



RESEARCH ON THE LABOUR RECRUITMENT INDUSTRY BETWEEN UNITED ARAB EMIRATES, KERALA (INDIA) AND NEPAL



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Final Report

Research on the Labour Recruitment Industry between United Arab Emirates, Kerala (India) and Nepal



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Table of Contents

Table of Contents	7
List of Figures and Tables.....	9
Abbreviations	12
Executive Summary	13
Chapter 1: Literature Review	1
1.1 Introduction.....	1
1.2 Labour Migration from India	3
1.2.1 The Role of Labour Migration.....	3
1.2.2 Recruitment Process and Governance	6
1.3 Labour Migration from Nepal.....	10
1.3.1. The Role of Labour Migration.....	10
1.3.2 Recruitment Process and Governance	13
1.4 Labour Recruitment in the UAE.....	18
1.5 Labour Migration from a Supply Chain Perspective	22
Chapter 2: Research Methodology.....	24
2.1 Introduction.....	24
2.2 Instruments for Data Collection.....	25
2.3 Data Collection	26
2.4 Data Analysis	30
Chapter 3: Recruitment Process Map	31
3.1 The Recruitment Process in India	31
3.1.1 Initiation of the Process	31
3.1.2 Getting Job Order.....	31
3.1.3 The eMigrate System	32

3.1.4 Permissions and Approvals.....	33
3.1.5 Interview Stage	33
3.1.6 Post Interview Stage	34
3.2 The Recruitment Process in Nepal.....	36
3.2.1 Initiation of the Recruitment Process.....	36
3.2.2 Getting Job Order.....	36
3.2.3 Permissions and Approvals.....	37
3.2.4 Advertisement	38
3.2.5 Operations of Manpower Companies	38
3.2.6 Sub-Agents Link	39
3.2.7 Other Forms of Recruitment	40
3.2.8 Selection Process	41
3.2.9 Post-Selection Process	41
3.2.10 Arrival in the UAE.....	43
Chapter 4: Research Findings	44
Chapter 5: Recommendations	104

List of Figures and Tables

Figure 1: The recruitment process in India. The flows of information, money, and documents from one stakeholder to another.	31
Figure 2: The recruitment process in Nepal through manpower companies.	36
Table 1: Sample Composition India	28
Table 2: Sample Composition Nepal	29
Table 3: Recruitment through Manpower Companies.....	37
Table 4: Recruitment Procedure - Direct Recruitment	40
Table 5: Money exchange between Foreign Employer and Manpower Company in Nepal	43
Table 6: Did you have to pay for acquiring information on emigration process and/or employment in UAE? (India).....	44
Table 7: If yes, to whom did you have to pay and in what form? (India).....	44
Table 8: Amount to be paid to the recruitment agent (India)	46
Table 9: How did you find the money to pay the recruitment agents' fees? (India).....	47
Table 10: Why did you pay the recruitment agent? (India)	47
Table 11: How did you find the money to pay the recruitment agents' fees? (Nepal)	49
Table 12: Why did you pay the recruitment agent? (Nepal).....	49
Table 13: Whom did you approach for guidance / help / support regarding employment (multiple choice)? (India)	51
Table 14: Workers' awareness of blacklisted agents (India)	53
Table 15: Workers' awareness of specified fees to recruitment agent (India).	54
Table 16: Workers' awareness of blacklisted agents (Nepal).....	55
Table 17: Workers' awareness of specified fees to recruitment agent (Nepal)	55
Table 18: Have you attended any training/seminars/courses on overseas recruitment? (India).....	68
Table 19: If no, do you feel the need for specific training? (India)	68
Table 20: Areas of required training (India).	68

Table 21: Have you attended any training/seminars/courses on overseas recruitment? (Nepal)	69
Table 22: If no, do you feel the need for specific training? (Nepal).....	69
Table 23: Areas of required training (Nepal).....	69
Table 24: When did you sign the contract? (India).....	72
Table 25: When are the candidates made to sign the contract? (India)	72
Table 26: Have you been asked to surrender original documents? (India).....	73
Table 27: When did you sign a contract? (Nepal)	73
Table 28: Have you been asked to surrender original documents? (Nepal)	73
Table 29: Was there any discrepancy between your job offer and employment contract? (India).....	75
Table 30: Regarding which details was there a discrepancy between job offer and contract? (India)	76
Table 31: Did you complain about any contract substitution? (India).....	77
Table 32: Was there any discrepancy between your job offer and employment contract? (Nepal)	77
Table 33: Regarding which details was there a discrepancy between job offer and contract? (Nepal).....	78
Table 34: Did you actually complain about any contract substitution? (Nepal).....	79
Table 35: Did you pay any fees to the employer? (India).....	80
Table 36: If Yes, who asked you to pay? (India)	81
Table 37: How much did you pay (range) INR? (India).....	81
Table 38: Did you pay any fees to the employer? (Nepal)	82
Table 39: If yes, who asked you to pay? (Nepal)	82
Table 40: How much did you pay? (Nepal).....	82
Table 41: Did you receive any pre-departure orientation? (India)	86
Table 42: If yes, who imparted pre-departure orientation? (India).....	86
Table 43: Did you receive any pre-departure orientation? (Nepal)	87
Table 44: If yes, who imparted pre-departure orientation? (Nepal)	87
Table 45: Did the recruitment agency make you aware of rights and responsibilities? (India).....	89

Table 46: Did the recruitment agency make you aware of redressal mechanisms? (India)	89
Table 47: Are there helplines and portals to answer your queries? (India)	90
Table 48: Are they available in a language you understand? (India)	90
Table 49: Was the helpline support adequate? (India)	90
Table 50: Did the recruitment agency make you aware of rights and responsibilities? (Nepal)	92
Table 51: Did the recruitment agency make you aware of redressal mechanisms? (Nepal)	92
Table 52: Are there helplines and portals to answer your queries? (Nepal)	93
Table 53: Are they available in the language you understood? (Nepal)	93
Table 54: Was the helpline support adequate? (Nepal)	93
Table 55: What type of visa did you apply for? (Nepalese Workers)	94
Table 56: What type of visa did you apply for? (Indian Workers)	95
Table 57: What type of visa did you apply for?*Did you do the same work as specified in your contract? (India)	96
Table 58: What type of visa did you apply for?*Did you do the same work as specified in your contract? (Nepal)	96

Abbreviations

Abbreviation	Definition
approx.	approximately
CSO	Civil Society Organisation
DCC	District College Coordinator
DoFE	Department of Foreign Employment
ECNR	Emigration Clearance Not Required
ECR	Emigration Clearance Required
FEPB	Foreign Employment Promotion Board
FICCI	Federation of Indian Chambers of Commerce and Industry
GoI	Government of India
GoN	Government of Nepal
INR	Indian rupee
KMS	Kerala Migration Survey
LPS	Labour Permission Stickers (hereinafter referred to as ‘LPS’)
MEA	Ministry of External Affairs
MoHRE	Ministry of Human Resources and Emiratization
MOIA	Ministry of Overseas Indian Affairs
MoLE	Ministry of Labour and Employment
MoU	Memorandum of Understanding
MRC	Migrant Resource Centre
NAFEA	Nepal Association of Foreign Employment Agencies
NPR	Nepalese rupee
ODEPC	Overseas Development and Employment Promotion Consultants
NORKA	Non-Resident Keralites Affairs Department
PGE	Protector General of Emigrants
UNDESA	United Nations Department for Economic and Social Affairs
USD	United States dollar
WPS	Wage Protection System

Executive Summary

This paper, “Research on the Labour Recruitment Industry between United Arab Emirates, Kerala (India) and Nepal,” was commissioned to the International Organization for Migration by the Ministry of Human Resources and Emiratisation of the United Arab Emirates (UAE) within the framework of the Abu Dhabi Dialogue. It examines the labour recruitment processes from India and Nepal to the UAE, with a focus on low-skilled and semi-skilled workers. It seeks to create an understanding of the current structures, challenges, and flaws in the system that complicate regulation and expose prospective and current workers to various forms of abuse and exploitation, most notably the charge of illegal recruitment fees, with the aim to promote the development of more effective regulation and fair recruitment practices in the future.

To this end, surveys and interviews were conducted with stakeholders in the target countries, including 2421 workers, and 316 recruiters, employers, government officials, and other relevant key informants. The snowball sampling technique was used in identifying potential interview partners and survey participants, and analysis was conducted from a supply chain perspective, leading to 22 key findings and 11 recommendations.

The study demonstrates that most Indian and Nepalese workers consider the payment of high recruitment fees – for which they usually resort to family and friends for informal loans – as a given. This situation is exacerbated by an overall lack of knowledge on the part of workers regarding both governmentally imposed fee caps and blacklisted agents. Not only are recruiters themselves often insufficiently trained in foreign recruitment and thus unable to provide workers with valid information, and even at risk to commit violations of government rules and regulations themselves; other information platforms, such as pre-departure orientation, remain insufficient both in content and execution. Simultaneously, the study reveals that government-run recruitment agencies are still lacking in capacity of staff as well as access to employers in the UAE, thus failing to

properly fulfil their objective as a low-cost and fair alternative to private recruitment agencies.

Sub-agents, who are illegal in India and highly restricted in their professional freedoms in Nepal, are the main channels through which workers obtain employment in the UAE. While the existence of malpractices among sub-agents cannot be denied – a fact fuelling their bad reputation but furthered at the same by lack of government regulation – this research reveals that, rooted in the local communities, sub-agents are highly trusted by workers as a critical source of information and reference for complaints. Misinformation passed on by sub-agents, on the other hand, is often a result of poor information flows across the recruitment chain rather than a deliberate act. In fact, the study finds that many sub-agents run detailed background checks prior to establishing a working relationship with an agent in order to ensure the respectability of their new business partner, acting, at the same time, as a screening service to prospective workers.

The findings further shed light on the reasons agents as well as sub-agents may collect higher fees from workers than legally permitted in that these fees can reflect the actual costs they incur in providing recruitment services. For example, agents are required to establish and maintain relationships with partner agents, incur costs for logistical arrangements, and, at times, cover the cost of candidates withdrawing from the recruitment process.

The study highlights that government caps on recruitment fees are based on the assumption that employers pay most of the recruitment costs. However, as the prevailing business model for international recruitment remains overwhelmingly an employee-pays model, the overcharging of workers can be interpreted as a reflection of the actual business costs. In addition to business costs, recruitment agents are of the view that they predominantly cover the risk of costs incurred by prospective workers who elect to withdraw from the recruitment process at an advanced stage or soon after arriving in the UAE. To manage this risk, recruitment agents have been found to further exploit workers by withholding their

original documents as well as obliging them to sign unofficial contracts in countries of origin.

Furthermore, the study sheds light on a lack of accountability of employers regarding the engagement of their partner recruitment agencies in illegal and unethical practices with a clear absence of monitoring mechanisms in countries of origin. Employers have further shown to have limited internal regulation to monitor illegal and unethical practices of company personnel responsible for recruitment. Research findings confirm that contract substitution remains a common practice among employers. However, a lack of coordination between countries of origin and destination on labour mobility systems (i. e. eMigrate) can lead to a duplication in issuance of employment contracts that may be interpreted by workers as contract substitution. In addition, a number of employers have voiced their support for the worker-pays recruitment model in an effort to guarantee workers' commitment once recruited. Other employers have been found to charge workers, primarily through the recruitment agent, to guarantee workers' selection for a job.

The study further highlights that complaints and redressal mechanisms in countries of origin and destination remain challenging. The high costs of litigation constitute a deterrent for workers to file complaints. In addition, complaints in countries of origin continue to be viewed as socially unfavourable and instigate fear of blacklisting or reprisal. The lack of awareness of workers regarding the existence of helplines and other means of accessing justice in the UAE, combined with lack of incentives for employers to register and act upon complaints, has created an environment that is stifling to migrant workers in distress.

The study reveals that lack of coordination between countries of origin and destination can contribute to additional exploitation of workers. This was evident in the eMigrate System. Developed to protect workers vulnerable to exploitation, the system has ironically created further potential costs for workers to satisfy its requirements for additional documentation. On the other hand, the possibility of converting visitor, tourist, or family visas to the UAE into work visas, allows workers to circumvent recruitment agencies and associated costs, but excludes them also from protection mechanisms in their countries of origin and makes

them more vulnerable to exploitation in the UAE. Finally, the research highlights that labour supply companies, operating legally in the UAE, ultimately increase informal recruitment costs incurred by migrant workers and risks of their potential exploitation.

The study presents 11 practical recommendations to remedy the identified challenges:

1. Establish a recruitment agency certification and ranking system based on a legal and ethical code of conduct;
2. Establish a formal mandatory training programme for recruitment agencies, and build capacities and professionalise government-run recruitment agencies;
3. Regulate and professionalise sub-agents with the aim of their full official incorporation in the recruitment process;
4. Digitize and decentralize delivery mechanisms of pre-departure orientation;
5. Establish a seasonal work visa system as an alternative to labour supply companies;
6. Restrict semi- and low-skilled workers from transferring from visitor, tourist, and family visas to work permits without entering through their respective country of origin;
7. Decrease cost of litigation and address culture of blacklisting and fear of reprisal in countries of origin;
8. Establish an incentivised complaints mechanism for employers, and increase awareness of complaints and redressal mechanisms in the UAE;
9. Establish a system of serial liability that holds employers accountable for illegal and unethical behaviour of partner recruitment agencies in countries of origin;
10. Establish bilateral working groups on priority challenges within the recruitment cycle between countries of origin and destination, for example, establish a working group to align UAE regulations with India's eMigrate System;
11. Develop a mechanism for institutionalised dialogue on recruitment between government and recruitment industry stakeholders in countries of origin and destination.

Chapter 1: Literature Review

1.1 Introduction

According to the Migration and Remittances Factbook 2016, more than 247 million people, or 3.4 per cent of the world population, reside outside their country of birth. The number of international migrants has been increasing consistently over time, and has remained above 3 per cent of the world population for the last fifteen years (World Bank Group, 2016). The six Gulf Cooperation Council countries (Saudi Arabia, Bahrain, Kuwait, Qatar, Oman and the United Arab Emirates (UAE)) are host to over 22 million temporary migrants (UNDESA, 2013). The GCC states annually provide around 1.5 million jobs that help support an estimated 150 million dependents in their respective home countries (Al-Suwaidi, 2013:xvii).

Migration is a complex phenomenon intrinsically linked with the history of humankind. Globalisation has helped to expedite the mobility of people, products (goods and services), and labour across national boundaries. It is particularly the latter, the flow of labour, that affects both sending and receiving countries in multiple ways, be it demographics, economic and institutional structures, or domestic politics and national security (Kapur, 2010). The intricate nature of migration has engendered a wide variety of academic studies and research from sociological, economic, political, and cultural perspectives, exploring for example the profile of migrants, or consequences of migration on sending and receiving countries (Rajan S. I., 2015; Reshmi & Unisa 2013; Rajan et al., 2011; Wickramasekara, 2011; Khadria, 2010; Srivastava & Sasikumar, 2003; Nayyar, 1994).

This research project, commissioned by the United Arab Emirates' Ministry of Human Resources and Emiratisation (hereinafter referred to as 'MoHRE') and conducted on their behalf by the IOM, examines the recruitment process of labour migration from Nepal and India to the UAE. It thus sheds light on two countries where labour mobility has a significant role to play, where its impact is felt strongly, and whose nationals constitute considerable communities in the UAE. The India-UAE route is one of the world's most

important and fastest growing migration corridors, with a stock of approximately 3 million Indian migrants living in the UAE in 2015 as compared to 1 million in 2000 (UN Department of Economic and Social Affairs, 2015). The smaller yet fast-growing Nepalese community in the UAE amounts to about 300,000 members (Inchley, 2014).

There are two types of labour migration from India and Nepal: The first one is the permanent migration of primarily highly skilled workers and professionals to developed countries, such as the United States of America, Canada, the United Kingdom, and Australia. The phenomenon emerged in the early 1950s, but gained a major impetus during the 1990s following the immense advancements in information technology, and surge in demand for skilled professionals. The second type of migration, which is the focus of this research, involves low-skilled and semi-skilled workers accepting temporary contractual work primarily in Gulf Countries, such as Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the UAE, particularly after the oil price boom of 1973/74 and 1979 (Kapur, 2010). In the Gulf, the increase in oil revenues, consequent investments in massive infrastructural development projects, and shortage of domestic labour supply have generated a rising demand for foreign labour, and thus created a pull factor for labour classes in India, Nepal, and other countries (Shekar, 1997). Gulf countries mainly attract employment in three areas or skill levels: high-skilled professional/white-collar jobs, semi-skilled jobs, and jobs for low-skilled/blue-collar workers. Examples of professional jobs are doctor, engineer, accountant, architect, professor, and manager, while craftsman, artisan, and driver are considered semi-skilled jobs. Low-skilled jobs include construction worker, farm hand, shop helper, and domestic worker.

On the one hand, labour migration constitutes a factor that is in many ways beneficial for both sending and receiving economies, as well as for individuals. On the other hand, however, there are challenges and flaws in the labour mobility process that can expose prospective workers to various forms of abuse and exploitation at both ends (Heller, 2015). Among the many difficulties for governance in preventing abuse and ensuring fair recruitment are institutional incapacity and corruption. These malpractices are a result of complex processes, brought about, in part, by the very system governments “had put in

place to regulate and streamline the emigration process” (MOIA, 2007) between labour sending countries and the UAE. This system has created, in the words of the Minister of Overseas Indian Affairs, “a nexus between government officials and recruitment agencies leading to increasing exploitation of the poor” (cited in Rajan et al., 2008). The motivation of this research project is to understand the challenges involved in recruitment to the UAE of temporary contractual workers (skilled, semi-skilled, low-skilled, and other professionals) from India (Kerala) and Nepal. For this purpose, numerous interviews were conducted with workers, recruitment agencies,¹ and other key informants from the target countries, and analysed from a supply chain perspective, the results of which are presented in this paper.

1.2 Labour Migration from India

1.2.1 The Role of Labour Migration

As per data from the United Nations Department for Economic and Social Affairs (hereinafter referred to as ‘UNDESA’), India has the largest diaspora population in the world, with approximately 16 million Indian nationals residing outside the country in 2015 (UNDESA, 2015). This is followed by Mexico (12 million), and the Russian Federation (11 million) (UNDESA, 2015). In 2014, for instance, 804,000 Indian workers obtained emigration clearance from the competent authority, namely the Protector General of Emigrants (hereinafter referred to as ‘PGE’), and left India (GOI, Annual Report, 2015). The main outflow of workers from India in the last few years has been to Gulf countries, with estimations suggesting the employment of about five million workers in the region, thus forming the largest expatriate workforce in the Gulf. In the UAE, Indians form the largest single national group, with approximately 2.8 million Indians living there according to 2015 statistics (UNDESA, 2015). In 2010, the UAE and Saudi Arabia together

¹ By the term “recruitment agency” this paper refers to an organisation, private or state-owned, that matches employers to employees. Synonyms for recruitment agency, which may be used in different countries and contexts and are mentioned in this paper, are employment agency, manpower company, and recruiter. These terms are to be distinguished from a labour supplier, also called labour supply company or manpower supply company, which acts as employer of workers itself and makes workforce available to other employers on a temporary basis.

accounted for 60 per cent of the total deployment of Indian migrant workers (Khadria, 2010). Among those, the vast majority are semi-skilled and low-skilled workers, who take on temporary jobs, and will return to India after expiry of their employment contracts, according to 2014 data of the Government of India (hereinafter referred to as 'GoI') (GoI, Annual Report, 2015). Studies have shown that about 70 per cent of Indian workers in the Gulf region are low-skilled and semi-skilled, while skilled labourers make up about 30 per cent (Bose et al., 2010).

The Indian state of Kerala is among the top states supplying labour from India to the Gulf, a fact that has led to tangible development in this part of the country. Several studies, such as the annual reports of the Ministry of Overseas Indian Affairs (hereinafter referred to as 'MOIA'); the GoI 2004/05, 2011/12, 2012/13, 2014,15; and Singh & Chhabra, 2015, suggest that more than half of all Indians working in the Gulf are from the state of Kerala, and 38 per cent of all Kerala emigrants live in the UAE (Zachariah & Rajan, 2015). Other important sending states are Tamil Nadu, Andhra Pradesh, Uttar Pradesh, Bihar, Punjab and West Bengal (GOI M., 2015), but most available literature, as well as the research at hand, focuses on Kerala (Srivastava & Sasikumar, 2003).

