

As the PRAs’ normal business operations were affected and they were not sure when they could return to their pre-COVID-19 working conditions, their difficulties were increasing all the time. Most of the PRAs reported that their companies were facing multiple challenges.

All the PRAs maintained that the cash crunch was their major obstacle to running their businesses. An inadequate cash flow to maintain their security deposit and bank guarantee was also considered a major challenge by all the PRAs, with two exceptions (98.4 per cent). Similarly, 95.3 per cent of the PRAs cited a cash shortage as being a major hurdle to business, as it made it difficult for them to maintain staff and continue operating (figure 2.4).

► Figure 4: Challenges of the PRAs



(Multiple responses; N=128)

At least half of the PRAs surveyed for this study referred to the following as being a major challenge to their businesses: the reduction or stoppage of labour migration due to mobility restrictions; the suspension of the issuance of the relevant paperwork in destination countries; the difficulty to comply with the official migration procedures; and a reduction in labour demand from foreign countries. When interviewed for this study, the NAFEA leadership emphasized that the PRAs were experiencing an adverse situation; they were affected by the financial crisis, the uncertainty of the recruitment business, and the government of Nepal’s impractical policies - such as the annual threshold for the license renewal and the large deposit required to conduct business operations.

► Mitigation measures

Short-term measures

Only about half of the recruitment agencies (49.2 per cent) had taken any short-term measures to cope with the current crisis. The most common measure was the postponement of the deployment of migrant workers to a later date. Some PRAs had also reduced the size of their staff to lower the costs. None of the PRAs reported receiving any government support to face their economic challenges (table 2.4).

► **Table 2.4. Short-term measures adopted by the PRAs**

Types of short-term measures	Number of PRAs	Percentage of PRAs
Deferred deployment of migrant workers to a later date when travel restrictions would be lifted	46	73.0
Reduced staff to decrease agency costs	16	25.4
Provided detailed information on COVID-19 to workers	12	19.0
Reduced salary to office staff	10	15.9
Withheld salary of office staff	2	3.2
Closed office temporarily/introduced working from home	2	3.2
Diversified the recruitment offer (changed country of destination, or moved to internal market)	1	1.6
Obtained government support/subsidies to face economic challenges	0	0.0
Multiple responses; N=63		

However, almost all the PRAs reported that their measures were inadequate and that the solutions to the present crisis were beyond their control. They were at the stage of 'wait and see', as they had no clue what would happen in the future.

Long-term measures

While some PRAs had not planned any substantive measures for the future, others reported that they were thinking up some strategies for the long-term sustainability of their company.

The PRAs were counting on the government's decisions and policies to survive. They were hoping for the involvement of people well-versed in the recruitment area of policy-making so that the government policy could be PRA-friendly. They thought that the government could support the labour recruitment sector by allowing the migration of those workers whose recruitment process had already been initiated, including those whose labour permits had been issued, by setting certain criteria and precautions.⁵⁹ They believed that the government could help in the identification of new destination countries and marketing when the situation returned to normal.

⁵⁹ This demand has been already addressed by the government of Nepal. Labour permits were issued for 're-entry' and 'new entry', starting on 2 July 2020 and 2 September 2020, respectively.

Strategies considered by agencies ranged from the diversification of labour markets, destination countries and employment sectors to an emphasis on marketing. While some were thinking of recruiting workers for both the international and local markets, others were considering diversifying the destination countries and employment sectors. The PRAs expected some destination countries and employment sectors, such as the gloves and mask-producing companies, to have a higher demand for workers, and they wanted to engage in the labour recruitment of workers in those sectors.

A number of PRAs were hopeful that they could expand their business by focusing on marketing when the situation returned to normal. The management of one recruitment agency clearly voiced this view:

After the situation returns to normal, we will focus more on marketing. There will be workers' demands in various sectors, so we are planning to recruit workers in more sectors than before. We will also focus on the training of workers for particular sectors.

