
International Labour Organization (ILO)

Integrated Programme on Fair Recruitment (FAIR)

Terms of Reference

Conduct a study on “The Role of Intermediaries and other private/public sector actors in the recruitment process in Nepal, in relation to the labour migration of Nepali workers”

Background and rationale

Before the COVID pandemic, it was estimated that 650 Nepali migrant workers leave the country everyday through formal channels for employment abroad. Despite the increase in trend of migrant workers opting to go via regular channels, the cases of migrant workers frequently suffering from human rights abuses, labour exploitation, and financial distress due to debt incurred during migration and employment has been on a rise. The cumulative weight of these issues faced by the migrant workers impinges on the rights of migrant workers and impacts their wellbeing. One of key amongst the multiple actors involved in ensuring safe migration are the labour intermediaries.

The intermediation landscape today is complex, owing to the fragmented global governance system of labour migration and large number of actors involved: from private employment agencies to the multiple levels of sub-agents, to whom work is passed by the main agencies. Public and private recruitment agencies (PRA), when appropriately regulated, play an important role in the efficient and equitable functioning of labour markets by matching available jobs with suitably qualified workers. However, concerns have been raised about abusive practices from unscrupulous recruiters and employers worldwide including charging of recruitment fees; deception about the nature of the job and living and working conditions; retention of passports; deposits and illegal wage deductions threats if workers want to leave their employers and in some instances physical and sexual violence.

In Nepal, official data on the labour permits issued by the Government indicates that using the services of a PRA has been the most prevalent approach among Nepali migrants when seeking foreign employment. There are over 847 PRAs licensed to operate by the Government of Nepal. While PRAs are central actors in the country’s foreign employment industry¹- connecting workers to jobs abroad and processing the pre-departure requirements as stipulated by the Foreign Employment Act (2007)², there are host of other actors who are involved in the labour migration

¹ Eleanor Taylor-Nicholson, Sarah Paoletti, Bandita Sijapati and Bassina Farbenblum. (2014). *A Risky Business: Accountability of Manpower Agencies in Nepal*. Centre for the Study of Labour and Mobility & University of New South Wales: Kathmandu

²Article 19 of the Foreign Employment Act (2007) states that in order to acquire labour permission sticker to work abroad migrant workers need to get insurance, undergo medical screening and attend pre-departure orientation. In practice, for some countries, migrant workers are also required to acquire security clearance

process ranging from health screening clinics to pre-departure orientation providers, travel agencies, hotels and so on.

Very prominent amongst these actors are brokers, largely referred to as 'agents', who often make the first contact with potential migrant workers in the local communities. In turn, migrants often have to rely on these intermediaries to navigate the bureaucracy of migration, to connect with PRAs, and to secure work, government approvals, visas, transport and accommodation³. Until recently, these agents were allowed to function legally in Nepal⁴. The role of these agents in the recruitment process is a subject of much discussion. On one hand, agents do provide a valuable service both to migrant workers- who need assistance in navigating through the complex process of identifying jobs abroad as well as fulfilling pre-departure requirements- as well as the PRAs who need the help of these agents to link them to prospective migrant workers. On the other hand, these agents are seen as complicit in multiple labour and human rights abuses where they charge migrant workers with excessive recruitment fees, do not provide accurate information to migrant workers, misleading them about their working and living conditions⁵. Some agents also operate illegally.

Whilst studies have focused mainly on private recruitment agencies and agents/brokers when researching on intermediaries, not many studies have taken into account the role of host of other actors who function in Nepal's intermediation landscape. These include medical service providers, insurance providers, orientation training providers, hotels and government organizations in the case of government facilitated recruitment. This list is not exhaustive. A study to expand on the roles that these actors play in the recruitment process and how they contribute to the promotion of un/fair recruitment practices is needed to understand how they can be better regulated to promote fair recruitment.

The International Labour Organization (ILO) has been promoting and implementing fair recruitment interventions through multiple projects under its Fair Recruitment Initiative⁶, namely Integrated Programme on Fair Recruitment (FAIR) and Global Action to Improve the Recruitment Framework of Labour Migration (REFRAME). The aim of both the projects is to reduce deceptive and coercive practices during the recruitment process and violations of fundamental principles and rights at work, as well as other human and labour rights, through increased safe migration options, effective regulation of public and private employment agencies, and accountability of unscrupulous actors. These global projects seek to contribute to the promotion of fair recruitment practices globally and across specific migration corridors. Target countries for both projects include Tunisia, Jordan, Nepal, Qatar and the Philippines for FAIR and Madagascar, Sri Lanka, Pakistan, Guatemala, Mexico, Malaysia and Nepal for REFRAME. The Fair Recruitment Initiative strives to alter the recruitment culture and practices across sectors and for this to happen it is crucial to examine in detail the

from relevant authority, in most cases police, which then needs to be attested by the Consular Section under the Ministry of Foreign Affairs.

³ Eleanor Taylor-Nicholson, Sarah Paoletti, Bandita Sijapati and Bassina Farbenblum (2014). *Labour Migration Agents: Regulation, Accountability and Alternative*. Centre for the Study of Labour and Mobility & University of New South Wales: Kathmandu

⁴ An amendment to the Foreign Employment Act in 2019 has made them illegal.

⁵ Eleanor Taylor-Nicholson, Sarah Paoletti, Bandita Sijapati and Bassina Farbenblum. (2014). *Labour Migration Agents: Regulation, Accountability and Alternative*. Centre for the Study of Labour and Mobility & University of New South Wales: Kathmandu; Amnesty International (2017). *Turning People into Profit: Abusive Recruitment, Trafficking and Forced Labour of Nepali Migrant Workers*. Amnesty International: London

⁶ www.ilo.org/fairrecruitment

recruitment infrastructure in order to inform the work on fair recruitment for ILO, ILO constituents and social partners.