Poverty, high population density, a stagnant agricultural sector, and a high rate of unemployment have led many Keralites to migrate to the Gulf in order to benefit from the economic and employment opportunities generated by the oil revenues (Azeez & Begum, 2009). The Kerala Migration Survey (hereinafter referred to as 'KMS') 2011 by MOIA identified a reduction in migration between Kerala and the Gulf for various reasons, such as growing supply of manpower from Indian states other than Kerala, continuous reduction of wage differentials between Kerala and the Gulf, and increasing costs of migration. However, three years later, the KMS 2014 found that the number of emigrants from Kerala to Gulf countries had actually increased between 2011 and 2014 (Zachariah & Rajan, 2015). Gulf countries thus remain the preferred destination for many migrants from Kerala.

India is a major manpower-exporting country, as it tops the list of largest remittance-receiving countries, with USD 72 billion of inward remittances in 2015 (World Bank

Group, 2016). Many experts argue that migration, remittances, and economic development are highly interdependent. The communities working permanently or temporarily abroad are contributing not only to the economies of host countries, but also to those of sending countries. Besides money, these contributions include ideas, knowledge, and the creation of further job opportunities in the home labour market. Although the degree and nature of impact on development can vary considerably, the effect of remittances is reflected in the national income as well as in the development of specific regions, and at the household level. In India, there are significant changes in terms of poverty reduction and income increases reported for households of migrant workers as compared to those of non-migrant workers (Hass, 2005). Migration has led to profound changes in Kerala's economy in terms of savings, consumption, poverty, labour market development, regional development, and income distribution (Paul & Subhash, 2005), particularly in regions like Malabar (Azeez & Begum, 2009). The KMS 2014 reports that, as the number of migrants leaving Kerala for the Gulf has increased from 1.4 million in 1998 to 2.4 million in 2014, annual remittances have quintupled in this period from INR 13,000 crores (approx. USD 1,944,361,900) in 1998 to INR 71,000 crores (approx. USD 10,619,207,300) in 2014. Another consequence is a surge in the price of land, consumer goods, health care services, transport, construction materials, and food. In short, the impact of migration from Kerala to the Gulf countries is tangible in every aspect of life in Kerala (Zachariah, Kana, & Rajan, 2002).

There have been various studies covering different aspects of migration from India, such as the impact of the flow of labour and associated monies on India's national economy (Nayyar, 1994; Zachariah, Kana & Rajan, 2002), and the role of migration in the reduction of unemployment in the Indian labour market (Paul & Subhash, 2005). Several studies have addressed the issue of social costs related to migration, and a few studies have highlighted gender issues in migration (Rajan S. I., 2013; and 2015). While the bulk of literature has thus addressed the various social, economic, and cultural dimensions of migration flows, little attention has so far been given to understanding the policies and practices relevant to this process (Wickramasekara, 2011). One study on the overseas recruitment practices in India (Rajan, Varghese, & Jayakumar, 2011), relying mainly on 2007 data, highlighted the

irregularities in the recruitment process on the part of the various actors involved. Stories of the plight and exploitation of migrants are well-known in India, particularly in Kerala. In order to develop a better understanding of the recruitment process in India, as a step towards reducing the abuse experienced by migrants, it is essential to consider the changing socio-political climate of the last few years, against which governments have attempted to introduce formal policies and regulations for recruitment, and further to illuminate labour migration from a supply chain perspective.

1.2.2 Recruitment Process and Governance

With the growing number of labour migrants from India and the increased complexity of overseas recruitment practices, the GoI faces new challenges in monitoring and regulating the activities of relevant actors, such as employers, clearing and recruitment agents and sub-agents,² and prospective workers (Rajan, Varghese, & Jayakumar, 2011). The involvement of multiple parties with vested interests in the recruitment process has engendered various forms of exploitation by actors in countries of origin and destination, such as undue delay of travel, contract substitution, overcharging, illegal recruitment, and fraud (Heller, 2015). In the case of skilled workers, the chances of exploitation are relatively low when compared to semi-skilled and low-skilled workers, who may often be exposed to incidents of fraud and harassment. Circumstances at home, coupled with pursuit of a better life, motivate many low- and semi-skilled workers to opt for migration despite the high costs and risks. This, in turn, has opened the door for players to enter into the business of recruitment, and to increase exponentially the cost of migration. As a result, migrant workers now are not only compelled to pay more money than ever before, as additional charges to various actors at different stages of the recruitment process accumulate, but also to accept poorer working and living conditions in host countries (Samantroy, 2014).

The sharing of information with migrants in advance about the policies and procedures related to overseas recruitment, the migration process, and rules and regulations in the host

² In the Nepalese context, the term “sub-agent” refers to an individual agent acting legally on behalf of a recruitment agency (see fn. 1). In India, however, a sub-agent is an unlicensed, thus informal, recruiter engaged, through his recruitment activities, in a criminal act. See also section 1.2.2.

countries is considered the central pillar of the ILO's Fair Recruitment Initiative (Gordon, 2015). Social networks play an increasingly important role in sourcing and channelling migrants to employment opportunities, with migrants relying on kinship and friendship for information resulting in migration. For example, in a migrant household survey conducted in Kerala in 2011, 71 per cent of male migrants and 89 per cent of female migrants stated they had asked for the assistance of friends and relatives in their migration process (Rajan, Varghese, & Jayakumar, 2011). The same study found the awareness level of migrants about different actors in the labour supply chain to be very low (Rajan, Varghese, & Jayakumar, 2011). However, the urgency of so many workers to migrate, and their consequent willingness to pay high fees and tolerate other unfair practices, a widespread lack of knowledge among migrants about existing rules and regulations, coupled with deficient monitoring and regulation by governments create a fertile ground for malpractice to occur within recruitment processes (Wickramasekera, 2002).

In India, recruitment agencies are registered and governed by the PGE under Section 10 of the Emigration Act of India, 1983.³ Recruitment agencies are the legally authorised individual or firm to conduct the recruitment of Indian citizens for employment abroad. Recruitment through non-registered agents – “sub-agents” – is considered illegal in India, and anyone recruiting any person for an overseas job without a license is engaged in a crime under the Indian Penal code. Nonetheless, sub-agents, the exact numbers of whom are unknown, operate widely in the field of recruitment in all states of India. They facilitate the contact between the private, non-registered, recruitment agencies, which are mostly based in cities, and prospective migrant workers in rural areas across the country. Their business flourishes as the sub-agent level of the recruitment industry has low entry barriers, no fixed offices, and requires only minimum start-up capital. Sub-agents and other informal players have a critical role in the labour supply chain due to their ability to reach out to remote communities and the trustworthy status they enjoy within their communities. They remain mostly untouched by regulatory frameworks or governance mechanisms (Gordon,

³ For the English copy of the Emigration Act, please see <<https://indiankanoon.org/doc/99408546/>> (7 November 2016).

2015). The field research conducted for this paper shows that most migrant workers receive their first information about a job abroad from sub-agents.

Since sub-agents are not registered with the PGE or Ministry of External Affairs (hereinafter referred to as 'MEA'), any complaints about abuse perpetrated by sub-agents are referred to the competent state police authorities / PGE for investigation and action in the case of a violation of Section 10 of the 1983 Emigration Act, and other provisions of the law as appropriate. After investigation of the case and preparation of prosecution, the police authorities, in turn, seek approval from the PGE, MEA, or another competent authority for prosecuting the accused in the appropriate court of law under section 27 of the 1983 Emigration Act. Requests for such prosecution sanction are processed, and the prosecution sanction issued as a matter of priority by the office of the PGE, MEA. Between 1 December 2013 and 30 November 2014, action was initiated against a total of 206 recruitment agencies and agents for fraudulent activities, by far most of them in Maharashtra (126), followed by Delhi (23), and Kerala (14) (GoI, 2014).

The challenges semi- and low-skilled Indian migrants face in the recruitment process at both ends, from (sub-) agents in India, and from employers in the countries of employment, such as non- or delayed payment of salaries, early contract termination or contract substitution, have raised questions about the governance and regulatory framework of migration processes in India, and the protection and welfare of migrants in host countries. Despite initiatives by India's MOIA to regulate migration in order to fulfil its responsibility of ensuring migrants' protection and welfare, the process remains opaque, and the exploitation of millions of migrants by recruitment or placement agents at various stages of migration persists (Samantroy, 2014). Studies conducted by the Centre for Development Studies, Kerala, have highlighted that many Indians working in Gulf countries have not arrived on regular work visas, drawing attention to the widespread malfunctioning of the migration governance system in India (Kumar, 2010). This was confirmed by the former Secretary of MOIA, Krishna Kumar, who stated that "India has operated hitherto in a policy vacuum, in so far as international migration is concerned" (Kumar S., 2010). The

absence of proper governance of migration leads to significant undocumented migration, exploitation, and lack of protection.

The primary political instrument for dealing with international migration of Indian workers is the Emigrant Act of 1983. It was introduced to safeguard the interests and welfare of semi-skilled and low-skilled Indian migrants. The Emigrant Act obliges migrants to obtain migration clearance from the Office of the PGE, and requires recruitment agents to obtain a registration certificate issued by the PGE (Srivastava & Sasikumar, 2003). As per the provisions of the Emigrant Act, passports are classified as either Emigration Clearance Required (hereinafter referred to as 'ECR') or Emigration Clearance Not Required (hereinafter referred to as 'ECNR'). The distinguishing criterion between the two categories is the individual's level of education: University graduates and above are exempt from obtaining emigration clearance, whereas people who have not passed Class 10, and seek to travel to 18 specified countries, so called ECR-countries, for work reasons, receive an ECR-passport (Rajan, Varghese, & Jayakumar, 2011). The UAE is among the ECR-countries (GOI, Annual Report, 2015).

The distinction between ECR and ECNR has created difficulties in the application procedures for passports and emigration clearances, particularly among the less educated low- and semi-skilled applicants (Kumar & Rajan, 2014). In addition to the imposition of an additional administrative step on ECR-passport holders, that is, obtaining emigration clearance, they are also required to bear associated costs. Attention has been drawn to the irony that, while Indian blue-collar workers in the Middle East and South East Asia make the main contribution to the inflow of remittances to India – lauded by some as a safety net when India faced its record deficit in current accounts in 2013 – they are disadvantaged in the emigration process based on their level of education (Gurucharan, 2013).

Registered, and thus authorised, recruitment agents are responsible for managing the formal overseas migration process. However, in a number of states, such as Kerala, Tamil Nadu, and Andhra Pradesh, registered recruitment agents come from the private as well as the public sectors. Overseas Development and Employment Promotion Consultants

(hereinafter referred to as ‘ODEPC’) and the Non-Resident Keralites Affairs Department (hereinafter referred to as ‘NORKA’) are the two state-run recruitment agencies in Kerala. These institutions are widely criticised due to their perceived inefficiency and slowness in market operations, as well as their lack of autonomy from the state and overall professionalism. The more aggressive private agencies, both registered and non-registered, exploit this situation to maximise their gains (Rajan, Varghese, & Jayakumar, 2010).

MOIA has made efforts to reform the migration process, and has entered into bilateral Memorandums of Understanding (hereinafter referred to as ‘MoU’) with a number of governments to enlist their cooperation. India signed a MoU with the UAE in 2006 (MOIA, 2009) to regulate mobility of Indians to the UAE. Furthermore, the GoI realised that in order to accommodate the growing number of labour migrants, the emigration process had to be redesigned by setting standards, defining the roles and responsibilities of key stakeholders, and redefining the scope of regulation. The most important suggestion put forward was to modernise the Emigrant Act of 1983, which would help to control irregular migration through a legal framework, and give migrants greater rights (GoI, 2013). Various prior initiatives and policies implemented by the GoI to ensure the protection and social welfare of Indian migrants in host countries have been the target of major criticism for their lack of transparency and coordination, as well as non-compliance with international standards (Wickramasekara, 2011).

1.3 Labour Migration from Nepal

1.3.1. The Role of Labour Migration

Similarly to many South Asian countries, the population of Nepal has grown rapidly over recent decades. As per the 2011 Census, Nepal’s population was 26.495 million, as compared to 23.151 million in 2001. Nepal boasts a young population: In 2011, the median age was 21.4 years, while around 70 per cent of the population were below the age of 35. Underemployment and, to a lesser degree, unemployment, combined with an environment unaccommodating to entrepreneurship and business have rendered labour migration an attractive option for the approximately 400,000 young Nepalese entering the labour market

every year (ILO, 2014; Hagen-Zanker et al., 2014). According to Pokharel (2012), “most of them are likely to get engaged in agriculture which is tied to the cycle of low productivity and traditional practice perpetuating the subsistence economy”, while others will be absorbed into low-level trade and manufacturing. In this scenario, the income of at least a third of the labour force remains below the national poverty threshold, which in turn constitutes a decisive factor encouraging young people to look for employment in other countries. Different sources report that, every day, around 1,500 Nepalese youth leave the country from Tribhuvan International Airport with the aim of making their own and their families’ lives better (Kathmandu Post, 4 January, 2015b). This does not include all those migrating outside the regulations of the sending, transit, and receiving countries. The Government of Nepal (hereinafter referred to as ‘GoN’) identified well-managed foreign employment as a policy and strategy for poverty alleviation and labour management, which has reflected in the periodic plans. The Tenth Plan (2002–2007) and the Three-Year Interim Plan (2007–2010) set specific targets to send 550,000 and 750,000 youths respectively for foreign employment during the implementation period (GoN, 2016).

According to the DoFE, there has been a steady increase in the number of labour permits granted for overseas employment. Over the six-year period of 2008 to 2014, the DoFE issued 2,226,152 permits to prospective candidates, which equals approximately 8 per cent of the Nepalese population. The numbers show a staggering 137 per cent increase when comparing the first year of the reference period to its last year. Out of the total permits issued during this period, 1,729,252 permits (77.7 per cent) were arranged through manpower companies. According to data from MoLE, 1,085,198 permits (1,029,316 to men, and 55,882 to women) were issued between 2014 and April 2016 alone, out of which 984,358 (919,695 for men, and 64,663 for women) were arranged by manpower companies. This figure shows that 91 per cent of migrants have gone through manpower companies in the last five years. The gender disaggregation of the data shows a disproportionate increase in permits issued to females, which rose by 233 per cent between 2008 and 2013 as compared with a 133 per cent increase in permits issued to males in this time period. Most notably, the distribution of permit receivers represented all 75 districts

of Nepal, with the top-ten districts in descending order being Dhanusa, Mahottari, Jhapa, Morang, Siraha, Nawalparasi, Saptari, Sunsari, Sarlahi and Rupandehi.

The top destination countries for labour migrants from Nepal are Malaysia (40.6 per cent of all labour permits granted), Qatar (23.7 per cent), Saudi Arabia (16.4 per cent), and UAE (10.3 per cent) (DoFE, 2014). Among the Gulf countries, the UAE is a destination favoured by Nepalese migrants, with approximately 300,000 Nepalese residing in the country (Inchley, 2014). They are attracted to the UAE by the good employment opportunities it offers to both high and low-skilled workers (ibid). Nepalese may also see the UAE as a steppingstone to migrate to other countries like Australia or Canada (Inchley, 2014). The Department of Foreign Employment (hereinafter referred to as 'DoFE'), the administrative arm of the Ministry of Labour and Employment (hereinafter referred to as 'MoLE'), issued a total of 216,120 work permits to migrants wishing to go to the UAE (187,475 to men, and 28,645 to women) between 2011 and April 2016 (DoFE, 2016). While there is no available data on the assistance of manpower companies to Nepalese emigrants to the UAE until 2011, statistics put the number of migrants using such agencies in 2012 at 137,561 (117,858 men, and 19,703 women), in comparison to 24,077 migrants (19,658 men, and 4,414 women) travelling to the UAE on their own account (DoFE, 2014).

Given that the aggregate number of Nepalese citizens migrating every year for work reasons is increasing, remittances have also shown an upward trend. Remittances have become a major contributing factor to household income as well as the country's GDP. Moreover, as a consequence of the strong inflow of remittances, Nepal's current account balance, typically a major source of macroeconomic instability for South Asian economies (ILO, 2014), is positive. Remittance inflows to Nepal reached USD 6.73 billion in 2015, representing a 32.2 per cent share of the GDP in 2014 (World Bank, 2016). In 2003, these inflows amounted to just USD 771 million (World Bank, 2016). The current account balance stood at 3.4 per cent in 2012/13, and was expected to rise slightly over subsequent years (ILO, 2014). According to the South Asian Network of Economic Institutes, migration for foreign employment has generated financial and human capital that has supported reduction of poverty mainly in rural Nepal (Sanei, 2011). Statistics from the

World Bank equally show a marked decrease in poverty in the country. It has been argued that significant monetary inflow in the form of remittances from labour migration has reduced poverty to 25.2 per cent in 2011 as compared to 30.9 per cent in 2004 (World Bank, 2011), although the country experienced a devastating civil war, and suffered from stagnating agricultural growth during the same period (Rijal, 2013).

1.3.2 Recruitment Process and Governance

Most migrant workers from Nepal are low-wage earners performing entry-level jobs without long-term benefits, such as pensions and deferred wages in the form of bonuses or social security. They often face exploitation by employers who fail to pay their wages or provide humane living conditions (Amnesty International, 2014). However, exploitation not infrequently begins in Nepal (Kathmandu Post 2015a). Many manpower companies and intermediaries in Nepal pressure prospective workers into signing contracts which are drafted to the workers' disadvantage (Hagen-Zanker et al., 2014), exposing them to risks of debt bondage through high placement fees, employment in hazardous jobs, under or non-payment of wages, sexual and physical harassment, or other malpractices and forms of abuse. Although low-skilled and semi-skilled migrant workers contribute more than a quarter of the GDP of the country, they continue to face the brunt of abuse and malpractice in recruitment and employment from native and foreign actors alike.

The Foreign Employment Act 1985 lays down the institutional framework for facilitating migration, including the specification of regulations for recruitment agencies, devolution of powers to emigration authorities, and, most importantly, welfare of workers and their families. The main stakeholders concerned by the 1985 Act are prospective workers, registered manpower companies, agents, and employers. These four stakeholders are managed by the DoFE, Foreign Employment Promotion Board (hereinafter referred to as 'FEPB'), Foreign Employment Tribunal, Labour Desk at the Tribhuvan International Airport, and by labour attachés in various host countries. Section 32 of the Foreign Employment Act details the establishment of a welfare fund by the GoN, and its management by the FEPB. As per this provision, costs incurred by manpower companies

in the form of license, renewal, and training fees are credited to this fund. More importantly, every worker preparing to take up employment overseas is obliged to make a contribution to the fund, currently NPR 1,000 (USD 90) per person, before leaving for the host country. Among other things, the FEPB uses the migrants' welfare fund to cover the following:

- Expenses for pre-departure trainings;
- Expenses for the education of children of migrants who died, disappeared, or have become disabled;
- Development of childcare centres for the children of women migrant labourers;
- Expenses for medical costs of migrants who return to Nepal due to health problems without completing the contract;
- Compensation for injured workers and families of dead migrants, as well as the costs to repatriate the deceased;
- The costs to evacuate migrants during crises.

On 5 September 2007, Nepal enacted a comprehensive foreign employment law that amended and consolidated all previous laws related to foreign employment, particularly the Foreign Employment Act of 1985. DoFE was established after the enactment of the Foreign Employment Law of 2007 to replace the Department of Labour and Employment Promotion, but the GoN created a separate Department of Labour under the same Ministry for managing internal migration. DoFE was created to safeguard migrants' interests. However, migrants who travel via India or use other indirect routes, and thus do not register their departure with MoLE, remain undocumented. Some estimates put numbers of undocumented Nepalese pursuing foreign employment via India at roughly 3 million (Dixit, 2014).

The Foreign Employment Act of 2007 provides a very complex legal framework for sending workers to other countries, including checks and clearances from several authorities. Only registered manpower companies are allowed to send labour abroad. However, the Act of 2007 also addresses the direct arrangement between the GoN and any

foreign country or employing institution requesting the supply of labour. In that case, Section 5(1) of the Act of 2007 states that the GoN may choose any manpower company through open competition for selecting candidates. The Foreign Employment Act of 2007 also allows workers to go through individual trajectories. The different trajectories of the recruitment process and its current status are detailed in *Chapter 4: Recruitment Process Current Map*.

