

International Labour Organization (ILO)

Integrated Programme on Fair Recruitment (FAIR)

Terms of References for an EXCOL contract:

Conduct Impact Assessment of Labour Agreements signed by Government of Nepal with Countries of Destination for Migrant Workers from Nepal

1. Background

With over 4 million labour permits issued in the last decade and volume of remittance reaching 8.79 billion in fiscal year 2018/2019 accounting for 28 per cent of GDP for that year, labour migration is one of the key features of the Nepali economy.¹ Foreign employment increasingly provides an alternative option for men and women who are seeking, but not finding, suitable, relevant and decent local employment opportunities in Nepal. While a number of skilled workers and professionals from Nepal are migrating for attractive positions, the large majority of migrant workers remain low- and medium-skilled.

Under the Fair Recruitment Initiative², the ILO Integrated Programme on Fair Recruitment (FAIR)³ and the Global Action to Improve the Recruitment Framework of Labour Migration (REFRAME)⁴ global projects seek to contribute to the promotion of fair recruitment across migration corridors. The corresponding project strategy is based on a three-pronged approach: 1) establishing fair recruitment corridors to prevent abuses and exploitation of migrant workers; 2) providing migrant workers with access to reliable information and improved services and 3) disseminating knowledge on fair recruitment through various channels including the training of journalists and engagement with the media. These components are implemented through several pilot initiatives at the global and country level. Target countries include Tunisia, Jordan, Nepal, Qatar and the Philippines for FAIR.

One of the key aspects of the FAIR programme is to support the implementation of bilateral labour migration agreements (BLMAs)⁵ and to collaborate closely with the Government of Jordan and

¹ Nepal Labour Migration Report 2020 (MOLESS, 2020). Available at:

<https://moless.gov.np/wpcontent/uploads/2020/03/Migration-Report-2020-English.pdf>

² <https://www.ilo.org/global/topics/fair-recruitment/lang--en/index.htm>

³ <https://www.ilo.org/global/topics/fair-recruitment/phase2/lang--en/index.htm>

⁴ <https://www.ilo.org/global/topics/labour-migration/projects/reframe/lang--en/index.htm>

⁵ As per the International Labour Conference 2017 Report on Addressing governance challenges in changing labour migration landscape, the term bilateral labour migration agreements (BLMAs) is used to cover the following types of agreements: a. Bilateral labour agreements which create legally binding rights and obligations, governed by international law and are usually more specific and action-oriented; b. Memoranda of

the Government of Nepal to promote fair recruitment based on the ILO General Principles and Operational Guidelines on Fair Recruitment, and ILO standards⁶. In October 2015, the Government of Nepal and the Government of Jordan signed a bilateral agreement in the field of labour. The ILO provided technical support to the two Governments for drafting of the agreement. The framework for the agreement with Jordan has been used by the Government of Nepal for subsequent MOUs on labour migration signed with the Governments of Malaysia, Mauritius, and United Arab Emirates.

Some of the objectives highlighted in these agreements and MoUs are to:

- i. Establish a framework for recruitment, employment and repatriation of Nepali migrant workers abroad and regulate these processes in accordance with the principles of transparency, fair recruitment and mutual benefits
- ii. Establish limits or benchmarks for the regulation of fees and costs
- iii. Facilitate cooperation to address matters related to trafficking in persons and forced labour
- iv. Establish mechanism to monitor, review and take decisions on issues in relation to protection of rights of migrant workers
- v. Facilitate cooperation and exchange of information on best practices on labour migration management for mutual benefits
- vi. Promote international labour standards of rights at work, encourage decent work opportunities, enhance social protection and strengthen social dialogue on work-related issues (ref. agreement with Jordan)

The government of Nepal has signed labour agreements of varied nature with nine countries of destinations. These include: Memorandum of Cooperation (MoC) with Japan (2009/2019), Bilateral Labour Agreement with Jordan (2017), a Joint Pilot Program with Israel (2015/2020) and Memorandum of Understanding with Republic of South Korea (2007), United Arab Emirates (2007/2019), Bahrain (2008), Malaysia (2018) and Mauritius (2019). However, not all agreements cover the above-mentioned objectives. In addition, there is very little evidence as to what extent these instruments have been implemented or effective in achieving the above-mentioned objectives, and whether they have been effective tools to ensure fair recruitment for Nepali migrant workers and safeguard their rights. For this, the FAIR project would like to conduct a study aimed at understanding:

Understanding which are non-binding agreements, which set out a broad framework of cooperation to address common concerns; c. Other agreements can include specific bilateral agreements between government ministries or agencies in destination and origin countries, dealing with different aspects of labour migration.; d. Framework agreements or cooperation agreements that include labour migration along with other migration topics such as irregular migration, readmission, and migration and development are also included in BLMAs.