Objectives

The key objective of the research is to document the migration experience and identify the various intermediaries that facilitate migration for foreign employment in Nepal through the narratives of migrant workers. The breakdown of the objective is as follows:

- Through the narrative of workers, examine their interaction with recruitment actors; estimate the cumulative costs of transactions with recruitment agents and intermediaries and other services for migrant workers (including money lending); and identify the strategies workers use to meet these costs.
- Define / identify representative typologies/profiles of various migration narratives
- Examine (by actor / service provider) existing policy and practice that govern and regulate the activities of the above-mentioned actors, as well as non-regulatory measures, such as community-driven interventions, and examine their strengths and weaknesses / pros and cons.

Scope of the work

The study will cover the role and activities of actors who work alongside licensed recruitment agencies, directly or indirectly and/or those actors who work independently. It covers informal intermediaries as well as formal private/public service-providers. These actors are involved in the delivery of all services related to the recruitment of migrant workers, including delivery of information and orientation, skills training, medical examination and other medical services as relevant, administrative / paper handling services, transport, accommodation.

This will be documented through the migrant workers' narratives of their recruitment and migration journey, covering not only their recruitment process but also their experience at the country of destination and, for returnees, their accounts of return to Nepal. The respondents for the study should be representative to include accounts of men and women migrant workers who have had the experience of migrating to any sector and any destination. The study can include accounts of both current migrants or returnee migrant workers who have come back to Nepal in the last 12 months. Additionally, the study should include experiences of migrant workers recruited through various channels, including through private sector as well as government facilitated corridors. For the private sector facilitated migration, the research should incorporate experience of migrant workers migrating to the focus countries under the ILO FAIR project, which include Malaysia, Qatar and Jordan.

The study will also examine existing policy and practice that govern and regulate the activities of the above-mentioned actors, as well as non-regulatory measures, such as community-driven initiatives.

Expected Outputs/Deliverables

The key outputs of this assignment include:

- Work plan and outline of methodology
- Transcript of individual interviews.
- Representative case studies / typologies drawing upon individual data. At a minimum: one per gender, one per type of recruitment; between 4 and 8 case studies; include two outlier stories.

- Graphic overview of the recruitment process and instances where intermediation and private sector services arise.
- Fact sheet of various actors – who are the intermediaries and what role they play.
- Table of what policies and practices govern and regulate the activities of each actor.

Indicative activities

In order to deliver the outputs, the following activities are expected:

1. Attend Briefing Session with ILO

The contracted individual/organization is required to attend a briefing session with the ILO FAIR project team to discuss the scope of work

2. Develop a methodology

A detailed work plan with the detailed methodology will be presented to the ILO in the first two weeks of the research timeframe. It will include:

- A sampling method, aimed at identifying typologies
- Draft research tools (interview guides, questionnaires etc.)
- Data collection and management plan

A draft methodology and drafts of research tools will be submitted to the ILO allowing sufficient time for review. The research team will integrate the feedback received (if any) and submit a final version for approval.

3. Data Collection and analysis

An analysis plan will be developed by the research team, for discussion with the ILO. The tools will be translated by the contractor as relevant.

4. Submission of draft case studies/typologies, graphic overview and factsheet

Draft outputs will be submitted to the ILO allowing sufficient time for review. The research team will integrate feedback and submit a final version for approval.

5. Submission of the final collection of case studies/typologies, graphic overview and factsheet

Indicative Timeframe (December-February)

The duration of research is estimated to be three months.

Deliverables	Tentative Dates	No. of Days
Attend briefing session with ILO	1 st December 2020	0.5
Submission of work plan and research tools	7 th December 2020	2.5
Data Collection and Submission of first draft of case studies/typologies for ILO review	7 th January 2021	15
Submission of second draft of case studies/typologies, graphic overview and factsheet for ILO review	5 th February 2021	6
Submission of edited first draft of draft case studies/typologies, graphic overview and factsheet	30 th February 2021	6
Total		25

Requirement

The researcher/research team should possess the following requirements:

- **Competencies:**
 - Minimum of university degree (Bachelor's or equivalent) in social science, communication, or related areas
 - Completed and published at least one previous study on labour migration, particularly related to recruitment, intermediation and migration governance.
 - Previous experience of undertaking qualitative research and analysis
 - Possess sound knowledge on labour migration from Nepal with particular focus on recruitment and intermediation
 - Excellent command of written and spoken English as well as Nepali.
- **Eligibility:**
 - Consultants contracted by the ILO for another task in the duration of the study are not eligible to apply
 - If the applicant is engaged in full-time employment, the applicant will be required to present a no-objection certificate from their employers **upon selection**.
- **List of Documents to be submitted:**
 - Concept Note highlighting proposed methodology, no more than 1500 words.
 - Cover Letter indicating an all-inclusive fee per day/financial proposal
 - Registration and renewed license (in the case of institutional application)
 - Organization Profile (in the case of institutional application)
 - Tax Office Registration and Tax Clearance Certificate (in the case of institutional application)
 - CVs of key personnel who will be engaged in the proposed activity.

Submission of Expression of Interest

Applicants are requested to send an all-inclusive fee per day/financial proposal along with a concept note highlighting proposed methodology (max. 1500 words) and their CVs highlighting relevant experience as well as other supporting documents (if applicable) to kathmandu@ilo.org no later than 17:30hrs, 15 November 2020. Please indicate "FAIR_Intermediaries Study" in your e-mail subject line.