The Act of 2007 stipulates that individuals are not permitted to work as labour recruitment agents, and only companies registered under the Companies Act of 2006 may do so. Thus, entry to this highly lucrative business is restricted as per a strong licensing regime. A company seeking to gain permission to carry out recruitment operations has to pay the license fees as prescribed, and must hold in trust a sum of NPR 3,000,000 (approx. USD 28,046), or NPR 700,000 (approx. USD 6,544) in cash plus bank guarantee for the remaining NPR 2,300,000 (approx. USD 21,502) as a deposit. The license is issued for one financial year, and renewable for up to three subsequent financial years upon completion of the first year. Individuals may work as agents only through affiliation with approved manpower companies, and need to register with the DoFE. As per Section 74 of the Foreign Employment Rules of 2008, a manpower company may open branch offices and appoint any number of agents (hereinafter referred to as ‘sub-agents’; see also fn. 2) to conduct its business, provided they are registered with the DoFE. For each personnel to work as a sub-agent, the company has to make a cash deposit of NPR 200,000 (approx. USD 1,869). Most importantly, the manpower company is responsible for any act of commission by the sub-agent. Section 48(10) prohibits a sub-agent to work with more than one agency at any point in time.

The Nepal Foreign Employment Rules of 2008, Rule 48,⁴ state the provisions relating to the appointment of sub-agents in Nepal. Recruitment agencies continue to be required to

⁴ Nepal Foreign Employment Rules (2064) 2008. The English version of the Rules can be accessed here: http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=95077&p_country=NPL&p_classification=17

apply for the sub-agent's license and pay a fee of NPR 200,000. The Rules of 2008 provide the following qualifications for sub-agents in Nepal:

- Able to read and write the Nepali language fluently;
- Able to make others understand matters relating to foreign employment (the assessment and evaluation of this skill falls to the agency);
- Have never been punished for a criminal offense involving moral turpitude.⁵

The same Rules state that recruitment agencies are allowed to hire sub-agents in countries of destination where the agency has deployed workers. The qualification for sub-agents in countries of destination include the following:

- Must be a citizen of Nepal;
- Have obtained at least a bachelor's degree;
- Have never been punished for a criminal offense involving moral turpitude.

All sub-agents are required to have an identity card provided by the recruitment agency. Identity cards are renewed annually. Sub-agents are allowed to work for only one recruitment agency. All recruitment agencies are also required to publish a notice each year in a newspaper with national circulation the complete names and addresses of sub-agents. According to the DoFE's progress report for 2015/2016, out of the 700 registered agents, 549 renewed their license in 2015. According to the Nepal Association of Foreign Employment Agencies (hereinafter referred to as 'NAFEA'), there are about 60,000 individuals working as full-time or part-time sub-agents in Nepal. The figure includes both registered and un-registered sub-agents.

As in India, sub-agents in Nepal are mediators and facilitators bringing recruitment agencies and prospective migrant workers together. Sub-agents play a pivotal role in the recruitment of workers for foreign employment. Workers are usually friends and family

⁵ Ibid

members or referred by them to sub-agents. Sub-agents meet the potential migrant workers in the villages and bring them to the capital to offices of recruitment agencies.

In 2010, Nepal has launched Migrant Resource Centres (hereinafter referred to as ‘MRCs’) in Kathmandu and other districts to provide prospective workers with the necessary information to make informed decisions. It is pertinent to mention here that Nepal has established the Council for Technical Education and Vocational Training (CTEVT) under the Ministry of Education, which offers skill testing and accreditation for prospective migrants.

Recognising the remaining policy vacuum in the context of huge outflows of labour migrants, the GoN announced its Foreign Employment Policy of 2012 (hereinafter referred to as ‘the Policy’) which superseded the National Labour Policy of 1999. The Policy approached migration through the lens of care, safety, protection, and dignity, stipulating that the objective of economic migration would be to ensure “safe, organised, respectable and reliable foreign employment to contribute to poverty reduction along with sustainable economic and social development through economic and non-economic benefits of foreign employment” (MoLE, 2014, p 11). Among other things, the Policy attempted to ensure that a migrant did not commence the migration cycle overwhelmed with debt, which is a common occurrence in Nepal. The Policy announcement was also a step towards making productive use of migrants’ remittances, which would otherwise go largely to paying off the debt incurred by a migrant at the onset of the migration cycle. The GoN agreed on establishing a ‘Labour Bank’ that would offer loans at low interest rates to prospective workers to cover agent fees, transport costs, and other costs required to migrate formally. The bank is expected to offer a remittance account, and help former workers access additional capital for investment purposes to promote successful reintegration.

Among other things, the Policy stated that, from July 2015 onwards, the GoN would not allow prospective workers to travel to work for employers who did not pay for workers’ flight tickets and visas. In subsequent announcements, the MoLE asked Nepal’s embassies in Malaysia and the six GCC countries (Saudi Arabia, Qatar, Kuwait, UAE, Bahrain, and

Oman) to halt authentication of applications submitted by employers demanding Nepalese workers but unwilling to pay migrants' ticket and visa costs. Nepal's manpower companies strongly opposed this policy, arguing that it was not practical, and other labour-sending countries, such as Bangladesh, might take over the field in Malaysia and the Gulf if Nepal were to stick to its zero-cost policy (Nepali Times, 28 June 2015).

1.4 Labour Recruitment in the UAE

The United Arab Emirates is one of the richest countries in the world in terms of per capita gross national income, which amounted to USD 70,570 in 2015 (World Bank, 2015). The country's huge oil revenue has been deployed in infrastructural as well as national socio-economic development, entailing the growing need for foreign labour in all fields of occupation in the private sector from the 1960s, but particularly from the 1970s onward. The UAE is one of the few countries in the world where migrants constitute the overwhelming majority of the population (as of 2015, approx. 8 million out of the total population of 9.2 million); it thus hosts the fifth largest international migrant population in the world (UNDESA, 2015). The working-class population in the UAE is predominantly South Asian (India, Pakistan, Bangladesh, Nepal, and Sri Lanka), constituting 90 per cent of the country's workforce (Malit and Al Youha, 2013), and 55 per cent of UAE's total population.⁶

The UAE understands the migration of workers to the Gulf as an arrangement that should remain temporary, as has been emphasised repeatedly by government officials, for instance, by the former UAE Minister of Labour, HE Dr. Ali bin Abdulla Al Kaibi in 2006:

“[T]he UAE has put a set of laws and regulations ensuring that guest workers in the country are temporary, not permanent immigrants; they do not leave their countries to immigrate and live permanently in the UAE, but come according to temporary work contracts to perform specific jobs, after which they return home” (Al Kaibi, 2006).

⁶ The Indian population in the UAE was estimated at 2.6 million (27.15 per cent), followed by Pakistan 1.2 million (12.53 per cent), Emiratis 1.08 million (11.32 per cent), Bangladesh 700,000 (7.31 per cent) and Philippines 525,530 (5.49 per cent).

The “important role, expatriate labour plays in stimulating the economy” has been recognised by the UAE Government, and a series of laws and regulations were implemented by the country over the past years, including most recent reforms to the labour law in 2016 that seek to regulate entry, residence, and work of foreign workers in the country, and ensure workers’ protection (Ghobash 2015). The UAE has ratified nine different international treaties: concerning working hours, compulsory labour, inspection of work in industry and trading, night work for women, equal wage for males and females, banning compulsory labour and minimum age for labour, discrimination in employment and occupation, and a treaty to end child labour (Al Kaibi, 2006). These measures are a response to the large-scale malpractices, exploitation, and abuse by recruitment actors in the UAE, and other Gulf countries, and reflect an understanding of the immense responsibility that comes with being one of the most significant labour-receiving countries in the world. In 2011, during the UN Informal Thematic Debate on Migration and Development, the Minister of Human Resources and Emiratisation, HE Saqr Ghobash, expressed the opinion that “Workers need to be empowered to exercise their rights to: informed consent to migrate, fair and transparent recruitment practices, transparent enforceable contracts, protected wages, benefits and end-of-service compensation, and decent work conditions.” The Minister also emphasised the need for arranging loans, and pre-departure information and orientation programmes, as well as the need for consultation and collaboration between the departure and destination countries (Ghobash, 2011).

The charging of fees by recruitment agencies and companies for visas, flight tickets, or health checks, a matter of frequent discussion in the media and protest by workers (see for example Arabian Business.com, 2009; The Observer, 2016) still persists in the UAE, although declared illegal pursuant to Article 18 of Labour Law No 8/1980:

“It is not permissible for any licensed labour agent or supplier to demand or accept from any worker whether before or after his recruitment, any commission or material reward in consideration for arranging such recruitment, nor may he obtain from him any expenses except as may be decided or approved by the Ministry of Labour and Social Affairs.”

Further, in order to guarantee that workers are paid their agreed-upon wages fully (or at all), and in a timely manner, the UAE Government announced a Wage Protection System (hereinafter referred to as WPS) in January 2008, and introduced it per Ministerial Decree No 788 in 2009. Companies registered with the Ministry are obliged to pay their workers through the WPS, and, according to the decree, are denied renewal of their work permit should they fail to comply (Ministry of Labour, 2009). The recent Ministerial Decree 739 of 2016 (WPS Decree), however, lays down more detailed and severe consequences for the non- or delayed payment of wages. Overall, the requirement for the employer to pay wages into a bank account is “one way to check that sponsors are in fact employing and paying the workers under their sponsorship” (ILO, 2016).

Another regulation that came into effect this year in January, and is designed to counter the malpractice of contract substitution, is the standardisation of job offers and employment contracts for non-nationals, stipulated by Ministerial Decree 764/2015. According to the decree, the Ministry of Labour (now MoHRE) will not approve the employment of a foreign worker “until an employment offer that conforms with the Standard Employment Contract is presented to and duly signed by the worker.” The letter, and therefore the exact terms of the contract, are thus open for the Ministry to review and approve. The contract must include the following information: wages/remuneration payable, date of the employment contract, date of commencement of the employment contract, nature of the contract (limited or unlimited), nature of the work, contract duration (for fixed term contracts), the location of employment. Whether the contractual terms and conditions match exactly the signed and filed job offer letter is checked upon arrival of the worker in the UAE (ILO, 2016).

Stopping illegal practices is linked to workers’ awareness of what is legally permissible and what is not, and what their rights and duties are. To this end, the UAE started distributing a “welcome pamphlet” in 2016 to all new workers arriving at the airport. It informs workers of laws and regulations in simple and unambiguous language, stating for example “Your employer must pay for your recruitment costs and travel to the UAE” (ILO, 2016). Noteworthy is the pamphlet’s promise to assist and help the worker in need, which

“can provide workers with the confidence to raise questions about their circumstances”
(ILO, 2016).

1.5 Labour Migration from a Supply Chain Perspective

The analytical basis of this research is supply chain management, a concept that is usually applied to manufacturers, suppliers, and end users only, but is equally useful for the assessment and analysis of labour migration, as both labour migration and supply chain management relate to the mobility of manpower, goods, and services across specified channels. In both cases, all players are interdependent entities, and collectively create the process of mobility. In a labour migration supply chain, main players can include employers, recruitment agents, visa merchants, sub-agents, and many others (Rajan, Varghese, & Jayakumar, 2009). There have been extensive studies on labour migration focusing on various socio-economic and political dimensions (Rajan S. I., 2016). While supply chain management as a concept has also received much attention among academics and practitioners, and has been studied widely to cover various aspects of the movement of goods and services, to date, a small number of writers (Gordon 2015; Verite, 2016) have used this useful framework to understand labour migration processes from a supply chain perspective.

Labour migration processes from India and Nepal to UAE are immensely complicated due to the multitude of formal and informal actors involved in the process. This has an impact on prospective workers who are faced with accumulating fees at different stages of the migration process, the efficiency of recruitment agencies, as well as on government efforts to regulate the system (Rajan, Varghese, & Jayakumar, 2009). Following the supply chain approach, the optimisation of labour migration process would require coordination amongst all stakeholders, including governments and regulatory bodies, but would ensure the delivery of best services to emigrants, and efficiency of recruitment agents.

A supply chain is “a set of three or more entities (organisations or individuals) directly involved in the upstream and downstream flows of products, services, finance, and/or information from a source to a customer” (Mentzer et al., 2001). The nature of the supply chain is complicated due to the involvement of multiple functions and players (Arshinder & Deshmukh, 2008). Improvement of long-term performance of the individual companies

in a supply, and thus the chain as a whole, is the primary purpose of supply chain management (Chen & Paulraj, 2004; Cousins et al., 2006).

According to Mentzer, optimisation of a supply chain can be achieved through the systematic and strategic coordination among all businesses within the respective supply chain (Naslund & Williamson, 2010). Coordination is required at each stage of the supply chain to align decisions among the supply chain actors. Lack of coordination occurs, when different actors in the supply chain have differing objectives resulting in conflicts. This results in delayed and distorted information moving between the stages of the supply chain. Moreover, as each stage in the supply chain tries to prioritize their interests, even at the cost of others, profits of the entire supply chain diminish.

Lack of information-sharing in the supply chain can lead to increased volatility of demand across different stages of the supply chain, the so-called “bullwhip effect” (Forrester, 1958), and thus the poor performance of the supply chain. Many studies have attributed operational as well as behavioural causes to the bullwhip effect. Behavioural causes are lack of communication, collaboration, and trust among the members of the chain, culminating in misinformation, opportunism, lack of knowledge and proper training. Information-sharing at each stage of a supply chain is thus critical for ensuring effective utilisation of resources and capabilities, and the reduction of uncertainties. It is considered an important value-creating factor in the supply chain process, as the priority has shifted from physical and non-physical assets to intangible assets.

In addition to coordination, researchers have also found that collaboration is linked to better supply chain performance (Fisher et al., 2010). Literature on supply chain management used to focus on transaction costs as the primary concern under the assumption that relationships between supply chain actors could be easily dissolved if terms became unfavourable to any actor (Giunipero et al., 2008). However, lately, researchers have identified the value of long-term relationships between the parties involved in the supply chain process, and that these can be strengthened through various relationship management efforts (Hansen et al., 2008). These include promoting trust between partners in the supply

chain (Rinehart et al., 2004), and assisting actors to understand cross-cultural differences if actors were located in different countries (Levy, 1997).

Chapter 2: Research Methodology

2.1 Introduction

The overall focus of this study is on questions of governance with respect to the labour migration supply chain in the India and Nepal to UAE corridors. The research aim is to understand labour recruitment processes involved in the migration of semi- and low-skilled workers from Kerala (India) and Nepal to UAE from a supply chain perspective. The stakeholders in these processes are workers (prospective, current, and former), recruitment agencies, individual agents, central and state government officials, political and social leaders, relatives, friends, and neighbours of workers. For the India component of the study, the geographical focus is placed on Kerala, for the Nepal component it is on the three districts of Kathmandu, Jhapa, and Siraha, which are the top three districts that send labour to the UAE.

The sampling frame of the study includes three target groups: (i) blue-collar workers (hereinafter referred to as ‘Workers’); (ii) manpower companies, manpower suppliers, and individual agents (hereinafter referred to as ‘Agents’); and (iii) other stakeholders of the recruitment process (hereinafter referred to as ‘Key Informants’). The target group of Workers is subdivided into three categories of workers: (a) workers undergoing the recruitment process (hereinafter referred to as ‘Prospective Workers’); (b) workers currently working in the UAE (hereinafter referred to as ‘Current Workers’); and (c) workers who have either finished their contract, retired or left the job in the UAE for some other reason, and are now residing in their home country (hereinafter referred to as ‘Former Workers’). In order to collect data from among these three target groups, three different questionnaires were developed, each tailored to the specific situation of one of the groups. The data sets collected from the first two groups became the main base for analysis.

2.2 Instruments for Data Collection

Data from Workers and Agents was collected with the help of structured questionnaires, designed separately for each group. These questionnaires were developed by the study teams based on a survey of literature and discussions with experts, including representatives of IOM. The Workers' questionnaire included a section applicable to respondents from all categories of Workers (Prospective, Current, and Former Workers). This section focused on understanding the demographic profiles, motivations to take up employment in the UAE, and details regarding the process. This was followed by a section specific to each category of Workers. These sections included for example questions on contract substitution, complaints, and redressal. Initially, two independent sources translated the Workers' questionnaire into Malayalam (the local language of Kerala) and Nepalese, and study team members with knowledge of the languages later reconciled differences between the two language versions. The questionnaire provided sufficient scope to capture open-ended comments.

The questionnaire for Agents focused on understanding their organisation, operations, costs incurred during recruitment, their awareness of the policies and procedures in both home and host countries, and their relationship with various actors / stakeholders in the recruitment process. This questionnaire was developed in English.

For Key Informants, the study team developed a set of guiding questions designed to gather respondents' views and insights regarding the recruitment process. The group of Key Informants was mainly composed of central and state government officials, elected representatives, human resource managers working in the host country, community leaders, local officers, NORKA officials, PoE, travel agencies, journalists, and lawyers.

At an early stage of the research, the team conducted a pilot study to test the questionnaires, and to determine whether they could indeed extract the desired information. The questionnaires were then altered to meet specific field level requirements, and to ensure the collection of good quality data. IOM formed an independent steering committee of

experts (SCE) to provide an external perspective and evaluation of the study. The drafts of both instruments were discussed and validated by the SCE and other stakeholders, including labour migration experts from IOM.

2.3 Data Collection

In all countries and for all target groups, data collection was carried out by means of snowball sampling, or the chain referral method, a non-probability technique that relies on a limited number of existing subjects recruiting future subjects from among their contacts. Respondents are added to the sample until a sufficient number is reached. Researchers often resort to this sampling technique for regions difficult to reach, and when access to a proper database of potential interview or survey subjects is not available, as in this case. For the Workers in India and Nepal, the initial selection of individuals was based on personal contacts of the researchers. After building rapport with these individuals, they were asked to recommend or introduce contacts to researchers directly.

In India, data on Workers was collected from all 14 districts of Kerala.⁷ In order to ensure the collection of a large sample, and completion of the study in a timely manner, local interviewers were hired to conduct interviews with the Workers. To select interviewers, the study team shortlisted and approached 23 colleges from the districts, mainly in semi-urban areas. Only students in higher degree programmes and with prior training / familiarity with social science data collection were selected. Graduate level students studying arts and science at government colleges were the primary interviewers as they possess both the necessary expertise to conduct interviews and good contacts to Workers. The sample consisted of their family members, friends, neighbours, or any other contacts developed through these circles. This approach helped to gain quality data as Workers were comfortable talking to people they knew.

⁷ The districts are Thiruvananthapuram, Kollam, Pathanamthitta, Alappuzha, Kottayam, Idukki, Ernakulam, Thrissur, Palakkad, Malappuram, Kozhikode, Wayanad, Kannur, and Kasaragod.

A District College Coordinator (hereinafter referred to as ‘DCC’) who would closely associate with the students, was then selected for each college. Student interviewers of each college received training for the execution of data collection for Workers’ questionnaires. In addition, three meetings of DCCs were held to ensure that all coordinators had a good understanding of the research objective. The training programme covered the purpose of the study, structure of the questionnaire, and interview etiquette to be followed while dealing with interviewees, as some of the questions addressed sensitive topics. After the training, interviewers collected data over a period of four months, collecting a total of 1,321 usable responses.

The interviewers faced several challenges during the data collection, including time limitations on the part of the respondents, which meant some interviews had to be short, as well as hesitancy among some respondents to be forthcoming in their answers to more sensitive questions, or simply choosing not to respond for fear of reprisal.

The data collection from Agents was conducted by well-connected study team members based in Kerala and Ahmedabad. This experience was needed as Agents were generally difficult to approach and cautious about sharing information. After drawing up an initial list of respondents based on the study team’s contacts, as well as information collected from the internet, government sources, and recruiters’ associations, direct requests via telephone or mail were issued to invite their participation. Even with personal recommendations and prior appointments, there were challenges at times in executing the questionnaire with Agents, as the latter were not always willing to allow much time for the interview. In order to mitigate this challenge, the study team members drafted consolidated questions so as to obtain the maximum amount of information in the limited time available. Interviews with Agents helped the study team to gain insights into the recruitment process from their perspective. With the Agents’ permission, notes were taken by hand (most Agents did not permit recording), and these were immediately transferred to the questionnaire in electronic format. Most Agents’ interviews were conducted in person in their offices, others via telephone or VoIP services. The vast majority of respondents (about 90 per cent) were Agents themselves, while the remainder were managers of agencies. At

least four Agents refused or were unable to complete the interview after initial contact, and were thus excluded from the sample. A total of 20 usable interviews was collected, the number being low as only Agents who were registered and actively recruiting in Kerala were selected for this sample.