Other PRAs, however, were less optimistic. They anticipated that the pandemic would have a longer-term impact on their business, and in the absence of appropriate government policies, they believed they could not survive. In this context, some were thinking of merging with another PRA. A few others were considering forsaking their current business in labour recruitment, either partially or fully. This may be observed in the following excerpts from interviews with the management of two different PRAs:

Covid-19 is going to have a long-term impact on our business, so I don't see a good future for it. If the government will be flexible and make changes in some policies in our favour, I will invest more time and effort in this business. I will focus on marketing and approach good companies. But if the situation does not turn out to be favourable, I will shift to another sector.⁶⁰

The business has been completely shut down for months. We are bearing a huge loss. I do not see a good future for this sector as it is affected by multiple things. The government is undermining this sector and there are no friendly policies at all. So, I am planning to shift to another business.⁶¹

Some PRAs were also critical of the government of Nepal's 'free visa, free ticket' policy. They reported that the recruitment fees of NPR 10,000 allowed under this policy did not cover the expenses incurred in the labour demand procurement process. They claimed that the employer companies were reluctant to cover all the costs of migrant workers from Nepal, as they could easily find workers from other source countries without having to bear such costs. They argued that the Nepalese PRAs had become less competitive among the labour suppliers in the global markets due to this policy.

⁶⁰ Personal interview with the owner of a recruitment agency

⁶¹ Personal interview with the managing director/owner of a recruitment agency

The PRAs were also critical of the provision of the workers' deployment threshold for their license renewal,⁶² as they were struggling to meet this threshold due to the disruptions in labour migration as a result of the pandemic. A NAFEA representative expressed his frustration over the provision of the threshold in these terms:

The provision of a workers' deployment threshold for licence renewal is impractical. It is true that some agencies are not working actively - but the government should not put all the agencies in the same basket. The government should regulate the agencies through other measures ... transparency could be maintained, but setting a threshold for licence renewal hampers the small agencies that are complying government's rules and regulations. What is more, they have invested a huge amount of money in this business and have the right to run it as they see fit. This provision needs to be amended.

When asked what kind of regulatory measures he thought would be most effective, the NAFEA official further added:

The government should strictly monitor the quality of services the manpower agencies are providing. The agencies that are not working efficiently may be regulated accordingly. The legislation should strictly specify the working environment. The government should check on the way in which the umbrella institution (NAFEA) monitors the PRAs' work. It should also modify laws according to need, and amend the service charges that the PRAs are authorized to collect ... with a view to curbing irregularities. The PRAs could be made ethical and transparent through flexible laws and policies rather than oppressive ones.

► Support from NAFEA

Most of the recruitment agencies (84.8 per cent) reported that NAFEA, the PRAs' umbrella organization in Nepal, had not yet issued any guidance or communicated with them on the COVID-19 crisis.

Only a small proportion of the agencies (15.6 per cent) stated that they had been contacted by NAFEA about the present crisis. The communications had mainly focused on NAFEA's ongoing negotiations with the government about relaxing the requirement of the annual threshold of workers' deployment for the renewal of the PRAs' license, and temporarily returning the security deposits to the PRAs. They had also had discussions on the repatriation of workers and the establishment of funds to support the PRAs - as well as the repatriation of workers.

⁶² This provision was waived on 13 July 2020 for this financial year (2020/2021).

A NAFEA representative mentioned that the organization was working for the collective benefit of the PRAs, and that it had sent timely notifications to its members urging them to remain calm and try to overcome the present situation. He also added that NAFEA received timely updates from the PRAs on their concerns and negotiated with the government accordingly. The same representative also reported NAFEA's future plan to establish a separate fund to support the recruitment agencies in a critical situation such as the current pandemic.

On the whole, the PRAs had a positive view of NAFEA's performance during the crisis. Although it had not individually consulted the agencies, it was continuously working for their collective benefit. The PRAs were aware that NAFEA was negotiating with the government regarding their demand for the return of the amounts they had deposited for a certain time, and for the suspension of the provision of a minimum threshold of workers' recruitment for this year. They believed that NAFEA was continuously working for the PRAs' welfare.

► The PRAs' perception of government measures

An overwhelming majority of the PRAs (112 or 87.5 per cent) did not consider that the measures taken by the government to address the COVID-19 crisis had been appropriate or inclusive of the agencies. Only six PRAs found such measures appropriate, and another ten PRAs found them "partially appropriate". The overall dissatisfaction of the sampled PRAs with the government's handling of the labour migration sector during the pandemic is consistent with the 12-point demands NAFEA submitted to MoLESS on 19 July 2020 (see the Annex for details on these demands).