* See International Labour Conference 2017 Report on Addressing governance challenges in changing labour migration landscape, para. 68: Addressing Governance Challenges in a Changing Labour Migration Landscape: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_550269.pdf

- i. The status of implementation of these agreements to measure effectiveness⁷ with regards to with respect to protecting migrant workers, safeguarding their rights, facilitating fair recruitment and establishing regular migration pathways.
- ii. the extent to which the implementation of the agreements have impacted differently on men and women migrant workers, including whether their respective concerns and needs have been adequately addressed
- iii. The extent to which the agreements have helped to promote and/or implement relevant international labour standards, and decent work opportunities for both men and women migrant workers;
- iv. Level of awareness amongst stakeholders, including select stakeholder in countries of destination, on the provisions of the agreements
- v. Measures being taken to ensure implementation and monitoring, including involvement of social partners and relevant stakeholders
- vi. Obstacles to effective implementation and monitoring of the agreements, including for specific groups of migrant workers
- vii. Ways in which provisions can be better implemented and areas for improvements in line with the guidance embedded in international human rights instruments and international labour standards, and taking into account also the UN guidance^e on BLMAs. This should include recommendations primarily for Government of Nepal as well as other key stakeholders including but not limited to workers' organization, social partners and recruitment agencies.
- viii. Examine the extent to which agreements have been evaluated or revised to adapt to changes in context.
- ix. Document the process of negotiation, implementation and monitoring process to identify challenges and good practice

2. Scope of Work and activities

The BLAs under review will consist of the following : content review of all BLMAs and in-depth analysis of agreements entered into after 2017.

Specific responsibilities of the contracted organization to carry out the proposed study will include the below activities:

a. 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 and finalize the work plan.

b. Methodology

A detailed methodology will be presented to the ILO in the first two weeks of the research timeframe. This will elaborate on the methodological outline submitted as part of the institution's reply to the RFP. It will include:

- indicative list of key informants / resource persons Draft research tools (interview guides, questionnaires etc.)

⁷ For example: relevance, effectiveness, efficiency, impact and sustainability

- 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. The tools will be translated by the contractor as relevant.

c. Data Collection

Conduct secondary and primary data collection as necessary. This could include content analysis of the agreements, literature review and interview with key stakeholders including workers.

d. Analytical report

The research team will be required to submit an analytical report (not more than 10,000 words) in accordance with the objectives outlined above. The research team will need to include in their submission a list of concrete recommendations .

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

3. Time Frame

The duration of the assignment is a total of 40 days of work spread across three months tentatively within the following timeframe:

Deliverables	Tentative Dates	No. of Days
Attend briefing session with ILO	17 th May 2021	0.5
Submission of work plan and research tools	21 st May 2021	2.5
Data Collection and Submission first draft for ILO review	18 th June 2021	25
Submission of second draft for ILO review	9 th July 2021	6
Submission of final edited report	23 rd July 2021	5
Presentation of findings at a dissemination event	TBD	1
Total		40

4. Eligibility and Competencies of the applicant/s

- a. Competencies:

- i. Minimum of university degree (Bachelor's or equivalent) in social science, law, economics, or related areas
- ii. Quantitative and qualitative research and analytical skills
- iii. Prior experience of conducting similar studies, impact evaluations and M&E. The applicant/s must proficient with research methods which use virtual platform.
- iv. Experience in migration-related policy, technical assistance or research, ideally in relation to BLAs, and solid knowledge of labour rights and employment issues.
- v. Familiar with labour migration dynamics between Asia and Arab States, and the recruitment landscape in particular
- vi. Sound knowledge of the concept of fair/ethical recruitment
- vii. Excellent command and knowledge of Nepali and English

b. Eligibility:

- i. Consultants contracted by the ILO for another task in the duration of the study are not eligible to apply
- ii. 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.

5. Budget and terms of payment

Applicants are requested to send an all-inclusive fee per day along with their CV highlighting relevant experience ILO Country Office in Dhobighat, Lalitpur or e-mail to kathmandu@ilo.org no later than 12:00hrs, 23 April 2021. Please indicate "FAIR_BLA Study" in your email subject line. Applications received after this will not be considered.

100% of the payment will be made upon submission of the translated document as specified above, to the satisfaction of the ILO.