Likewise, the study team members interviewed Key Informants themselves, who were often among their personal contacts, or identified by means of online research. Government officials, for example, were sent a letter informing them of the study’s objective, as well as an introduction letter from IOM. Most Key Informant interviews were recorded and later transcribed. Among the Key Informants were 20 sub-agents (19 male, and 1 female), none of them registered with the government. The interviews took place from 26 July 2016 until 15 August 2016 in the cities of Ernakulam, Trivandrum, and Calicut; the municipalities of Aluva, Angamaly, and Kottarakkara; in Badagara village near Calicut; in Thirichirappilly City, and in Kadallur village in Tamilnadu. The contact information of sub-agents came from officially registered recruitment agencies in Trivandrum, Kerala. The local partner involved in the gathering of research data was a member of the Migrant Forum in Asia, the Centre for Indian Migrant Studies (CIMS).

Table 1: Sample Composition India

Target Groups	Number of Respondents
Workers	1,321
Agents	20
Key Informants	94

In Nepal, the study team spread out to various urban and rural areas in the selected districts to meet Workers, who would then recommend or introduce other subjects to the researchers. All data from Workers was collected on a one-to-one basis, i. e. in personal meetings of the researchers with their interview partners. This approach helped the study get more quality data as interviewed Workers were more comfortable talking in person.

Senior members of the study team collected data from Agents by contacting manpower companies, agencies, and sub-office employees in villages.

A list of Key Informants was developed in consultation with relevant stakeholders, such as IOM Nepal, government members, and migrant advocacy groups. Contact information of sub-agents were obtained from DoFE, NAFEA, and through personal contacts among individual recruiters and agents. The interviews were conducted by senior members of the study team from 15 July 2016 to 2 August 2016 in Kathmandu at the office of NAFEA, offices of individual agencies who are members of NAFEA, restaurants or coffee shops. Some sub-agents were interviewed in their place of residence. Overall, 75 Key Informants were interviewed, among them 44 sub-agents (36 male, and 8 female; 34 registered, and 10 unregistered). All interviews (except 7) were recorded. The local partner involved in the gathering of research data was a member of the Migrant Forum in Asia, the Asia Human Rights Culture and Development Foundation – Migrants Centre. Alongside these procedures, focused group discussions were held with board members of NAFEA.

Table 2: Sample Composition Nepal

Target Groups	Number of Respondents
Workers	600
Agents	100
Key Informants	75

In the UAE, data collection was carried out by two groups, a Nepalese and a Keralite one, the members of which were drawn from their respective communities with the assistance of the Philippines-based Migrant Forum in Asia (MFA), benefiting from their excellent ties with the migrant community in the UAE. The data collectors underwent a one-day training session under the instruction of field experts from IOM, MFA, and Zayed University (ZU). Language specialists handled the training on questionnaires separately. The fieldwork in the UAE was conducted between May and June 2016. Since the research instruments were in Malayalam and Nepalese, the experts in Kerala and Nepal conducted the preliminary data analysis of the respective questionnaires. For the quantitative analysis of the UAE data, it was merged with the samples from Nepal and Kerala.

500 surveys with Current Workers – 300 with Indian and 200 with Nepalese Workers – and 27 Key Informant interviews, including employers, diplomats, government officials, and others, were conducted. The sample selection was constrained by several factors, including lack of data collectors.

2.4 Data Analysis

The data collection was followed by a quality assessment of the data, first by the field supervisor, in order to detect missing or inconsistent data. Excel and SPSS 20.0 were used for data management and quantitative analysis. Code numbers were used to mark categories of response for all questions. After completion of the database, including the labelling with code numbers, data cleaning was carried out to remove or correct inaccurate or invalid data. Both uni-variate and bi-variate analyses were conducted. For data on Workers and Agents, descriptive analysis was carried out by computing frequency and percentage tables, central values, dispersions, and cross tabulations. Qualitative and content analysis of the data revealed interaction patterns and recurring themes, which will be presented in Chapter 4 of this paper.

Chapter 3: Recruitment Process Map

3.1 The Recruitment Process in India

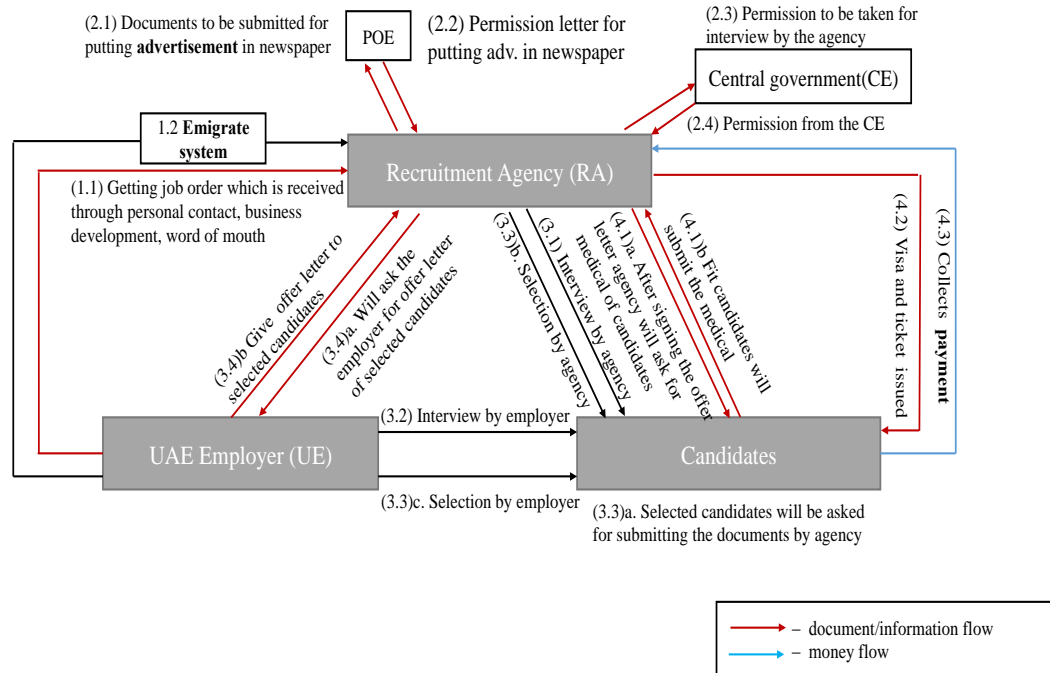


Figure 1: The recruitment process in India. The flows of information, money, and documents from one stakeholder to another.

3.1.1 Initiation of the Process

The recruitment process starts with the employer firm from the UAE registering itself and describing its vacancies in the eMigrate system (see section 3.1.3 of this chapter). The employer has to provide exact details for each vacancy, namely the type of work, facilities provided to successful candidates etc., as well as details on the recruitment agency that will conduct the recruitment process in India.

3.1.2 Getting Job Order

The employer in the UAE selects a recruitment agency in India, records the agency's details in the e-Migrate system, and notifies the agency. The registered recruitment agency can then log into the eMigrate system, and download the offer letter / demand letter / job order published by the employer. A recruitment agency typically attracts business through personal contacts, business development officers in the host countries, reputation (word of mouth), and recurring clients.

3.1.3 The eMigrate System

The eMigrate system was launched by MOIA with effect from 1 June 2015 for the recruitment of blue-collar workers by the 18 ECR-countries.

All foreign employers interested in the recruitment of Indian workers have to register with the respective Embassy of India in the eMigrate system, known as Foreign Employer Registration. For registration with the eMigrate system, the employer has to fill out an online application form, and upload the required documents. To create a demand letter for a particular vacancy, the employer has to provide a job description, information on the salary, and other employment terms, such as contract period, duty hours, overtime pay, if applicable, availability of medical facilities, transportation, accommodation, etc.

The employer has to add the name and registration number of the recruitment agency they intend to hire to conduct recruitment on their behalf. Once all documents are submitted successfully, the employer firm has to send a copy of these documents to an outsourced agency M/s IVS, Abu Dhabi, which verifies the details of the employer firm, and provides it with a username and password for the online system.

The complete procedure of filling out the online form, registration, and raising a demand through the eMigrate system is explained in videos available in the resources tab of the official eMigrate website.⁸

⁸ www.emigrate.gov.in

Once an employer firm is registered with the eMigrate system, it can conduct recruitment either through a recruitment agency, or by itself (i. e. direct recruitment). The recruitment agency that receives the job order will take a copy of the demand letter / offer letter, and initiate the recruitment process in the country where it is based.

3.1.4 Permissions and Approvals

Submission of Documents to the PoE

The recruitment agency receives the demand letter / job order, power of attorney, and a copy of the employment contract from the employer in order to initiate the recruitment process in its country of operation. It approaches the PoE with the documents to obtain permission to advertise, conduct interviews, and select workers for the employer firm.

Permission to Advertise by PoE

After permission is granted by the PoE, the recruitment agent publishes an advertisement in the newspapers; other means of advertisement are posters, announcements on TV or radio, or notices displayed at the recruitment agency's office. The recruitment agency may also contact other village agents or sub-agents to reach out to prospective workers.

Submission of Documents to Central Government

To conduct a job interview, the recruitment agent has to request the permission of the Central Government while providing it with the exact time and place, and other relevant information for the planned interview. Once permission is obtained, the agency takes all necessary measures to conduct the interview(s).

3.1.5 Interview Stage

Interview by Recruitment Agency

Generally, recruitment agencies shortlist the best suited candidates, and invite those for an interview. Some recruitment agencies advertise on a large scale, and conduct walk-in interviews. The recruitment agency may conduct a trade test for all candidates if requested by the employer firm.

Interview by Employer

An employer firm may send a representative to conduct interviews of shortlisted or walk-in candidates, and select workers on the company's behalf. Walk-in interviews may amount to up to 50 a day. All expenses of the representatives or employers visiting the recruitment country to conduct interviews, including travel, pick-up and drop-off, accommodation, etc., are borne by the recruitment agency. Only some employers bear all expenses by themselves.

Selection by Recruitment Agency / Employer

Prospective candidates are informed of their selection immediately, and are asked to submit their passport, certificate over completion of secondary education (10th mark sheet), and trade certificate to the recruitment agency.

Communication of Offer Letter

Post selection, the recruitment agency requests the employer firm to send it the offer letter, which the recruiter then passes on to all selected workers, provided they have submitted all necessary documentation.

3.1.6 Post Interview Stage

Medical Test Results

Once the offer letter is signed by selected workers, they are required to undergo a medical examination. The recruitment agency only approves candidates receiving health certificates attesting their fitness.

For the medical examination, selected candidates can choose from among the private hospitals or health centres certified by the Gulf Approved Medical Centres Association (GAMCA). A recruitment agency has to maintain ties with many such health centres, and may ask selected candidates to go to a specific facility.

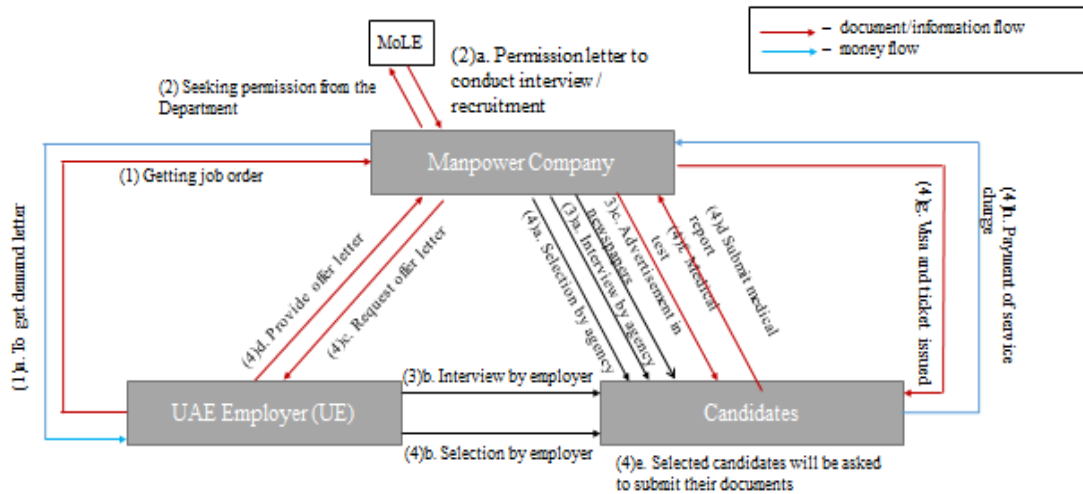
Visa and Ticket

A recruitment agency checks all documents of selected candidates, such as passport, medical certificate, etc., and only then issues the ticket and visa. Visas are provided by the employer firm, whereas tickets may or may not be provided by the employer firm. This differs from one employer in the UAE to the other.

Payment

The recruitment agency can legally charge each prospective worker a fee of up to INR 20,000 (approx. USD 298) for services provided. Prospective workers have to pay part of these fees upon submission of their application to the recruitment agency, the remainder after issuance of the travel ticket and visa. The official fees include a service charge and other expenses borne by the recruitment agency to conduct the interview.

3.2 The Recruitment Process in Nepal



*In some places putting an advertisement in newspaper doesn't work so they use other means like announcements, sticking posters near theaters or they may have some village agents or subagents in that particular place.

*Amount prescribed by the GoN is Rs 70,000-80000 which can be collected by the recruitment agency

Figure 2: The recruitment process in Nepal through manpower companies.

3.2.1 Initiation of the Recruitment Process

The recruitment process through a manpower company starts with the demand letter / job order from an employer (see section 3.2.2). The demand letter specifies the requirement quota for men and women. Subsequently, the manpower company advertises the vacancies in newspapers, and sometimes on television and radio. The advertisement may mention the basic salary, duty hours, and recruitment or application charges, if applicable.

3.2.2 Getting Job Order

Manpower companies attract business through their business development teams stationed in the UAE, or through staff visiting from Nepal. A manpower company and employer firm in the UAE enter into a formal agreement for labour supply from Nepal. Many employers prefer to work with known manpower companies, or those with a good track record. A

manpower company involved in overseas recruitment has to follow the procedure mentioned in Table 3.

3.2.3 Permissions and Approvals

Approval from the DoFE

As depicted in Table 3, there are two approvals prescribed by the Foreign Employment Act of 2007, which the manpower company has to obtain for each employer. Prior to the initiation of the recruitment process and selection of workers, the manpower company has to secure approval from the DoFE, and once more from the same government agency post selection for the workers to be actually allowed to travel to the host country. Table 3 depicts the documents flow in recruitments through manpower companies.

Table 3: Recruitment through Manpower Companies

S. No	Prior to Approval (Documents to be submitted)	Advertisement and Selection	Post-selection Approval (Documents to be submitted along with the 5 documents for pre- approval)
1	Demand letter: certified by Nepalese mission/labour attaché in UAE, specifying employer firm details (name, address, and country), and type and number of workers requested	Advertisement and subsequent selection.	Certificate of training relevant to job requirements
2	Guarantee letter: detailing the salary and facilities that will be provided to the worker		Pre-departure orientation certificate
3	Employment contract letter: between the worker and the company		Health certificate
	Contract letter: between the recruitment agency and the employer		Insurance certificate
5	Authorisation letter: to the Nepalese recruitment agency from the employer company, authorising manpower company in Nepal to recruit workers for them		Contract between worker and agency

7	<p>Authorisation letter: to the Nepalese recruitment agency; employer company authorising manpower company in Nepal to recruit workers on their behalf;</p> <p>Copy of contract between recruitment agency and foreign employer</p>		<p>Job Offer between worker and employer</p> <p>Receipt of payment made by worker to agency.</p>
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Source: Prepared by authors, 2016.

3.2.4 Advertisement

Once a manpower company receives permission to conduct the recruitment process, it will publish an advertisement in a national newspaper. A number of manpower companies use television and radio advertisements to reach out to the maximum number of job seekers. The same applies to direct recruitment, with employers publishing advertisements themselves.

For other means of recruitment, such as local company transfer, the management of the employer firm in Nepal shares information about the vacancy with its existing branch in Nepal.

3.2.5 Operations of Manpower Companies

Generally, manpower companies have their head office in Kathmandu, and few have branch offices in other districts and villages across Nepal. The branch offices are manned by employees of the manpower company. It is estimated that roughly 5 to 10 per cent of all manpower companies registered in Nepal have set up offices abroad (i. e. in labour-receiving countries) (DoFE, 2016). Branch offices of a manpower company pool candidates based on their suitability and send them to the head office (Kathmandu) for a final interview and / or test, and subsequent selection. Sometimes, representatives of the manpower company visit branch offices, and undertake the interview and selection process. The branch office staff is not in direct contact with the employers. Only the head office coordinates with employers. In other words, branch offices of manpower companies

function as resume collection and pooling centres only. They also function as a point to communicate to potential workers critical information about the job, benefits and, other conditions for hiring, including expenses. All other formalities related to recruitment are processed at the head office.

At the branch offices, the candidates have to pay an amount (termed official fees) of NPR 10,000 (approx. USD 93) for employment in the UAE. Prior to the introduction of the “free visa, free ticket” policy in July 2015, migrants were obliged to pay a significantly higher fee of 150,000 (approx. USD 1,399). These official fees include a government service charge in the form of a contribution to the workers welfare fund and insurance, as well as a service fee to the manpower company. The employer is required by law to pay for tickets and visa, or other travel documents of the selected worker, and the manpower company, in turn, cannot charge more than the prescribed fees of NPR 10,000 if the employer is paying for other costs.

Although recruitment fees have been capped before depending on the destination country, and were now again reduced to NPR 10,000, the fees paid by a job seeker may increase with the growing number of intermediaries. They may be charged between NPR 150,000 and NPR 170,000 (approx. USD 1,399 to USD 1,585). However, largely workers are not given the receipt for the full amount, but only for the legally permissible amount. In addition, prospective workers have to bear all expenses for their transport to the head office to attend the test and / or interview, and all other associated costs. A manpower company may also ask prospective workers to undertake training – at the candidates’ expense.

3.2.6 Sub-Agents Link

Sub-agents help prospective workers find the right manpower company. Often, an informal agreement between a manpower company and a sub-agent already exists. The sub-agent informs prospective workers about available jobs and their employment terms. At times, the sub-agent provides help to prospective workers in obtaining required documentation.

3.2.7 Other Forms of Recruitment

Recruitment for Supply Company

Candidates can be recruited by manpower suppliers (outsourcing agencies) based in the host countries. Once arrived in the host country, they are provided with jobs based on their qualifications and experience. Until such workers get a job, the manpower suppliers will pay their salary.

Direct Recruitment

Employers may directly advertise in newspapers, conduct tests and interviews, and select candidates from a labour-sending country, without contacting any manpower company or agent. A practical test followed by an interview is often conducted for final selection. This practice is common for reputed employers and companies, and applied for positions that require technical skills.

Conversely, an individual may directly apply for a job at a company. They receive information about job opportunities through independent web portals, company websites, or friends and relatives. After having been selected by the employer, the worker has to obtain clearance from the DoFE by submitting all documents mentioned in Table 4. The list includes orientation programme, medical, and insurance certificates.

Table 4: Recruitment Procedure - Direct Recruitment

S. No	Pre-Approval from DoFE	Processing Authority	Final approval from DoFE
1	Name of the foreign country	DoFE	Insurance certificate needs to be submitted
2	Type of work		
3	Offer letter		
4	Orientation certificate		
5	Health certificate		

Source: Prepared by authors, 2016.

Local Company Transfer

In rare cases, a large company with branches in the UAE may recruit workers who are already working with them in Nepal. In such cases, the Nepalese workers have to contact

the identified manpower company, and apply for a job in the same company's office in the UAE. Prospective workers contact the manpower company in the UAE for visa processing and other formalities, because the Nepalese offices cannot issue visas and tickets. Such recruitment may not involve any payment from the workers. There may not be any interviews, and selection may purely based on the needs of the destination country, and previous performance of applicants. On this route of recruitment, the worker signs an agreement (offer letter) in Nepal, and the employment contract in the UAE.

3.2.8 Selection Process

Selection by Manpower Company on Behalf of Employer

A representative of the manpower company would conduct interviews at the branch / head office, and select candidates based on their skills, education, and experience. The manpower company may also conduct a practical test before selecting workers.

Selection by Employer

A representative of the employer visits the head / branch office of the manpower company and conducts the process. In order to obtain all necessary documents from a manpower company and the DoFE, workers from remote areas in Nepal have to stay in Kathmandu, generally at their own expense.