The majority of the agencies (89.8 per cent) were not consulted by the government or social partners on the measures they should take to address the crisis; indeed, about 10 per cent of the agencies had been consulted. While it could not be ascertained why only certain PRAs had been approached, the PRAs' umbrella organisation, NAFEA, was constantly consulted by various social organizations from the beginning of the COVID-19 crisis - and it was involved in discussions on current issues of labour migration and recruitment. The NAFEA leadership, however, believed that such discussions would not be fruitful until the government took initiatives to address their demands.

The PRAs complained that the government was not being responsible towards the recruitment agencies during the crisis, and they were concerned that the foreign employment agencies had been particularly undermined in the recent national budget of FY 2020/2021. In the words of the former president of NAFEA:

The government allocated NPR 50 billion in the recent budget speech for different businesses including the hotel industry to provide subsidized loans at 5 per cent. However, the foreign employment business was not included in this.⁶³

63 Interview with Rohan Gurung, former president of NAFEA.

The PRAs were demanding that the government should temporarily return the amounts they have deposited for the operation of their businesses, which ranged from NPR 5 to 20 million depending on the scale of their business. This could provide a temporary relief to the recruitment agencies that were struggling due to the pressure of loans and the suspension of their businesses. As the former president of NAFEA explained:

It would be better if we were allowed to use our cash deposit of 5 million⁶⁴ for one year or one and a half years. If this is not possible, even a 50 per cent would help to sustain us at this time. We would return this amount after a year. Actually, this is our own money. The only thing is that the government will not accrue interest on this amount if we are allowed to use it.⁶⁵

This demand also had some support among the individuals and organizations working for/ with the migrant workers, although they were also quick to point out the legal provisions regarding the deposits. As a key informant for this study explained:

The recruitment agencies' demand for the government to return their deposited money while the company is in operation is against the legal provisions. However, considering the pandemic's impact on them, the government can amend the provisions and take action on their behalf. There is no harm in addressing this demand.⁶⁶

During the interview, the joint secretary of MoLESS did not refer to the PRAs' specific demands, but he remarked that:

The government is addressing the genuine demands of the recruitment agencies, and it will keep doing the same in the future. But, the government's major focus now is on repatriating the stranded workers in destination countries.⁶⁷

64 With the exception of five PRAs, which send over 3,000 workers annually, all the PRAs had made a cash deposit of NPR 5 million to operate their businesses. This figure on the deposit thus applies to all the PRAs barring these five.

65 Interview with Rohan Gurung, op.cit.

66 Krishna Prasad Neupane, Chair, People Forum for Human Rights.

67 Interview with Umesh Dhungana, Joint Secretary, MoLESS.

A few PRAs seemed to have realized the government's changing priorities, and were thus less critical of its handling of the labour recruitment industry during the pandemic. They could not blame the government for ignoring the PRAs' concerns in such a critical situation since the government itself was helpless. They thought that the government was addressing every sector in accordance with its capacity, and this also applied to the PRAs.

However, the current leadership of NAFEA was disappointed with the government's handling of the PRAs' concerns. The NAFEA representative stated that the government is not taking the issues of the PRAs seriously, and has not taken any impactful steps for the welfare of the PRAs to date. He added that even the government's concession about the licence renewal threshold was due to NAFTA's continuous pressure.

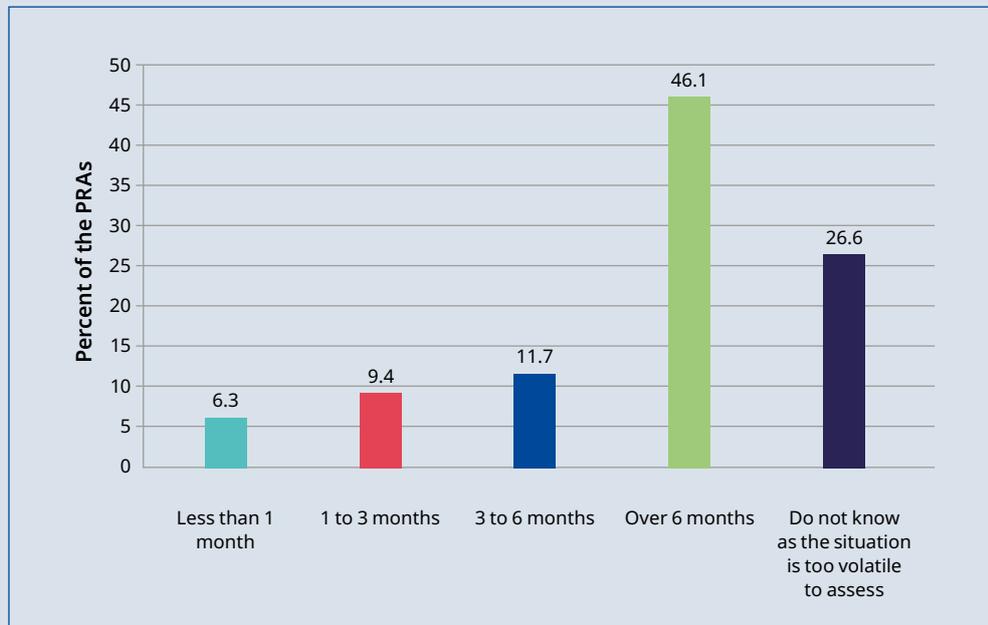
When asked about the measures taken by the government to protect migrant workers, the PRAs unanimously agreed that the rescue and repatriation of stranded workers had been praiseworthy. A number of PRAs also appreciated the Nepalese diplomatic agencies' support given to helpless migrant workers in some destination countries. The PRAs suggested that the government prioritize the following actions for the welfare of migrant workers:

- ▶ Promptly rescue the workers facing problems in destination countries using the Foreign Employment Welfare Fund.
- ▶ Provide free Covid-19 tests to workers leaving the country for foreign employment.
- ▶ Create an environment for the safe return of migrant workers who were in Nepal on a short break.
- ▶ Make the Nepalese embassies and missions abroad responsive and responsible towards the workers. Monitor the performance of the Nepalese missions in foreign countries.
- ▶ Ease the bureaucratic processes in labour recruitment; formulate only such acts and rules that can be implemented.

► Resumption of business

The majority of the recruitment agencies reported that it would take over six months for them to fully restore normal operations - even if travel restriction measures were lifted within the coming two months in all countries. About one-fourth of the agencies regarded the current situation as being too volatile to assess. Similarly, 11.7 per cent of the agencies said it would take them three to six months, while 9.4 per cent said it would take one to three months to return to normal operations (figure 2.5).

► Figure 2.5. Time it would take for the PRAs to fully restore normal operations



(N=128)

A small percentage of the PRAs (6.3 per cent) believed that the businesses could be restored in less than one month if the situation returned to normal in two months. None of the PRAs were considering closing their companies.

▶ Best practices for the protection of employees and workers

The PRAs cited the following as being their best practices in terms of the protection of their employees and the workers deployed by them. A majority of them reported that they had adopted at least one of these measures in their agency.

Employees

- ▶ Even though their businesses were closed down, the agencies paid their employees, albeit usually on a reduced salary (mostly half of their regular salary). They were planning to reimburse the unpaid salary when the situation returned to normal.

Workers

- ▶ A number of PRAs had donated some money to the funds established for helping those workers rescued by the government. They had also provided them with food and basic protective items such as masks and sanitizer once they arrived in Kathmandu.
- ▶ Some PRAs had coordinated with the agencies in Nepal to help those workers who had returned during lockdown.
- ▶ A number of PRAs had been directly involved in the repatriation of workers. For example, one PRA had rescued 60 workers from Dubai on a chartered flight. Another had rescued 20 workers from Saudi Arabia at their own expense.
- ▶ Some PRAs had also contacted the employer companies to make sure they were taking good care of the workers.
- ▶ Many PRAs reported that they remained in regular contact with workers in foreign countries and provided them with the necessary support (such as the arrangement of food and shelter, a search for another employer, and support in repatriation). They also provided emotional support to the workers and their family in Nepal.
- ▶ The PRAs coordinated with the Nepalese diplomatic missions abroad to bring home workers who were in need.



3

Recommendations

The ramifications of COVID-19 have jeopardized the livelihoods of Nepalese migrant workers in all destination countries and overturned business continuity and opportunities for labour and recruitment services for much of 2020 and the near future. Labour migration stakeholders, including government institutions, recruitment industry actors, employers, workers' organizations and civil society actors, now face the momentous task of reviving a migration-reliant economy whilst ensuring that recovery integrates the respect of human and labour rights. To be sustainable and robust, such a recovery should be guided by fair recruitment principles that ensure conditions for the safe return of migrant workers and their effective reintegration and access to decent work⁶⁸. For this, it is essential that the design and implementation of short-term and medium-to-long term response measures be grounded in social dialogue, with adequate representation from all the above-mentioned stakeholders.