3.2.9 Post-Selection Process

Offer Letter

Once the selection of a worker is confirmed, the employer will send an offer letter addressed to the worker to the manpower company, or, in case of direct recruitment, to the worker himself. Offer letters are generally drafted in English.

Offer letters contain details concerning salary, accommodation, duty leave, overtime pay, and holidays. After receiving the offer letter addressed to the selected worker, the manpower company asks the worker to undergo a medical examination, as prescribed by the host country.

The worker has to pay around NPR 2,000 (approx. USD 18) for the examination, either directly to the medical centre, or to the manpower company. The manpower company may suggest a specific medical test centre.

Once the positive medical report is available, the manpower company facilitates the issuance of visas and air tickets. The documents required for processing the visa and ticket are a photograph of the worker, experience certificate, education / qualification and training certificates, and passport. The visa processing may take 9 to 30 days; this depends on the category of recruitment. Prospective workers will have paid around NPR 25,000 to 35,000 (approx. USD 233 to USD 326) at this stage. They mainly make two payments during the entire recruitment cycle: one at the time of application, and the second when receiving ticket and visa. Prospective workers may or may not get a receipt for the payments. It purely depends on the management practices of the manpower company.

Once visa clearance is received from the host country, the manpower company applies for the second and final approval by the DoFE. The manpower company has to submit all documents listed in Table 4 to DoFE for the final approval. In case of successful approval, the Department puts Labour Permission Stickers (hereinafter referred to as 'LPS') on the worker's passport. LPS enable workers to pass through the Labour Desk at the airport, which is mandated by law to examine their labour permits, orientation certificates, fee payment receipts, as well as other documents necessary for migration. The last step before departure is the payment of airport charges, for which a worker receives a receipt.

Pre-Departure Orientation

The manpower company directs all selected candidates to a mandatory pre-departure orientation training. The programme provides candidates with critical information on the culture, labour law, traffic rules, etc., in the country of destination.

Orientation training is provided by GoN certified training centres. In addition, manpower companies also brief workers on how to get the labour permit stamped from the Labour

Desk at the airport, and on other airport and visa formalities. Prospective workers, at times, might not undergo the orientation training, and still manage to get the certificate. They may obtain information on the rules and regulations of the UAE through friends and relatives with experience as migrant workers. For example, friends inform the worker of the existence of a labour court for redressing their grievances as well.

Contract Signing

The official contract is signed once workers start working in the destination country while, in some instances, an unofficial contract is signed after the interview in Nepal. The unofficial contract is usually signed one day before the flight. The contract includes details on food, lodging, working hours, overtime, facilities, and insurance.

Some Manpower Companies claimed that, although obtaining the demand letter incurs them additional costs, they do not charge candidates extra fees as reimbursement.

Table 5: Money exchange between Foreign Employer and Manpower Company in Nepal

Amount paid (NPR)	Paid by	Paid to	Reasons
10,000 to 15,000 per worker recruited	Employers	Manpower company	For recruitment process. In this case, the manpower company should not charge the candidate anything.

3.2.10 Arrival in the UAE

On-the-Job Training

A number of employers provide on-the-job training that can vary in length from one or two days to one month.

General Norms and Rules in the Host Country

Workers who ask the employer to cancel their visa are banned from taking any other job in the UAE for six months, except in cases where the employer fails to meet his obligations

to the worker under the terms of the contract. Workers may not take any leave to travel back to Nepal during their contract period, even if leave is provided for in the contract, as this will cost them between NPR 50,000 and 60,000 (approx. USD 466 to USD 560) in airfare. However, in some companies, workers might be entitled to a ticket home once a year, covered by the company. Otherwise, employers are only obliged to pay for a worker's final ticket upon expiration of the employment contract. In many cases, the ticket costs are imposed on the employee in advance, as an additional fee.

Chapter 4: Research Findings

Finding 1: Most informal payments by prospective workers to sub-agents and agents follow the culture of “everyone has to pay” and are at times facilitated by corruption. Payments are made in cash and are mainly financed by informal loans.

India:

Several interviews revealed that sub-agents and agents are paid for each candidate that they are able to recruit. For sub-agents, fees range from INR 5,000 to 20,000 (approx. USD 75 to USD 300), depending on the job category. Fees for migrant domestic workers, construction workers, and other low skilled workers are lower. Higher fee categories are for highly skilled migrant workers, such as engineers and nurses. Sub-agents and agents directly charge their fees to migrant workers.

As indicated below in Table 6, 24.2 per cent of 720 interviewees mentioned that they had paid fees to acquire information on the emigration process and/or employment in the UAE. Notably, over 900 respondents did not answer this sensitive question.

Table 6: Did you have to pay for acquiring information on emigration process and/or employment in UAE? (India)

**Source: Primary Data*

Table 7: If yes, to whom did you have to pay and in what form? (India)

	Frequency	Per cent	Valid Per cent		
Yes	174	10.4	24.2		
No	546	32.6	75.8		
Total	720	43.0	100.0		
No Response	953	57.0			
Grand Total	1673 ⁹	100.0			
	Friends	Family Members	Community Leaders	Religious Leaders	Government Officials
In cash	85	36	2	0	17
bond/agreement to pay	3	0	1	0	0
land title transfer	0	2	0	0	0
political patronage	1	0	1	0	0
Others	1	0	1	0	1

**Source: Primary Data*

The majority of those who made a payment for these services (“Yes” response) did so in cash. Many respondents claimed it was a friend or relative they paid, in effect acting as sub-agents. Cross-tabulation data shows that approximately 50 per cent of all male and female workers mentioned that their recruitment agents had asked them to pay fees or service charges. Higher is the percentage of fee-paying migrant workers employed in sales, agriculture, breeding, aviculture, the food industry, and engineering (60 to 70 per cent), and even more so of those associated with the health and social work sectors (70 to 80 per cent).

Interviews with workers have corroborated the payment system, with multiple sources indicating that friends and relatives do charge for their help and information on employment in the UAE. Payments to government officials were also mentioned, albeit not very often. During interviews with Key Informants, multiple Agents indicated that, sometimes in the desperation to go abroad, workers (particularly semi-/low-skilled) became a party to getting clearances without proper documents, and engaged in corruption. Illegal acts included obtaining fake documents, certificates, attestations etc., and getting

⁹ This sample includes also workers interviewed in the UAE.

their clearance through the official system for a fee. A sub-agent would collect money from a worker claiming to pay off government officials that could provide the required documents. A number of officials, politicians, and activists interviewed also indicated that they were aware of such practices. They mentioned that these payments, for example a token amount to the police in order for them to expedite the issuance of a passport, were a part of the process that was, at times, seen to be necessary by workers. Workers were taking the risk of the discrepancy being noticed at some stage of the process, at the airport in India, for example, or in the UAE during labour inspections, and being consequently prevented from flying, or deported.

Table 8 below contains a breakdown of the estimated total amount of fees paid by prospective workers and/or employers to recruitment agents. The majority of workers, both male and female, paid a maximum of INR 25,000 (approx. USD 375) for all services together listed in the table. Interestingly, 60 to 80 per cent of workers who had received help from relatives paid more on average, namely between INR 30,000 and 50,000.

Table 8: Amount to be paid to the recruitment agent (India)

	Up To 2000	2001 to 10000	10001 to 20000	20001 to 30000	30000 to 50000	> 50000
Filing the Visa Form	22	28	27	12	17	13
Ticket Booking (Air Fare etc.)	7	39	102	25	9	3
Visa Fees	8	29	22	17	33	18
Work Permit / Residency	5	12	5	4	6	1
Insurance	5	11	0	0	1	3
Training expenses	2	5	2	2	0	5
Service charges of agent	10	39	14	15	3	5
Government fees	13	5	3	0	1	0
Emigration Clearance	29	34	7	2	3	0

**Source: Primary Data.*

Just under half of respondents indicated they had used informal loans to finance their migration (45.2 per cent). As indicated in Table 9 below, informal loans, predominantly from families and friends, remain the primary source of financing informal recruitment fees. Among those who did acquire informal loans, 38.5 per cent responded that they had done so through family or friends. The need to repay these informal loans increases the possibility of exploitation of migrant workers during and after the process of recruitment. 65 per cent of prospective workers went into some form of debt in order to finance recruitment-related costs.

Table 9: How did you find the money to pay the recruitment agents' fees? (India)

	Frequency	Per cent	Valid Per cent
Savings	263	15.7	34.8
Formal Loan from financial Institution	194	11.6	25.7
Informal Loan from family/friends	291	17.4	38.5
Others	8	.5	1.1
No response	917	54.8	
Total	756	45.2	100.0
Grand Total	1673	100.0	

*Source: Primary Data.

As indicated in Table 10 below, the overwhelming majority of migrant workers hold the belief that everyone has to pay informal recruitment fees to acquire an employment opportunity in the UAE. Among those who answered the question (559), 54 per cent stated that everyone had to pay.

Table 10: Why did you pay the recruitment agent? (India)

	Frequency	Per cent	Valid Per cent
Everyone has to pay	302	18.1	54.0

The agent promised to make the process smoother and quicker	233	13.9	41.7
It is mentioned in the government guidelines	24	1.4	4.3
Total	559	33.4	100.0
No Response	1114	66.6	
Grand Total	1673	100.0	

**Source: Primary Data*

Nepal:

Sub-agents charge each prospective worker that they recruit NPR 10,000 to 20,000 (USD 93 to USD 186) as a service charge. This is in addition to the fees requested by recruitment agencies. The fees vary according to the job category, and whether a worker needs accommodation and food in Kathmandu until their visa is processed. There are cases where sub-agents act as money lenders for recruitment fees.

The fees of Agents (Manpower Companies) range between NPR 60,000 and 80,000 (approx. USD 560 to USD 750), depending on the job category and country of deployment. As indicated in the India section above, recruitment fees cover the following costs: visa, airfare, insurance, medical check-up, orientation, and welfare fund.

Interviews with Manpower Companies revealed that their respective head office decides the fees charged for workers. In addition to the legally permitted amount of NPR 10,000 (approx. USD 94), for which a worker is issued a receipt, other payments may be made in cash and are not recorded.

A number of workers stated that the manpower company advertised a certain fee, but told them during the interview that an additional payment had to be made to facilitate the process with the government. Since workers want the job, and the stated salary is good, they tend to agree to pay.

As indicated in Table 11 below, savings and informal loans are the two main sources that migrant workers use to pay informal recruitment fees with 41 per cent and 33.2 per cent

respectively. 33.2 per cent of prospective workers take out some form of loan and, thus, go into debt, to finance recruitment fees.

Table 11: How did you find the money to pay the recruitment agents' fees? (Nepal)

	Frequency	Per cent	Valid Per cent
Savings	308	38.5	41.0
Formal Loan from financial Institution	171	21.3	22.7
Informal Loan from family/friends	250	31.2	33.2
Others	23	2.9	3.1
Total	752	93.9	100.0
No Response	49	6.1	
Grand Total	801	100.0	

**Source: Primary Data*

Similar to migrant workers in India, Table 12 below illustrates that 71.4 per cent of Nepalese workers believe that paying informal recruitment fees is a norm that everyone has to follow.

Table 12: Why did you pay the recruitment agent? (Nepal)

	Frequency	Per cent	Valid Per cent
Everyone has to pay	477	59.6	71.4
Agent promised to make process smoother and quicker	75	9.4	11.2
Mentioned in government guidelines	114	14.2	17.1
Any other reason	2	.2	.3
Total	668	83.4	100.0
No Response	133	16.6	
Grand Total	801	100.0	

**Source: Primary Data*

The data makes clear that, despite existing regulations in countries of origin and destination, the payment of recruitment fees that exceed the allowed rate is the norm both in Nepal and in India, with a large proportion of workers taking on debt in order to cover the costs of recruitment, thus reducing the development value of labour mobility and increasing workers' vulnerability to abusive practices, such as contract substitution in countries of destination. The implementation of regulations alone will not be sufficient to address this "culture of paying."

Finding 2: In India, prospective workers overwhelmingly depend on friends/relatives rather than government institutions to acquire employment in the UAE.

India:

As much as 73.4 per cent of 1212 respondents stated that they have received help from their close relatives in finding employment in the UAE. The trend indicates the positive contribution of relationships to securing jobs in the UAE. Many workers, who have secured jobs through emigration, talked about how relatives helped them. In an interview, a public figure mentioned that relatives and friends are under social pressure to help job seekers.

According to an HR representative, many small businesses often staff their firms with relatives from India (sons/daughters/wives etc.). There are few large employers in the UAE (established/managed by Indians) who prefer hiring relatives of current employees (for better control over people, ease in people management), or people from the same localities (villages). This approach helps employers (who are mostly entrepreneurs) to build social or political equity back home. HR representatives/managers of employers in the UAE mentioned that they ask existing employees for recommendations, who may then refer them to relatives or friends.

For informal information sharing and eventual recruitment, employers encourage their employees to recommend their relatives and friends who they think would be suitable for providing the service required. In some cases, and for certain positions, an incentive is

given – in one instance AED 500 (approx. USD 136) were promised and paid to a referee for identifying and eventually recruiting an employee. This form of informal networking, if driven by good intentions, benefits all parties concerned, as an HR manager observed. Employers opt for this channel of recruitment as they are assured of the quality of the worker who will join. This argument stands for lower level positions where the definition of quality includes loyalty, trustworthiness etc. If a worker does not live up to the expectations, the employer can hold the referee accountable. Formal/large employers prefer dealing with larger volumes and with established recruitment agents, whereas small and medium businesses find this informal route more suitable.

73.9 per cent of 1,624 data points reported that they had approached someone, an institution or another source for guidance, regarding UAE employment. Only very few did not, which indicates the level of support that is required. Table 13 below describes the sources they have approached, both for employment and the emigration process.

Table 13: Whom did you approach for guidance / help / support regarding employment (multiple choice)? (India)

	Employment			Emigration Process		
	Frequency	Per cent	Valid Per cent	Frequency	Per cent	Valid Per cent
Government Official	22	1.3	1.8	45	4.7	5.8
Government Website/ Publications	55	3.3	4.5	53	5.5	6.8
Government Helpline	33	2.0	2.7	39	4.1	5.0
Social/Cultural Groups	24	1.4	1.9	13	1.4	1.7
Website/ Publications of Cultural groups	11	.7	.9	7	.7	.9
NORKA	40	2.4	3.2	28	2.9	3.6
ODEPC	33	2.0	2.7	23	2.4	3.0
Private Helplines/ Contracts	140	8.4	11.4	105	10.9	13.6

Private Online Portals	66	4.0	5.4	38	4.0	4.9
MOIA	78	4.7	6.3	26	2.7	3.4
Friends	664	39.8	53.9	314	32.6	40.6
Relatives	473	28.4	38.4	249	25.9	32.2
Any Other	28	1.7	2.3	22	2.3	2.8

**Source: Primary Data*

The above table indicates that friends and relatives constitute the source most workers resort to in India, both for employment and emigration. This stands in stark contrast to the findings for Nepal, where this percentage stands at only about 5 per cent.

Both for employment and emigration related information, only very few workers have utilised services of government officials and agencies. An interesting trend that could be noticed here is that sources like government officials, government websites and publications, as well as helplines were contacted by more workers about emigration-related issues than about employment. Interestingly, NORKA, ODEPEC, and MOIA all had very few people reaching out to them for help. The government of Kerala's official agency charges significantly below the official minimum rate (token charges, because it is a public, government-funded, non-profit institution). Workers and officials mentioned that they associate the agencies with low quality, as the costs of recruitment service are lower. Furthermore, research has shown that currently government-owned recruitment agencies do not receive sufficient job requirements / mandates from abroad compared to private recruitment agencies. Various respondents cited the reasons to be that government recruitment agencies do not devote much effort to marketing, are not as proactive as private agencies, and lack visibility and presence in the host country to market the agency to prospective employers.

Government efforts, both to facilitate low-cost recruitment options through public recruitment agencies and to raise awareness of rights and regulations relating to employment, have had limited effect as they do not penetrate the communication channels workers usually use to seek information on recruitment and employment abroad. Without proper funding to market services and establish networks with employers, public

recruitment agencies cannot play an effective role within the current business and regulatory environment as a low-cost alternative to private recruitment agencies. Governments must engage in a serious re-thinking of how they deliver information and services to the target audience in order to ensure information reaches them where and when they need it. A communications strategy that takes better account of where and how the target audience receives information is critical to delivering appropriate services, including Pre-Departure Orientation.

Finding 3: Prospective workers are largely unaware of blacklisted recruitment agencies and government caps for recruitment fees. Availability of correct information and costs of acquiring employment are important variables influencing workers' behaviour.

India:

There are major challenges in delivering critical information to prospective workers such as which recruitment agents to avoid, and which limits the government has imposed on recruitment fees.

Table 14: Workers' awareness of blacklisted agents (India)

	Frequency	Per cent	Valid Per cent
Yes	474	28.3	29.8
No	1115	66.6	70.2
Total	1589	95.0	100.0
No Response	84	5.0	
Grand Total	1673	100.0	

Source: Primary data

As indicated in Table 14 above, 66.6 per cent of 1,673 respondents stated that they did not have any information about blacklisted agents.

Politicians and law enforcement authorities have suggested that information about such agencies should be made public. They think, however, that there is currently no one stop source available to the general public. A number of registered recruitment agents and

NGOs indicated the need for a mechanism that ranks recruitment agents. Such a ranking system, if developed, can help further market recruitment agents that abide by national laws and general ethical recruitment practices.

In order to signal quality and professionalism, a select number of recruitment agencies have taken steps such as moving their offices to prime business locations of the city, seeking ISO certification and highlighting it in their advertisements, joining industry associations and chambers of commerce, or corporate branding. In India, with the support of the Federation of Indian Chambers of Commerce and Industry (hereinafter referred to as ‘FICCI’), overseas recruitment consultants have started to establish a professional body that could interface with government and policy makers, rather than to function as a closed club. A number of workers have mentioned that they came to know about blacklisted agents through friends, relatives, agencies and agents, or social media.

Table 15: Workers’ awareness of specified fees to recruitment agent (India).

	Frequency	Per cent	Valid Per cent
Yes	375	22.4	23.7
No	1206	72.1	76.3
Total	1581	94.5	100.0
No Response	92	5.5	
Grand Total	1673	100.0	

Source: Primary data.

72.1 per cent of 1,673 data points stated that they are unaware of recruitment agent’s official fees. This may be surprising, given the history and maturity levels of the labour market, literacy level of the population, and easy accessibility of information. Possibly, the trends point to a “fait accompli” situation (i. e. prospective workers believe that ‘this is how it happens’).

Key Informant Interviews (with officials/public figures) have shed light on the fact that there is an evident oversupply of workers interested in, and capable of, taking on employment abroad, including in the UAE, and only a limited number of opportunities.

Given the scarcity and appeal of such opportunities, most prospective workers ignore official rules, and simply follow the system that is commonly accepted, and which is most likely to yield them quick results. This obviously further complicates issues of regulation and compliance in countries of origin.

Nepal:

The data analysis presented in Table 16 illustrates that, similarly to India, 84.4 per cent of the respondents were not aware of blacklisted manpower companies. This analysis points to the opaqueness of the communication system that exists between job seekers and intermediaries. Unsurprisingly, Table 17 shows that 56.1 per cent of all respondents are unaware of the caps the GoN has introduced for recruitment fees. This situation offers fertile ground for exploitation and violation of laws and rights.

Table 16: Workers’ awareness of blacklisted agents (Nepal)

	Frequency	Per cent	Valid Per cent
Yes	124	15.5	15.5
No	677	84.4	84.4
Total	801	100.0	100.0

Table 17: Workers’ awareness of specified fees to recruitment agent (Nepal)

	Frequency	Per cent	Valid Per cent
Yes	351	43.8	43.9
No	449	56.1	56.1
Total	800	99.9	100.0
No Response	1	.1	
Total	801	100.0	

**Source: Primary Data*

This finding further highlights the significance of the issues raised in Findings 1 and 2. The current models of communication and awareness-raising offered by governments are ineffective. In an environment dominated by a “culture of paying,” the blacklisting of recruitment agents non-compliant with existing rules and regulations is not sufficient.

There is a need to engage further in public awareness efforts that reach prospective workers, and inform them of the agents who have been blacklisted and why, so they can make informed decisions.

Finding 4: Overall, sub-agents remain the most trusted and accessible source of information as well as the first point to submit complaints. In addition, sub-agents can incur additional costs to support the logistics of acquiring employment for migrant workers.

India:

The recruitment industry in India has seen big changes and challenges in the last few years as the economic and technological advances have altered the way many companies hire. However, sub-agents have remained essential actors in the recruitment cycle as they possess access to remote locations and a database of candidates in those areas. In many cases, sub-agents are recommended by former migrants to prospective ones. Other ways to approach prospective workers are through pamphlets and local newspapers. However, as sub-agents are often trusted community members, many job seekers approach them directly.

Sub-agents remain to support prospective workers in overcoming challenges in the recruitment process. A number of workers reported that even with sub-agent, the processing of job orders and visas was a lengthy process. Some migrant workers had to wait two to three months for their visas to be approved. If the migrant worker is from a village, and has to travel all the way to the capital where he waits for his documents to be processed, the majority of the costs for accommodation of the migrant worker are frequently borne by the sub-agent.

Nepal:

For Nepal, the analysis reveals that around 90 per cent¹⁰ of prospective workers are significantly dependent on sub-agents for information on employment and emigration processes (90.1 per cent and 92.3 per cent respectively¹¹).

Sub-agents in Nepal have access to social networks at town, village, and household levels. They generally keep track of workers interested in foreign employment in their communities, and approach them using their networks. As observed in India, the network of sub-agents continues to expand through successful recommendations from former workers. Sub-agents usually evaluate and assess the potential candidates to ensure that they meet the requirements of the job demand prior to referring them to Manpower Companies. Sub-agents accompany prospective workers through every step of the recruitment process. Most sub-agents pay for accommodation and meals of migrant workers while they are in the capital waiting for their contracts to be processed. The longer this takes, the more costs are incurred by the sub-agent.

In case of complaints and grievances, sub-agents are the first point of contact for family members once they find out their relative is in distress. During interviews, a number of sub-agents stated that many recruiters do not want to take responsibility for abused and exploited migrant workers in countries of destination, which links to poor diligence and inhibits access to remedy on the side of recruiters. Many do not have the capacity to address issues of migrant workers in distress. In those cases, the question of who is responsible for the welfare of the migrant generally creates dispute between manpower companies and sub-agents.

To some extent, private recruiters are relieved of their responsibility to rescue and/or redress, as sub-agents are shouldering most of those responsibilities. However, sub-agents remain dependent on the recruitment agencies to communicate with destination agencies and employers. It was noted that many of the cases of complaint or grievances were the result of candidates being deployed to supply agencies (deployment outsourcing

¹⁰ Primary Data.

¹¹ Primary Data.

companies) in UAE where they are more prone to the risk of contract substitution and violation of their rights. In many cases of distress at the destination, sub-agents face physical and verbal threats from workers and their families.

This finding is particularly critical as sub-agents have frequently been vilified in the media and in academic research. What our research has revealed is that sub-agents are a trusted source of information by workers – which makes sense as they have a reputation to uphold, and have to answer to their own communities if things go wrong. Thus, much of the misinformation passed on by sub-agents may most likely be the result of poor information flows across the recruitment chain rather than deliberate acts on the part of the sub-agent.

Sub-agents play a vital, and currently necessary, role within the supply chain. Their services should be paid for by the agent (with costs passed on ultimately to the employer) rather than informally and illegally by the worker. The role of sub-agents should be regulated and professionalised in order to increase the value of their important role within the recruitment model. Alternatively, these intermediaries could be made redundant by getting relevant information to the end user in different ways.

Finding 5: Sub-agents play a useful role in screening agents for workers, as they undertake due diligence when selecting recruitment agencies to work with, and in bridging the gap between prospective migrants and recruitment agencies.

India:

As the Foreign Employment Act 1985 gives a registered recruitment agency the legal authority to send Nepalese to work in foreign countries, the agencies, in turn, may also use sub-agents to recruit potential labourers (Gurung, 2004). Sub-agents exercise due diligence and conduct background checks before starting to work with recruiters. Background checks comprise the review of company profiles, websites, and physical offices, as well as consultations with other sub-agents and returnee migrants. In interviews, a number of sub-

agents reported that the information they were looking for when investigating a potential recruiter included, most importantly:

- Company profile (registration, website, office location, management), establishing the genuineness and professionalism of the company (80 per cent)
- Ability to facilitate deployment of migrant workers speedily (40 per cent)
- Trustworthiness through attaining references and testimonials(30 per cent)

Other information requested include:¹²

- Market visibility: How often and where does recruiter advertise? (20 per cent)
- Lowest service charge (10 per cent)
 - Capacity to respond to cases of migrants in distress (10 per cent)
- Registration of the agency (5 per cent)
- Educational attainment of recruiter (5 per cent)
- Number of companies and employers working with the recruiter (5 per cent)
- Length of relationship with employers and companies abroad (5 per cent)

Nepal:

Some sub-agents stated during the interviews that they exercised due diligence and investigate recruiters by checking their profiles, obtaining recommendations from other sub-agents, and assessing their track records. When asked what information they look for when investigating a recruiter, the most frequent responses were:¹³

- Job demands: Did job opportunities match needs of candidates? (68 per cent)
- Success rate in deploying migrant workers to countries of destination (37 per cent)
- Honesty, reliability, and commitment of recruiter through attaining references and testimonials (57 per cent)

¹² Primary Data.

¹³ Primary Data.

Other information encompassed:¹⁴

- Capacity to respond to cases of migrants in distress (32 per cent)
- Recruitment fees (18 per cent)
- Accessibility of agency staff and management (14 per cent)
- Registration and license of recruitment agency (10 per cent)
- Relationship between recruiter and employers abroad (4 per cent)

As indicated above, the top three major concerns in investigating a recruiter pertain to their capacity to respond to job demands, and successfully deploy migrant workers. Inquiries into registration and licensing of recruiters are not a top priority, and may point to a lack of trust in government regulations on the part of sub-agents. Information on employers is focused entirely on their relationship with recruiters, and not necessarily on the employer's track record of protecting the rights of migrant workers.

This further highlights the important role of the sub-agent within the current model. These findings paint a very different picture of how the sub-agent role operates than what we have seen in previous research and media reports.

Finding 6: The government cap on recruitment fees is based on the assumption that employers pay most of the recruitment costs. As the prevailing business model for international recruitment remains overwhelmingly an employee-pay model, overcharging the worker can be a reflection of the actual business costs of the recruitment agencies.

In India and Nepal:

¹⁴ Primary Data.

- Business Expense Recovery – costs incurred by recruiters that must be factored into their fees:
 - i. Costs for maintaining an office in India and, if required, in the UAE. The costs associated with setting up and operating a recruitment firm are very high due to high bank guarantees to be furnished to the GoI, among other things. Local offices in the UAE are necessary for public relations purposes. Such offices, and UAE-based personnel, are key to maintaining continued relations.
 - ii. Travel, marketing, and networking costs of an agent or representative travelling between the country of origin and the UAE
 - iii. Advertising costs
 - iv. Costs for conducting skills tests in test centres (payment made to the venue / centre).
 - v. Additional payments to local and law enforcement authorities while conducting interviews and tests. The police are informed of the process to maintain law and order during the interviews, as there may be large numbers of candidates.
 - vi. Miscellaneous expenses for conducting recruitment fairs.

- Compensation for risk taking – recruiters must also factor certain risks into their costs:
 - i. Agents bear the risk of candidates rejecting the offer after the visa has been processed, because the agent will have to bear the loss incurred (agreements with employers include free replacement in case the selected candidate quits before a certain time stipulated in the agreement).
 - ii. Risk of candidates being declared unfit following the medical examination (to avoid this, agents ask candidates to undergo the examination at their own expense. Around 15 per cent of all workers stated in the interviews that they have received assistance from agents or employers in acquiring the medical certificate).

- iii. Risk of candidates leaving the job before having completed the contract period. The employee may leave the job for various reasons, such as homesickness, and cultural adjustment issues.
- iv. In case project delays or other circumstances prevent the employer from offering employment, the agent bears the repatriation costs, and may have to return part of the money collected from the worker.
- v. It was quoted in a number of interviews with recruitment agencies that less than 10 per cent of prospective workers do not take the job seriously, and use it as an opportunity for paid holiday (investment recovery happens within three to four months). One agent estimated that the costs incurred by recruiters for the recruitment of one worker average out at INR 100,000 (approx. USD 1500).
- vi. Various agents stated that out of the total number of recruitments made annually, approximately 10 to 15 per cent of candidates back out after the entire process has completed, and the loss is usually borne by the agent.

This finding is important as it sheds light on the business model of the recruitment industry. While cases of rampant overcharging and exploitation do exist, more commonly, costs charged by recruiters simply reflect their own costs incurred in assisting workers to obtain employment with a slight markup for services rendered. In a highly competitive industry such as this, recruitment agents must bear significant costs for marketing and networking with employers in order to secure opportunities, in addition to their operational costs for facilitating the recruitment process. All these costs are ultimately passed on to workers in the form of service fees.

In most cases then, reducing fees for workers requires increasing fees for employers in order to maintain a viable business. However, recruitment agents are in a difficult position where they become uncompetitive if they begin charging employers all those additional costs mentioned, unless everyone does it. But even if this was done at the national level, there are risks of competition from recruiters in other countries where these rules do not apply – as referenced by Nepalese recruitment agents concerned that the new rules in Nepal

would lead to job offers going to recruiters in other countries. As such, shifting from a worker-pays to an employer-pays model requires greater scrutiny of employers to ensure that the fees they are paying are reasonable to cover recruitment costs, stronger regulation of employers, and, ideally, regional cooperation between countries of origin. If the recruitment fees employers pay are too low, their labour supply chain should be suspected of illegally charging workers recruitment fees. This must be done at the country-of-destination level, and in coordination with countries of origin so as not to create imbalances in price competitiveness.

Finding 7: Lack of connection between sub-agents in the country of origin and employers and/or agents in the UAE, in addition to recruitment agents in countries of origin withholding critical information on employment from sub-agents, lead to increased possibility of deception of migrant workers.

In India and Nepal:

None of the sub-agents interviewed have contracts with recruitment agencies or employers in the UAE.

The interviews also revealed that recruitment agencies intentionally hide specific information about employment opportunities from sub-agents to ensure that prospective workers depend on their services. A major challenge faced by sub-agents is the lack of correct and accurate information passed on by recruiters on the conditions of work in countries of destination. This situation leads, as mentioned earlier, to complaints and grievances from candidates being sent to the supply agencies (deployment outsourcing companies), where the risks of contract substitution and other types of exploitation are high. This lack of transparency between recruitment agents and sub-agents creates an environment that is ripe for fraudulent practice and abuse of migrant workers.

UAE:

Employers and recruitment agents in the UAE are also quite adamant not to establish working relationships with sub-agents in countries of origin. In fact, sub-agents are almost considered a taboo for employers and recruitment agents in the UAE. One employer mentioned in an interview that they have never dealt with sub-agents. Local recruitment agencies might use sub-agents, but employers are not officially aware of it. In fact, many express their complete aversion to the idea: “If we know they are using sub-agency, we will not deal with them.”; “On the spot, we cancel their contract.” Another employer added, “They use employment agencies in the source countries, but never any sub-agents, they discourage sub-agents, and ask their partner companies to recruit directly.” One more employer mentioned that they dealt only with main agents in the capital city, and not anywhere in the provincial cities. The main agents may, in turn, engage sub-agents, but this is something they do not know about. They have never recruited people informally.

Recruitment agencies in the UAE take a very similar stance, stating that they have not recruited people informally. Even if some prospective workers contact them directly, they send them to their local agent in order to verify the worker’s credentials and qualifications. They never hire directly. Their recruitment teams have been to India, Nepal, and the Philippines, not for direct recruitment but to oversee recruitment. They have staff members from different countries and language groups to facilitate this process.

The supposed “taboo” of using sub-agents noted in the employer interviews further speaks to the bad reputation of this category, a reputation our research finds may not be entirely justified. Instead, poor information flows (deliberate or unintended) across the recruitment supply chain, rather than the existence of sub-agents in itself, constitutes the problem. A more transparent flow of information between employers, agents, and sub-agents could address this.

Finding 8: Absence of a legal framework that encompasses sub-agents and accommodates changing dynamics in the industry, and an existing legal framework that is inadequate and encourages fraudulent practices of sub-agents.

India:

Recruitment through sub-agents is illegal in India, and anyone recruiting any person for a foreign job without a license is engaging in a crime under the Indian Penal Code.

The lack of license and legal capacity to recruit is seen as a major issue by sub-agents as this means that all their recruitment activities are considered illegal. This also means that sub-agents cannot operate publicly, have a physical office, or advertise. As shown in this research, sub-agents are more often the first contacts of prospective migrant workers, especially those from villages. They offer a personalised service for migrant workers that recruitment agents are unable to provide. However, the lack of legal capacity to operate means that they are unregulated and anyone can become a sub-agent. This poses bigger risks of fraudulent practices and abuse of migrant workers.

Nepal:

Even though sub-agents are licensed, they are allowed to work for only one recruitment agency. All recruitment agencies are required to publish a notice each year in a newspaper with national circulation listing the names and addresses of all their sub-agents.

According to the DOFE Progress Report 2015/2016, out of 700 registered agents, 549 renewed their license in 2015. But NAFEA reports that there are, in fact, about 60,000 individuals working as full-time or part-time sub-agents in Nepal. All sub-agents interviewed indicated that they were working illegally with more than one recruiter, the minimum being 5 recruiters, and the maximum at least 55 recruiters. These figures illustrate the ineffectiveness of the existing licensing framework in Nepal, which promotes the illegal operation of unregistered sub-agents, other unlawful practices, and thus exploitation of migrant workers without accountability.

One example of unregulated sub-agent exploitation was revealed in one interview: At times, sub-agents send more people to recruiters than required by an employer to collect extra service fees. Suppose a company A in the UAE has asked for five workers, but the

sub-agent sends ten people instead to the manpower company in Nepal, and collects service fees from all ten of them. Five workers will thus have paid the service fees in vain. There are many other examples of fraudulent practices of sub-agents that are not regulated, and concerning which the sub-agent cannot be held accountable.

Regulations that ban sub-agents or restrict their activities simply drive underground what is clearly a critical part of the current labour supply chain. Against this background, governments should both (a) regulate and professionalise the role of sub-agents; and (b) develop communication networks and tools that enable prospective workers to bypass the sub-agent level, and communicate directly with agents. Unless these measures are taken, flaws within the business model's supply chain will persist. In developing regulations, governments must consider what is in the best interest of prospective workers. In Nepal, for example, limiting the number of agencies a sub-agent can be affiliated with means they become inefficient, move some of their work underground, which is then more difficult to regulate. This does nothing to protect workers, and is likely to lead to inefficiencies in the supply chain.

Finding 9: In India, recruitment agencies have unofficial agreements with business partners to secure alternative unrecorded income flow.

Recruitment agencies have set up a parallel income flow through unofficial agreements with business partners. This research reveals that recruitment agents receive reverse payments from, inter alia, travel agents, clinics, hotels, upon referral of prospective workers. One agent mentioned that his firm keeps such reverse payments in a separate fund, and uses it to cope with contingencies, such as supporting workers who want to return before completion of their contract, and other risk factors associated with business costs.

It is also common that recruitment agencies in Kerala facilitate services for agencies who do not have a presence in Kerala by extending their personnel and facilities. It is very common to see advertisements of agencies outside Kerala appear in local newspapers.

Agents tend to agree that local facilitators are essential for the recruitment process and logistics; for facilitation, the local recruitment agencies receive service fees from the outside agency. This is another source of income for agents that goes unrecorded, and a layer of costs that is potentially passed on to the worker.

In addition to local agreements, the research has also revealed that a number of recruitment agents at times coordinate recruitment from countries other than India, most notably from Nepal and Sri Lanka. Recruitment agencies aspire to provide a complete service to their employer clients, as reflected in the reasons cited by recruitment agencies for engaging in services with other countries: a) employer requires different nationalities; b) local specific availability and inclination of workers from outside Kerala for certain trades; and c) non-availability of blue-collar workers from Kerala willing to go abroad. Most employers do not want to establish relations with recruitment agencies in multiple countries; it is, therefore, convenient for them if a recruitment agency in India enhances its scope to act as a one-stop shop for employers.

This finding suggests we may be starting to see the growth of multinational recruitment agencies that operate across multiple countries of origin and destination. This is not necessarily a negative development as it can lead to greater efficiency, standardisation, and professionalization of the industry. However, governments must look closely into this process, and draft regulations to ensure that it develops in a way that improves services and protection of workers within the recruitment process.

Finding 10: Recruitment agencies do not receive systematic training on foreign recruitment, which may lead to a further violation of recruitment procedures. This indicates a lack of professionalisms and regulation in the industry.

India:

As indicated in Table 18 below, none of the recruitment agents interviewed has attended any formal training programme related to overseas recruitment. One agent, who had

introduced a recruitment process software in his company, had received training on the software itself. Similarly, ISO-accredited agencies (at least ten of the recruitment agents interviewed) have attended relevant training. As indicated in Tables 19 and 20 below, many employees of recruitment agencies opine that they require training on government regulations of overseas employment, especially since government regulations continuously change, and can become more complicated. Marketing was another area that they assigned high relevance for training.

Table 18: Have you attended any training/seminars/courses on overseas recruitment? (India)

	Frequency	Per cent	Valid Per cent
Yes	0	0	
No	12	63.16	100
Total	12	63.16	100
No Response	7	36.84	
Grand Total	19	100	

*Source: Primary Data.

Table 19: If no, do you feel the need for specific training? (India)

	Frequency	Per cent	Valid Per cent
Yes	11	57.89	64.7
No	6	31.58	35.3
Total	17	89.47	100
No Response	2	10.53	
Grand Total	19	100	

*Source: Primary Data.

Table 20: Areas of required training (India).

Translation Services	1
Marketing	10
Identification of Candidates	4
Update of Rules/Regulation	11
Finance/Accounts	2
Unable to articulate	1

*Source: Primary Data.

The absence of training for recruitment staff increases risks of unintentional exploitation of prospective workers.

Nepal:

In Nepal, staff of manpower companies have received more training than their Indian counterparts. However, as Table 21 below illustrates, 27.3 per cent have still not received any training. As indicated in Table 22, 96 per cent of 27 respondents stated that they required specified training. Marketing, recruitment rules and regulations, and counselling were the three priority subject areas.

Table 21: Have you attended any training/seminars/courses on overseas recruitment? (Nepal)

	Frequency	Per cent	Valid per cent
Yes	72	72	72.7
No	27	27	27.3
Total	99	99	100
No Response	1	1	
Grand total	100	100	

**Source: Primary Data*

Table 22: If no, do you feel the need for specific training? (Nepal)

	Frequency	Per cent	Valid per cent
Yes	26	96.3	96.3
No	1	3.7	3.7
Total	27	100	100

**Source: Primary Data.*

Table 23: Areas of required training (Nepal).

Translation service	16
Counselling skills	25
Visa Processing	20
Identification of candidates	15
Marketing	23
Update on rules and regulations	21

Any other	10
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*Source: Primary Data

This finding further speaks to the need for professionalisation of the recruitment industry at both agent and sub-agent levels. It also indicates a significant gap in communications and information flow between recruitment agents and regulators. These gaps can lead to irregularities in procedures that increase the chances of miscommunication and vulnerability of workers.

Finding 11: Employers that acquire the services of recruitment agencies or labour supply companies in the UAE ultimately increase the informal recruitment costs incurred by migrant workers, and the risk of workers' potential exploitation.

Labour supply companies provide employers in the UAE with solutions for seasonal recruitment or short-term projects. For example, employers in the UAE require a high number of semi-/low-skilled labourers during specific seasons like Ramadan, or for festivities that attract large numbers of tourists, such as New Year's Eve. To meet the sudden demand for workers, labour supply companies are contracted to bring in workers for short periods of time.

Labour supply companies provide a convenient source of workers while avoiding a lengthy recruitment process. An additional intermediary entails more costs that are most likely to be borne by the migrant workers themselves. In a number of interviews with workers of supply companies, complaints were raised about living conditions as well as deduction of salaries, depending on the worker being employed or warehoused. A number of workers also mentioned that they were not aware during the recruitment process of the fact that they were being hired by a supply company rather than directly by an employer. The recruitment agency had told the workers that they would be employed by a cleaning company.