Some key recommendations to ensure fair recruitment during and beyond the pandemic, drawn from reflections on the assessment findings and informed by the ILO's brief on ensuring fair recruitment during the COVID-10 pandemic,⁶⁹ are listed in the following paragraphs.

⁶⁸ According to the ILO General Principles and Operational Guidelines (GPOG) for Fair Recruitment, the term recruitment for migrant workers includes [...] "return to the country of origin where applicable."

⁶⁹ ILO: Ensuring fair recruitment during the COVID-19 pandemic (ILO, June 2020), available at: https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_748839.pdf

► Ensure effective regulation and oversight of recruitment and employment process

- The government should expand the scope and strengthen the capacity of labour inspectors to maintain the regular oversight of recruitment practices, readjusting strategies in line with COVID-19 realities and the guidance provided by the ILO Private Employment Agencies Convention, 1997 (No. 181)⁷⁰. In particular, importance should be placed on the monitoring of ongoing or delayed recruitment processes to reduce the risk of abusive and fraudulent practices.
- The capacity of both the respective provincial Employment Service Centre (ESC) and local governments needs to be enhanced, and sufficient resources should be allocated to conduct the effective oversight and monitoring of the recruitment process.
- In line with the General Principles and Operational Guidelines for Fair Recruitment (GPOG) and Convention No. 181, the government should ensure that migrant workers do not shoulder recruitment fees or related costs. Through social dialogue, Nepal and the countries of destination (COD) should identify the responsible party to cover such costs (GPOG General principle 7; Operational guidelines 1, 3, 5).



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70 ILO: Private Employment Agencies Convention, 1997 (No. 181) available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID:312326

► Protect workers from abusive and fraudulent recruitment practices and advocate for their rights

- Recruitment agencies should ensure that the jobs of potential migrant workers, who had embarked upon the recruitment process before the crisis and are awaiting deployment, remain available.
- Governments should establish a mechanism for the restitution of any recruitment-related costs and fees paid by migrant workers who have been unable to be deployed, relieving them of the debts they may have incurred during their recruitment and migration, at least in the short or medium term.
- Recruitment agencies should coordinate with their counterparts and/or employers in the destination countries to ensure that workers' contracts are fulfilled and that they are safe, especially with respect to personal protective equipment (PPE), wages, social security, rest periods and grievance redress⁷¹.
- Governments should hold bilateral discussion with their counterparts in countries of destination and adopt national measure to ensure that:
 - all migrant workers, including those in irregular situations, have access to legal remedies and compensation, including for recruitment-related violations, and interpretation services to assist in their access to justice in these cases (GPOG, General principle 13).
 - women migrant workers are able to speak to women service providers to assist them in their access to justice and other services.
 - In the event of loss of employment, migrant workers who have resided legally in countries of destination for the purpose of employment should not be regarded as being in an irregular situation by the mere fact that they have lost their employment (in accordance with the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)⁷²).
 - returnees as well as citizens stranded abroad can access reliable information, social security benefits, legal remedies, and compensation for unfair treatment, forced labour, violence, and harassment.

71 ILO: Experiences of ASEAN migrant workers during COVID-19: Rights at work, migration and quarantine during the pandemic, and re-migration plans (Geneva, June 2020), available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms_746881.pdf

72 Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C143

▶ Ensure access to accurate and reliable information and essential services

- ▶ In line with the ILO Migration for Employment Convention (Revised), 1949 (No. 97), the governments of both Nepal and the countries of destination should maintain an adequate and free service to provide migrant workers with accurate information in a language which they can understand.⁷³
- ▶ An effective reintegration in the labour market is a prerequisite for ensuring fair recruitment and the protection of migrant workers' rights and well-being. The federal government should work in close consultation with provincial and local governments, employers' organization, workers' organization, PRAs, and civil society actors to develop a comprehensive and sustainable reintegration strategy that takes into account the needs and requirements of migrant workers and the local labour market.
- ▶ The local governments' capacity should be strengthened to maintain a standardized record of prospective migrant workers and returnees – including information on their skills - to ensure their inclusion in national responses such as employment programmes, skills recognition or reskilling/upskilling, livelihood support, and reintegration programmes.
- ▶ Given that a large proportion of migrants are likely to return due to loss of employment, governments could develop cash-transfer programmes in the short-term to ensure sustenance for migrant workers and their families. In the mid- and long-term, governments should work towards creating an investment-friendly environment for migrant workers who seek to start an entrepreneurial venture.
- ▶ Workers' organizations and civil society organizations should continue advocating for the promotion of migrant workers' rights during the pandemic, and for the effective application of the ILO GPOG.
- ▶ All stakeholders should consider developing and disseminating information, education and communication (IEC) materials to avoid or reduce the stigmatization or discrimination of migrant workers, and to dispel the growing perception that returning or deported migrant workers are infected with COVID-19.
- ▶ Governments should ensure that returnee migrants, and families of migrants, are included in social protection programmes, stimulus measures, and any emergency relief.