One employer in the UAE mentioned that, while they seek high-skilled workers for recruitment, they also take a mixed method approach. The employer, an organisation of

420 employees, has about thirty housekeeping and other low-skilled positions to fill, which it does using private suppliers. The reason for outsourcing these works is to reduce staff over the summer, when business is slow. Such flexible hiring practices help the company to remain profitable.

Taking into consideration the illegal practices that already take place in direct recruitment modalities, in addition to employers hiring workers without being held accountable for their well-being, creates an environment in which exploitation and fraud at both ends of the recruitment process are able to thrive. Recruitment agencies based in the UAE also constitute an additional intermediary that adds costs to the recruitment cycle, which are more often than not incurred by migrant workers during and post recruitment.

Labour supply companies add another layer to the recruitment process, resulting in increased costs often borne by workers, and further reduce the transparency of the labour supply process. Nevertheless, they do serve a business need in that they address temporary fluctuations in labour demand. One possible solution that could improve recruitment conditions for workers while meeting this business need would be the development of a seasonal work visa, whereby a worker can come to the UAE at their own expense and seek employment within a specified timeframe. This has the merit of cutting out the middleman, addressing seasonal needs, and taking advantage of the fact that many people already do come to the UAE on visitor visas with the intention of eventually seeking work.

Finding 12: To ensure unwavering commitment of prospective workers, it is common practice for recruitment agents to withhold original documents and oblige workers to sign an unofficial contract in countries of origin.

10 to 15 per cent of prospective workers withdraw from the recruitment process at some point, and recruitment agencies in countries of origin have to pay the costs incurred or otherwise risk their business relationships. Recruitment agencies try to take measures to ensure that workers will not abandon the recruitment process midway. There are two

measures that are most often practised by recruitment agencies: (a) withholding of original documents (passport, medical certificate, etc.) until all due payments are made and the worker is ready to depart; and (b) signing of unofficial contracts in countries of origin to increase the level of commitment of the prospective workers. Official contracts can only be issued and signed upon arrival in the UAE.

India:

As indicated in Table 24, approximately 25 per cent of migrant workers interviewed had signed unofficial contracts before leaving for the UAE. Most workers were not aware that what they had signed was an unofficial contract. One agent mentioned that the signing of unofficial contracts prior to departure protected agents from any future complaints by workers, and ensured that workers were aware of all terms and conditions beforehand.

Table 24: When did you sign the contract? (India)

	Frequency	Per cent	Valid Per cent
Before leaving for UAE	180	15.6	24.76
After reaching UAE	547	47.4	75.24
Total	727	63	100
No Response	427	37	
Grand Total¹⁵	1154	100.0	

**Source: Primary Data.*

Table 25 illustrates that 90 per cent of recruitment agencies ask candidates to sign contracts in the country of origin.

Table 25: When are the candidates made to sign the contract? (India)

	Frequency	Per cent
Before boarding from India	17	89.47
After arrival in UAE	2	10.53
Total	19	100

**Source: Primary Data.*

¹⁵ This sample includes only current and former workers.

Table 26 below indicates that 54.3 per cent of workers have deposited their original documents with recruitment agencies. The percentage was higher for people employed in services, with 71.62 per cent.

Table 26: Have you been asked to surrender original documents? (India)

	Frequency	Per cent	Valid Per cent
Yes	571	34.1	54.3
No	480	28.7	45.7
Total	1051	62.8	100.0
No Response	622	37.2	
Grand Total	1673	100.0	

**Source: Primary Data.*

Nepal:

In Nepal, the number of workers who have signed unofficial contracts is significantly higher than in India. As indicated in Table 27 below, 59 per cent of migrant workers have signed contracts in Nepal.

Table 27: When did you sign a contract? (Nepal)

	Frequency	Per cent	Valid Per cent
Before leaving for UAE	270	55.9	58.95
After reaching UAE	188	38.9	41.05
Total	458	94.8	100.00
No Response	25	5.2	
Total	483	100.0	

**Source: Primary Data.*

Table 28 illustrates that 59 per cent of respondents were asked to surrender their original documents to manpower companies.

Table 28: Have you been asked to surrender original documents? (Nepal)

	Frequency	Per cent	Valid Per cent
Yes	338	42.2	58.7
No	238	29.7	41.3
Total	576	71.9	100.0
No Response	225	28.1	
Total	801	100.0	

**Source: Primary Data.*

The withholding of documents remains common practice in the recruitment industry, and is seen as a means to enforce workers' commitment to the process. This is an issue with no immediate solution, and one that governments should examine further in order to determine (a) how this may lead to further vulnerabilities for prospective workers; and (b) how this impacts eventual employment in the country of destination. Ideally, a temporary and – to the concerned worker – completely transparent withholding of documents would serve solely the purpose of expediting the completion of necessary pre-departure documentation. A tracker system could therefore be established that gives workers full overview of the status and location of their papers. However, this needs to be accompanied by a neutralisation of risks for agents associated with the early withdrawal of workers from the recruitment process, which currently constitute the basis of argumentation for such non-transparent withholding of documents.

Finding 13: Contract substitution is commonly practiced by employers and recruitment agencies in the UAE. However, very few workers issue a complaint.

India:

As indicated in Table 29 below, a considerable number of Indian workers (15 per cent) have faced discrepancies between what was stated in the job offer on the one hand, and in the employment contract on the other. Job offers provided workers with inaccurate information on their prospective employment in the UAE. Table 30 lists some of the most commonly encountered features of contract substitution in India. The details that had been

changed most often in their contracts are linked to weekly time off (41.94 per cent), and remuneration (basic 38.86 per cent; details 37.95 per cent).

Table 29: Was there any discrepancy between your job offer and employment contract? (India)

	Frequency	Per cent	Valid Per cent
Yes	251	15.0	19.2
No	1057	63.2	80.8
Total	1308	78.2	100.0
Missing	365	21.8	
Grand Total	1673	100.0	

Table 30: Regarding which details was there a discrepancy between job offer and contract? (India)

	As mentioned in Job Offer	Valid Per cent	As Mentioned in Contract	Valid per cent	Don't know	Valid per cent	Valid Total	No response	Grand total ¹⁶
Job description	130	60.47	53	24.65	32	14.88	215	36	251
Job title	112	56.28	61	30.65	26	13.07	199	52	251
Emirate/place of work	131	62.38	59	28.10	20	9.52	210	41	251
Nature of work	93	45.59	74	36.27	37	18.14	204	47	251
Duration of contract	64	44.76	51	35.66	28	19.58	143	108	251
Probation period	78	40.41	69	35.75	46	23.83	193	58	251
Remuneration details	76	43.43	68	38.86	31	17.71	175	76	251
Basic remuneration	92	47.18	74	37.95	29	14.87	195	56	251
Allowance details	53	29.94	49	27.68	75	42.37	177	74	251
Allowance cash or kind	51	30.72	57	34.34	58	34.94	166	85	251
Contract termination terms	61	33.33	59	32.24	63	34.43	183	68	251
Notice period	52	30.77	47	27.81	70	41.42	169	82	251
Travel broker agency fee	41	25.15	33	20.25	89	54.60	163	88	251
Workers' rights	43	24.57	41	23.43	91	52.00	175	76	251
Paid holiday	67	36.41	58	31.52	59	32.07	184	67	251
Weekly time off	47	30.32	65	41.94	43	27.74	155	96	251
Annual leave days	75	46.58	36	22.36	50	31.06	161	90	251
Maternity leave	31	32.63	12	12.63	52	54.74	95	156	251
Compensation in case of work-related injury / disease causing death	37	23.87	26	16.77	92	59.35	155	96	251
Compensation total disability	39	24.68	25	15.82	94	59.49	158	93	251
Right to retain identification documents	50	32.47	35	22.73	69	44.81	154	97	251
Any other violation	18	52.94	5	14.71	11	32.35	34	217	251

¹⁶ This sample includes current and former workers from India who had confirmed to have experienced contract substitution.

As indicated in Table 31 below, only 4.9 per cent of respondents registered a complaint related to contract substitution. Fear of reprisal was mentioned a number of times by workers as a reason not to file complaints.

Table 31: Did you complain about any contract substitution? (India)

	Frequency	Per cent	Valid Per cent
Yes	34	2.95	4.9
No	658	57.05	95.1
Total	692	60	100
No Response	462	40	
Grand Total	1154	100.0	

**Source: Primary Data.*

Nepal:

As indicated below in Table 32, contract substitution is much more prevalent among cases involving Nepalese migrant workers. Table 33 shows common features of contract substitution encountered by interviewed workers from Nepal, the list being topped by details on weekly time off (79.02 per cent), annual leave (77.9 per cent), and remuneration (75.7 per cent).

Table 32: Was there any discrepancy between your job offer and employment contract? (Nepal)

	Frequency	Per cent	Valid Per cent
Yes	359	44.8	80.9
No	85	10.6	19.1
Total	444	55.4	100.0
Missing	357	44.6	
Grand Total	801	100.0	

Table 33: Regarding which details was there a discrepancy between job offer and contract? (Nepal)

	As mentioned in Job Offer	Valid Per cent	As mentioned in Contract	Valid Per cent	Don't know	Valid Per cent	Valid Total	No response	Grand Total ¹⁷
Job Description	159	45.56	177	50.72	13	3.72	349	10	359
Job Title	113	31.56	233	65.08	12	3.35	358	1	359
Emirate place of work	147	41.53	190	53.67	17	4.80	354	5	359
Nature of work	107	30.66	224	64.18	18	5.16	349	10	359
Duration of Contract	73	22.19	233	70.82	23	6.99	329	30	359
Probation period	40	13.38	190	63.55	69	23.08	299	60	359
Remuneration detail	69	19.71	265	75.71	16	4.57	350	9	359
Amount basic remuneration	68	19.94	242	70.97	31	9.09	341	18	359
Each allowance detail	59	21.61	142	52.01	72	26.37	273	86	359
Allowance cash or kind	64	23.19	169	61.23	43	15.58	276	83	359
Contract termination terms	42	14.95	162	57.65	77	27.40	281	78	359
Notice period	33	12.36	129	48.31	105	39.33	267	92	359
Travel broker agency fee	42	14.79	156	54.93	86	30.28	284	75	359
Workers' rights	38	13.29	151	52.80	97	33.92	286	73	359
Paid holiday	25	8.77	184	64.56	76	26.67	285	74	359
Weekly time off	31	10.84	226	79.02	29	10.14	286	73	359
Annual leave	31	11.23	215	77.90	30	10.87	276	83	359
Maternity leave	16	6.78	101	42.80	119	50.42	236	123	359
Compensation in case of work-related injury / disease causing death	41	14.19	180	62.28	68	23.53	289	70	359
Compensation for total disability	31	11.48	141	52.22	98	36.30	270	89	359
Right to retain identification documents	41	17.15	141	59.00	57	23.85	239	120	359
Any other violation	0	0.00	2	33.33	4	66.67	6	353	359

¹⁷ This sample includes current and former workers from Nepal who had confirmed to have experienced contract substitution.

However, Nepalese workers were more willing to issue contract substitution-related complaints than Indian workers. Table 34 shows that 9 per cent of Nepalese respondents, who had experienced contract substitution, had filed a complaint.

Table 34: Did you actually complain about any contract substitution? (Nepal)

	Frequency	Per cent	Valid Per cent
Yes	39	8.07	9.07
No	391	80.95	90.93
Total	430	89.03	100.0
No Response	53	9.97	
Total	483	100.0	

**Source: Primary Data.*

UAE:

Employers interviewed for this research were aware of problems concerning contract substitution, which they thought to be rife in the construction industry and other sectors, which tend to employ low-skilled workers, who often also lack education and, in some cases, literacy.

Following the reforms of the UAE labour laws implemented in January 2016, the main nine South Asian languages (Bengali, Chinese, Dari, Hindi, Malayalam, Nepalese, Sri Lankan [Singhalese], Tamil, and Urdu) are now permitted for labour contracts in addition to mandatory Arabic and English language documents. This is the right step towards increased transparency, and may help to reduce the phenomenon of contract substitution. However, this, too, is dependent on the literacy of prospective workers.

What is more, the introduction of the eMigrate System provides for the job offer letter now being sent through the MoHRE in the UAE, which prepares the contract based on the information included therein, such as job description, salary, and other terms and conditions. This is supposed to guarantee that both job offer and contract are identical in content. However, as the eMigrate System is a one-sided initiative of the GoI, and involves little actual coordination between the Indian and UAE governments, the system does not

prevent agents and employers from having workers sign other contracts upon their arrival in the UAE, where the contract signed in India is legally outweighed by any new contract signed in the UAE. Cases where specific conditions of employment are not sufficiently explained to workers in advance, or where there are deliberate changes to employment conditions (contract substitution) remain thus common. On the other hand, complaint and redressal mechanisms do not sufficiently take into account that workers might fear the ramifications of their complaint (see also Finding 17). Enhancing transparency of information flow can go some way in addressing this issue by reducing misinformation and lack of information across segments of the supply chain.

Finding 14: One in ten Indian and Nepalese low-skilled workers have paid informal recruitment fees to employers in the UAE.

India:

In India, when workers were asked if they had paid any fees to the employer, 11.1 per cent affirmed that they had. Almost 50 per cent of respondents refused to respond to this question, which could possibly point to their reluctance to admit such payments. When looking only at those who did respond to the question, the share who stated they paid fees jumps to 21.7 per cent. Table 35 indicates that 44.6 per cent of interviewed workers were asked by their employers to pay a fee. Most workers paid between INR 10,000 and INR 100,000 (approx. USD 150 to USD 1500)

Table 35: Did you pay any fees to the employer? (India)

	Frequency	Per cent	Valid Per cent
Yes	186	11.1	21.7
No	574	34.3	67.0
Don't Know	97	5.8	11.3
Total	857	51.2	100.0
No Response	816	48.8	
Grand Total	1673	100.0	

**Source: Primary Data.*

Table 36: If Yes, who asked you to pay? (India)

	Frequency	Per cent	Valid Per cent
Employer	83	44.6	46.1
Everyone needs to pay	37	19.9	20.6
Agent	54	29.0	30.0
Others	6	3.2	3.3
No Response	6	3.2	
Total	180	96.8	100.0

*Source: Primary Data.

Table 37: How much did you pay (range) INR? (India)

Range	Frequency
0–10,000	46
10,001–20,000	18
20,001–30,000	6
30,001–40,000	16
40,001–50,000	25
50,001–60,000	13
60,001–70,000	11
70,001–80,000	12
80,001–90,000	4
90,001–100,000	14
100,001–110,000	1
110,001–120,000	2
120,001–130,000	3
130,001–140,000	0
140,001–150,000	7
More than 150,000	4
Total	182
No Response	4
Grand Total	186

*Source: Primary Data.

Nepal:

In Nepal, most workers chose not to respond to the questions regarding fees to the employer. However, 28.9 per cent of the 76 people who did respond stated that they had

paid fees to the employer in the UAE. Among the 22 people who did pay fees, 36.4 per cent paid the employer through the recruitment agency (Table 38). Table 39 indicates that, among the small sample that answered the question, the range of 0 to NPR 150,000 (approx. USD 1405) had the most (15 out of 22) responses.

Table 38: Did you pay any fees to the employer? (Nepal)

	Frequency	Per cent	Valid Per cent
Yes	22	2.7	28.9
No	47	5.9	61.8
Don't Know?	7	.9	9.2
Total	76	9.5	100.0
No Response	725	90.5	
Total	801	100.0	

*Source: Primary Data.

Table 39: If yes, who asked you to pay? (Nepal)

	Frequency	Per cent	Valid Per cent
Employer	3	13.6	13.6
Everyone needs to pay	8	36.4	36.4
Agent	8	36.4	36.4
Others	3	13.6	13.6
Total	22	100.0	100.0
No Response	0	0.0	
Total	22	100.0	

*Source: Primary Data.

Table 40: How much did you pay? (Nepal)

Range	Frequency
0–50,000	4
50,001–100,000	6
100,001–150,000	5
150,001–200,000	2
200,001–250,000	1
250,001–300,000	0
300,001–350,000	0

350,001–400,000	1
Total	19
No Response	3
Grand Total	22

**Source: Primary Data*

This data is corroborated by interviews with representatives of recruitment agencies in the UAE, who stated that, in some instances, employer representatives charge workers a fee to guarantee selection for the job. Quite often, the fee is not paid directly by the worker to the employer but through the recruitment agency. This is quite prevalent in security companies, where jobs are steady, and salary is reasonably good with around AED 2,000 (approx. USD 545) per month.

One worker stated in an interview: “I went to UAE to meet my friend, but within one week got a job. My friend’s elder brother helped [me] to get a job. I had to pay some amount to the employer for that.” In this case, the worker paid the employer in the UAE directly. Another worker explained: “Some friends and relatives were working in UAE and they helped me to find a great job. They took all responsibilities and did not face any difficulties. [My friends] had to keep a deposit amount in the company.”

A prospective worker said during his interview: “My job is ready in UAE, through relatives working there. [The] job offered to me is sales representative for which graduation is not necessary. [A] fee was paid to the employer; I do not know how much. My relatives gave an amount to the employer.” It was understood that the fee was paid by the worker’s relative to the employer in the UAE.

A representative of a recruitment agency further corroborated this statement: “Some small employers (entrepreneurs) may collect directly from the workers, for issuing the visa and meeting their costs. They cannot afford the visa fees and tickets.” Another agent confirmed off the record that employer representatives directly discuss how they split money received from workers with agents.

This finding demonstrates that as much as there is a “culture of paying” in the countries of origin, there is certainly a “culture of not paying” among employers in the UAE, where employers often expect either to be rewarded or financially compensated for anything that they have put into the recruitment process. This finding further reflects the challenges of bringing in and regulating an employer-pays model for recruitment; initiatives to this end must necessarily involve both countries of origin and destination to be effective, and must go beyond the simple institution of legislation to this effect. In addition to more rigorous enforcement of rules designed to ensure that employers pay recruitment fees, public information and awareness campaigns must be launched in countries of origin and destination aiming to change the prevailing mentality and culture wherein it is considered normal that workers pay for their own recruitment.

Finding 15: A number of employers in the UAE are not only aware of informal fees incurred by workers, but endorse this practice as a means to ensure workers’ commitment.

UAE:

Some employers show a certain degree of tolerance regarding the practices of recruitment agencies to charge informal fees. They understand that in a competitive market some candidates may be willing to pay a fee as an incentive to the recruitment agent to improve workers’ prospects for a better job. If the charges are “reasonable,” the employer does not mind.

It is believed by employers that, if the candidate has made a significant financial investment, their work commitment and productivity will increase, as they seek quick compensation for their investment. If candidates have already paid a significant amount in fees to a recruitment agent, then they may be more serious, are more likely to continue in the job through difficult phases of homesickness, health issues, or loneliness, and may be less likely to leave the job and country before the contract period expires by giving “flimsy excuses.”

Another employer stated that, at times, they encourage cost sharing with the worker. The main purpose for that is to create an incentive structure to retain the workers for a considerable period. If the entire cost is borne by the company, the workers will have no stake in working for a certain period of time. Since work in the construction industry is often hard and physically challenging, some workers resign and want to return to their home country after a couple of weeks of work, even if they have invested resources in securing the job. This can be disruptive for the project.

One employer admitted during an interview that his company's Human Resources unit was aware of indebted and exploited workers, particularly when sub-agents were involved. However, it was their view that if the workers got all necessary information via the recruiting company and made an informed choice, fees could benefit the hiring company as well as the recruiter. According to the manager of the same company, this was "a double-edged sword": If the workers did not make any payment, they had no incentive to stay on the job, and if they paid more than their share, they were exploited.

It is clear that, in many cases, employers turn a blind eye to irregularities in their labour supply chain, so long as it does not affect business. Incentives and penalties must thus be put in place and enforced encouraging employers to pay closer attention to the practices of partners both in the UAE and in countries of origin. These should include imposing fines on employers hiring workers who have paid informal fees within the recruitment process. Without this business incentive, most employers are not concerned about the ethical conduct of partners in their supply chain. Proving that these fees were paid, however, remains a great challenge that requires coordination between countries of origin and destination.

Finding 16: Delivery of pre-departure orientation to workers is inefficient both in execution and content.