⁷³ ILO Migration for Employment Convention (Revised), 1949 (No.97), available at.: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312242

▶ Lay the groundwork to enable fair recruitment as economies recover from COVID-19

- ▶ The government should support NAFEA and licensed and compliant private recruitment agencies to overcome the direct impacts of COVID-19 on their business operations, by ensuring equal access to government business relief plans in line with ILO guidance.⁷⁴
- ▶ Regulations related to labour migration need to be formulated or revised - in consultation and through social dialogue with the relevant stakeholders - to ensure effectiveness.
- ▶ In consultation with the social partners, the Foreign Employment Act (2007) should be reviewed so that it adopts a more rights-based approach and takes into account the full recruitment cycle to ensure that return and reintegration policies and programmes are duly considered and funded.
- ▶ The government should review bilateral labour agreements and standard employment contracts to ensure that social protection measures and conditions for safe return are included in the relevant provisions.
- ▶ Training and capacity building related to international labour standards and the GPOG should be developed for private employment agencies and labour inspectors to ensure a smooth resumption and monitoring of fair recruitment.
- ▶ Government policies could promote a more agile business environment, to facilitate the diversification of business strategies for private recruitment agencies, with regards to countries of destinations and sectors of employment.

⁷⁴ ILO: ILO Enterprises Brief: Interventions to support enterprises during the COVID-19 pandemic and recovery (Geneva, April 2020).



Annex

► Demands submitted by NAFEA to MoLESS on 19 July 2020 (unofficial translation)

1. Request for permission for agencies to use their loan deposit (for license) for a year.

Precedent: In 2004, the government allowed recruitment agencies to use the deposit for their license to cover the losses they faced after the murder of 12 Nepalese workers in Iraq [by a terrorist group]. A request is now being made in this crisis to allow recruitment agencies to use their deposit as a loan whilst keeping the bank guarantee as it is.

2. Request for the formulation of a separate guideline to address grievances related to COVID-19.

This guideline would refer to cases related to the non-payment or payment of reduced wages to workers due to loss of employment.

3. Request to end the requirement of separate licenses for different markets.

Instead of requiring separate licenses to send domestic migrant workers to various countries, such as a separate license to send workers to Japan, a request is made to allow recruitment agencies, which have acquired their license, to work in any market.

4. Request for the Foreign Employment Fund to be implemented

Despite the provision for a Foreign Employment Fund in the Foreign Employment Act and the Foreign Employment Regulations, no steps for developing the criteria for this Fund have been made.

5. Request to address the gaps/issues in the Foreign Employment Information Management System (FEIMS)

6. Request to revise (increase) the service fee for recruitment agencies

This revision would allow licensed recruitment agencies to charge a service fee equivalent to one month of the workers' salary, and migrant workers to pay themselves for their airfare to the country of destination.

7. Request for permission to open branch offices

This would implement section 74 of the Foreign Employment Act (2007) and Rule 47 of the Foreign Employment Regulations (2008), allowing licensed recruitment agencies to open branch offices.

- 8.** Request to remove the requirement for agencies to send a minimum of 100 workers a year to renew their license, and to implement the decision taken by the council of ministers on 29 March 2020.
- 9.** Request for the easing of the process transferring the deposit back to the recruitment agency that no longer wishes to continue its business.
- 10.** Request for the permission for members of the same family to establish institutions related to foreign employment, such as pre-departure orientation centres and health screening centres.
- 11.** Request for the Foreign Employment Promotion Board to support the classification and repatriation of migrant workers who have migrated institutionally.
- 12.** Request for permission for license holders to facilitate foreign employment to conduct business for internal employment.

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