In India:

In India, prospective workers generally do not appreciate a formal pre-departure orientation (PDO) training. As indicated in Table 41 below, 64.1 per cent of 1,266 respondents had not received any kind of PDO, although recruitment agencies are legally mandated by the GoI to ensure that workers receive PDO. Various workers cited in the interviews that recruitment agencies provide them with PDO at the last minute without enough time to digest the training and reflect on the choice to work in the UAE. Trainings are given in order to “check a box” rather than from a sense of responsibility among agents to provide comprehensive training and thus a layer of protection to workers. Table 42 below shows that among those who received some form of pre-departure training, only 27.3 per cent of workers received PDO through their respective recruitment agency. Friends and relatives remain overwhelmingly the source of information prior to departure, with over 50 per cent of respondents who received some training stating they received informal PDO from friends and family.

Table 41: Did you receive any pre-departure orientation? (India)

	Frequency	Per cent	Valid Per cent
Yes	467	27.9	35.9
No	833	49.8	64.1
Total	1266	75.7	100.0
No Response	373	22.3	
Grand Total	1673	100.0	

*Source: Primary Data.

Table 42: If yes, who imparted pre-departure orientation? (India)

	Frequency	Per cent	Valid Per cent
Representative of employer	67	4.0	14.3
recruitment agent	128	7.7	27.3
interaction with relatives	177	10.6	37.7
Interaction with friends	95	5.7	20.3
Total	467	28.0	100.0

*Source: Primary Data.

Nepal:

In Nepal, it is compulsory to take part in PDO classes before obtaining a labour permit. 116 organisations are mandated to provide PDO in Nepal. Interestingly, Table 42 indicates that at least 22.2 per cent of respondents had not received PDO. In cases where PDO had been received, in about three quarters (75 per cent) of cases, it was delivered by training centres specified by the government together and recruitment agencies (see Table 44).

Table 43: Did you receive any pre-departure orientation? (Nepal)

	Frequency	Per cent	Valid Per cent
Yes	445	55.6	77.8
No	127	15.9	22.2
Total	572	71.4	100.0
No Response	229	28.6	
Total	801	100.0	

*Source: Primary Data.

Table 44: If yes, who imparted pre-departure orientation? (Nepal)

	Frequency	Per cent	Valid Per cent
Representative of employer	70	15.7	18.6
Training Centre Specified by the Government	88	19.8	23.3
Recruitment Agency	218	49	57.8
Interaction with relatives	1	0.2	0.3
Total	377	84.7	100.0
No Response	68	15.3	
Total	445	100.0	

*Source: Primary Data.

Key Informant interviews revealed it is not uncommon for manpower companies to send one person to orientation classes to obtain labour permits for somebody else. Interviews with government officials pointed to the socio-economic and geographical conditions of workers as an obstacle to the smooth running of PDO training. They said that workers found it expensive to stay in Kathmandu just to attend the orientation class, and preferred not to attend such classes. Another view of this situation is that manpower companies were unwilling to send prospective workers to PDO classes for fear the acquired knowledge

(legal rights etc.) could lead workers to question the information provided by manpower companies and fees demanded.

In the interviews, manpower companies stated they felt helpless when workers were unwilling to attend such orientation programmes, so they sent someone else, as this was the only way they could report compliance with government regulations.

Key informants from the government acknowledged their inefficiency in monitoring training institutes. There are, for example, only five officers to monitor the 117 orientation training centres. These officers can only monitor up to six to eight centres in a day while around 70 to 80 centres provide training on any particular day. Recently, the GoN established an online tracking system enabling them to access all records of people sent by manpower companies to attend orientation classes. In addition, orientation institutes now send out the lists of people who have attended orientation classes. Government officials now monitor those records more closely.

Alongside problems of enforcing legally required PDO for prospective workers, both content and delivery methods of PDO appear to be less than optimal. Governments must re-think the value and purpose of this service (especially if it is considered mandatory) to ensure that (a) the content is relevant and useful; and (b) information is being delivered in a way that is convenient for the target audience. Besides in-class training, mediums such as radio, television, or internet should be considered as options for delivering relevant information to prospective workers.

Finding 17: Complaints and redressal mechanisms in the UAE and countries of origin remain weak and incoherent.

India:

Workers are largely unaware of complaint and redressal mechanisms that are in place in countries of origin and destination.

Tables 45 and 46 indicate, for example, that only 50 per cent of workers had been made aware of their rights and responsibilities by recruitment agencies prior to departure, and almost 60 per cent had not been informed of complaint and redressal mechanisms. Once workers return from the UAE, many of those with genuine complaints do not reach out to government officials, as was already pointed out in Finding 13 in the case of contract substitution. A major reason stated during the interviews is that workers did not feel comfortable with the idea of drawing public attention to their case. Furthermore, since they have already left the host country and returned home, they do not want to get involved in filing and following up with complaints. It was also noted that access to justice has a cost which workers were not ready or willing to pay. Fear of being “blacklisted” and the inability to take up foreign employment while a complaint is pending are also among the factors holding back former workers from filing complaints.

Table 45: Did the recruitment agency make you aware of rights and responsibilities? (India)

	Frequency	Per cent	Valid Per cent
Yes	370	32.1	49.9
No	371	32.2	50.1
Total	741	64.2	100.0
No Response	413	35.8	
Grand Total¹⁸	1154	100.0	

*Source: Primary Data.

Table 46: Did the recruitment agency make you aware of redressal mechanisms? (India)

	Frequency	Per cent	Valid Per cent
Yes	320	27.74	41.4
No	453	39.26	58.6
Total	773	67	100
No Response	381	33	
Grand Total	1154	100.0	

*Source: Primary Data.

¹⁸ This sample includes current and former workers from India.

In terms of assistance during workers' stay in the host country, Tables 47 and 48 illustrate that 65 per cent of workers were unaware of the availability of helplines in general, or of helplines in a language that they understood. As for those who had made use of said helplines, Table 49 shows that approximately 45 per cent of them had not found them helpful. The aforementioned data illustrates a systematic failure of the complaint and redressal mechanism.

Table 47: Are there helplines and portals to answer your queries? (India)

	Frequency	Per cent	Valid Per cent
Yes	185	16.03	23.45
No	92	7.97	11.66
Don't Know	512	44.37	64.89
Total	789	68.37	100
No Response	365	31.63	
Grand Total	1154	100.0	

**Source: Primary Data.*

Table 48: Are they available in a language you understand? (India)

	Frequency	Per cent	Valid Per cent
Yes	174	94.1	94.6
No	3	1.6	1.6
Don't Know	7	3.8	3.8
Total	184	99.5	100
No Response	1	0.5	
Grand Total	185	100.0	

**Source: Primary Data.*

Table 49: Was the helpline support adequate? (India)

	Frequency	Per cent	Valid Per cent
Yes	141	76.2	87.0
No	21	11.4	13.0
Total	162	87.6	100.0

No Response	23	12.4	
Grand Total	185	100.0	

**Source: Primary Data.*

Nepal:

Government officials mentioned in interviews that migrant workers from Nepal had a challenging relationship with the government when it came to complaints on recruitment. Migrant workers were of the belief that there was widespread corruption in the system, and that there was no point in filing complaints. However, officials stressed that court cases regarding foreign employment were resolved very quickly in Nepal. On the other hand, they acknowledged that the system had flaws. One official explained:

“When a court summons the accused, the agent absconds and may hide in India, or move to some other corner in the Kathmandu valley. Once the statute of limitation passes there is nothing the worker can do. Especially if the affected worker is from [the] far West of Nepal. He cannot stay long in Kathmandu and pursue the case. The most he can expect from the recruiting agency is NPR 20K, but his hotel expenses are over NPR 40K, let alone his traveling expenses. It is a question of how long can he endure.”

The aforementioned example shows how the cost of litigation can be quite high in Nepal, and thus unaffordable for workers. Officials reported that most complaints filed by workers were related to salary discrepancy. They were paid less in the host country than what had been promised in Nepal – another example of contract substitution.

Government officials stated that the service fees to be charged by recruitment agencies are stipulated by the GoN. They have noticed that if workers receive what was promised, they will not complain about fees; it is only when promises are not kept that complaints are raised, and the actual charges are revealed. Officials have thus no evidence to persecute manpower companies and/or sub-agents. Officials further said that prospective workers were probably worried that if they spoke up about the actual charges, the manpower company might not send them to the UAE.

To avoid accountability, some owners or managers of manpower companies keep away from meeting workers directly, instead delegating frontline employees to deal with workers. When a complaint is filed against a manpower company, the owner or manager claims ignorance of malpractice, and blames employees. They usually promised stern action, an interviewee said, but nothing ever changed.

Tables 50 and 51 indicate that, similar to the situation in India, 36 per cent of workers from Nepal had not been made aware by their recruitment agencies of their rights and obligations, and 60 per cent of workers did not know about complaint and redressal mechanisms.

Table 50: Did the recruitment agency make you aware of rights and responsibilities? (Nepal)

	Frequency	Per cent	Valid Per cent
Yes	308	63.8	64.0
No	173	35.8	36.0
Total	481	99.6	100.0
No Response	2	0.4	
Total	483	100.0	

**Source: Primary Data.*

Table 51: Did the recruitment agency make you aware of redressal mechanisms? (Nepal)

	Frequency	Per cent	Valid Per cent
Yes	186	38.5	39.4
No	286	59.5	60.6
Total	472	97.7	100.0
No Response	11	2.3	
Total	483	100.0	

**Source: Primary Data.*

As for the awareness of Nepalese workers regarding hotlines available to them generally or in a language they understood during their stay in the UAE, 62 per cent of workers were completely unaware of such services, as indicated in Tables 52 and 53. As for workers who

had accessed hotlines, almost half of them had not found them useful – as indicated in Table 54.

Table 52: Are there helplines and portals to answer your queries? (Nepal)

	Frequency	Per cent	Valid Per cent
Yes	140	29	29.4
No	38	7.9	8
Don't Know	298	61.7	62.6
Total	476	98.6	100.0
No Response	7	1.5	
Total	483	100.0	

*Source: Primary Data.

Table 53: Are they available in the language you understood? (Nepal)

	Frequency	Per cent	Valid Per cent
Yes	110	78.6	90.9
No	5	4.1	4.1
Don't Know	6	4.3	5
Total	121	86.4	100.0
No Response	19	13.6	
Total	140	100.0	

*Source: Primary Data.

Table 54: Was the helpline support adequate? (Nepal)

	Frequency	Per cent	Valid Per cent
Yes	99	70.7	85.3
No	17	12.1	14.7
Total	116	82.9	100.0
No Response	24	17.1	
Total	140	100.0	

*Source: Primary Data.

Finding 18: An average of 10 per cent of semi- or low-skilled Indian and Nepalese workers enter the UAE on a visitor or tourist visa, and then transfer to a work visa – bypassing protection regulations of their countries of origin.

India and Nepal:

Agents mentioned in interviews that there was a trend developing “below the radar” whereby prospective workers travelled on a visitor visa or tourist visa (90 days) to have interviews with employers in the UAE, and then acquired a job. In their opinion, this practice was harmful to their business and therefore not encouraged.

According to an interview with a government official, the visitor visa system was prevalent in the market, and was even promoted by a number of agents. Any travel agent or airline could provide the visa, and agents request workers to go for interviews with the firm and even work for a few days. By paying AED 500 (approx. USD 136), the visitor visa can be converted into a work visa, or the person can exit the UAE and re-enter to get a new visitor visa. Mostly workers who have relatives and/or friends in the UAE use this method. An HR representative of a company indicated that this was a relatively new practice.

One agent openly stated that the visitor visa system could be misused. Many workers approached a recruitment or travel agent to arrange for a visitor visa, and, once they reached the UAE, used their network of contacts to find employment, and converted their visa to a work permit. They were willing to pay the conversion fees and other expenses, which ultimately worked out to be cheaper than paying the agent. Local community leaders also mentioned that travel agents and labour supply companies often used this route to recruit workers in order to meet seasonal demands.

As indicated in Tables 55 and 56 below, an average of 10 per cent of Indian and Nepalese current and former workers interviewed in this study entered the UAE on a visitor or tourist visa to acquire employment.

Table 55: What type of visa did you apply for? (Nepalese Workers)

	Frequency	Per cent
Employment Visa	666	83.1
Friend Visit Visa	75	9.4
Family Visit visa	4	.5
Residence visa	4	.5
Tourist Visa	12	1.5
Maid Visa	1	.1
Transit Visa	1	.1
Total	763	95.3
No Response	38	4.7
Total	801	100.0

**Source: Primary Data.*

Table 56: What type of visa did you apply for? (Indian Workers)

	Frequency	Per cent
Employment Visa	1220	72.92
Friend Visit Visa	34	2.03
Family Visit Visa	22	1.32
Residence Visa	13	0.78
Tourist Visa	25	1.49
Maid Visa	3	0.18
Transit Visa	0	0
Free Zone	14	0.84
Total	1331	79.56
No Response	342	20.44
Grand Total	1673	100

**Source: Primary Data.*

This system bypasses recruitment agents in countries of origin, but also protection regulations put in place by labour-sending governments for which reason the GoI has issued advice against the use of the visitor visa for work as it offers no legal protection during the visa period. In the case of Indian workers who have used this method for obtaining work, this research, in fact, reveals their increased vulnerability to contract substitution. As demonstrated in Table 57, the overwhelming majority of Indian workers who have arrived in the UAE on a visitor visa of any type and later converted it into an employment visa did ultimately not do the work specified in their contract.

Table 57: What type of visa did you apply for?*Did you do the same work as specified in your contract? (India)

Type of Visa	Yes	Valid Per cent	No	Valid Per cent	Total
Family Visit Visa	2	9.1	20	90.9	22
Tourist Visa	0	0	25	100.0	25
Friend Visit Visa	5	14.7	31	85.3	34
Residence Visa	1	7.7	12	92.3	13

Table 58: What type of visa did you apply for?*Did you do the same work as specified in your contract? (Nepal)

Type of Visa	Yes	Valid Percent	No	Valid Percent	Total
Family Visit Visa	4	100	0	0	4
Tourist Visa	7	58.3	5	41.7	12
Friend Visit Visa	58	77.3	17	22.7	75
Residence Visa	4	100.0	0	0	4

Finding 19: Employers and recruitment agents in the UAE have weak measures in place to penalise and monitor their recruitment partners in countries of origin. Meanwhile, employers claim they are unaccountable for illegal practices.

UAE employers' efforts to ensure that no illegal practices take place in the recruitment of their workers have been largely disorganised and fully dependent on their discretion rather than policies or regulations. The same applies to recruitment agencies in the UAE, who only monitor the recruitment agencies in the countries of origin to ensure they receive workers with adequate skills. Both employers and recruitment agents in the UAE see themselves as unaccountable for any illegal or unethical practices taking place in the recruitment process in the countries of origin. It is also important to note that the only punitive step taken by employers or recruitment agencies against malpractices is to end the

working relationship with that specific recruitment agency. As there is no central database for blacklisted recruitment agencies, it is highly likely that this same recruitment agency will simply move on to work with another employer in the UAE.

One of the most progressive employers interviewed said: “We follow a proper vendor selection process to identify the recruiting agency and reimburse all expenses incurred for hiring. All vendors have to sign ethical clauses, which prohibit them from doing anything illegal.”

Random checks with workers have been one of the better tools used by employers. An HR representative indicated that they checked up on workers on a regular basis to find out about additional payments (they accept the official service charge), and if any instance comes to their notice, they are prepared to blacklist the agent. Another HR representative added:

“In order to ensure that the workers have not been cheated and received fair treatment, we conduct random checks with their workers. And in rare cases, when we find incidents of malpractice, we take stern action against the recruitment companies in the source countries. But fortunately, such cases have been few and far between.”

Employers of private organisations maintain a close relationship with recruiting agencies, and have various mechanisms in place to ensure fair recruitment. The most common source of information is testimonials of newly hired workers, reporting upon arrival in the UAE about additional payments requested.

Employers in the UAE do not consider recruitment agencies their partners. The relationship is strictly transactional. One manager reported he had to blacklist a recruitment company from Egypt for supplying unqualified personnel. He stressed that his company “had no partners,” but used recruitment companies on a needs basis: “We have not used any company more than once. We provide ethical guidelines to the recruitment companies and insist that they do not charge any money to the recruits under no circumstances.” The manager stated that they have never experienced any case of malpractice. One reason for

that could be that the employees they hire are well-paid, and have attained some educational level. One employer claimed that they had not received any complaints from workers yet.

Another employer insisted on calling their partners “tie-ups” to highlight that there were no serious partnership arrangements with these companies. The employer had “tie-ups” with 12 companies in the source countries. Selection was done by visiting the companies’ websites, and when they met in person, signing an agreement. None of the above-mentioned companies were large.

Another employer said that although his company did not monitor recruitment processes when contracted out to recruitment companies, they had not received any complaints from their workers. Their HR department collects detailed information from employees. They sign a written agreement with recruitment companies that clearly states that they will not charge any fees from the employees. The company bears all costs of recruiting a worker, including airfare.

Some employers openly stated that they asked recruitment agencies not to charge workers. Other than that, they do not provide ethical guidelines. Although some employers remind recruiters not to charge workers money, they have no means of monitoring if such instructions are followed or not.

The head of a recruitment agency in the UAE stated that they worked with local recruiting agencies in all labour-sending countries, excluding sub-agents or brokers. He was aware of brokers, and thought that this was a matter for the recruiting companies in the source countries to deal with. His company did not have any system in place to monitor recruiting companies in source countries to ensure they were practising fair recruitment standards. Their approach, he said, was market expansion and business promotion, not championing the rights of the workers. They would, however, intervene if abuse and exploitation were reported. They were more reactive than proactive in these matters.

Another recruitment agency in the UAE said they sign contracts with local companies and conducts regular checks: “We keep them [local companies] under trial. [...] If they don’t follow the rules, the agreements are cancelled.” Here, he was referring to compliance and honesty in terms of business practices, and qualification, experience, and age)of employees / workers – information which are often misrepresented by local companies. Compliance with ethical recruitment guidelines, he said, was however not a priority. When asked about the number of recruiting companies they had to let go so far for non-compliance, he stated eight to ten companies over the last five years for sending unqualified people. The complaints his company received from workers were most often directed against brokers or sub-agents, a distinction rarely ever made by workers: “Brokers are not agents. Our agency in UAE has nothing to do with ‘brokers.’ This is a matter for the local company in the country of origin to deal with.” His company does not charge local companies in the countries of origin any money, but local companies may charge them for medical examinations, or workers could process those formalities themselves. In the UAE, employers generally pay the costs of medical examinations.

UAE recruitment agencies use recruiting companies in the source countries, especially when recruiting in bulk. As per the company policy, they change recruiting companies. Sometimes, they have more than one recruiting company per country, which leads to competition and ensures improvement in services and cost competitiveness. As there is no proper monitoring mechanism to ensure there are no malpractices in the recruitment process, this competition can lead to further exploitation or, at a minimum, charging of illegal fees to prospective workers.

Further to Finding 15, this finding highlights the poor sense of responsibility and level of scrutiny on the part of employers in the UAE regarding their labour supply chain. Incentives and penalties must be established to create a business argument for employers to pay closer attention to the practices of their partners within their labour supply chain.

Finding 20: UAE employers have weak monitoring provisions regarding unethical and illegal practices of their HR personnel.

Employers do not have effective internal regulations to ensure the absence of malpractices among their HR personnel in conducting recruitment in countries of origin. According to a number of agents, maintaining good relationships with employers is very important to succeed in the UAE market. Good service delivery and relationship maintenance ensure that the employer returns with new recruitment requests to that specific agent. Agents are in agreement that recruitment is a very competitive field, and extravagant efforts have to be taken to maintain good relationships with employers, including when representatives of employers visit the countries of origin.

Agents in India and Nepal have almost unanimously agreed that expenses of employer representatives visiting India or Nepal for interviews and selection have to be covered by the respective agency. Examples of these expenses can include business class tickets, luxury hotel accommodation, and hospitality and gifts. Hence, there is the existence of a sort of gratification to the employer / representative which is not recorded and significantly increases the cost of recruitment. In interviews conducted with employers in UAE, illegal payments to HR personnel by recruitment agencies was not acknowledged as a practice. Employers did not identify a need to instate internal monitoring mechanisms to prevent such practice.

Finding 21: Recruitment agents and employers find it difficult to conform with new government regulations on recruitment as they feel isolated from the decision-making process.

Dialogue with stakeholders in the recruitment industry is an essential tool to ensure it is governed in a manner that is centred around the protection of migrant workers.

Most recruitment agents in India and Nepal were critical of their respective governments as they introduce new regulations in recruitment without due consultation with relevant stakeholders. For example, recruitment agents were not very positive towards the increase of bank guarantees that was decided without their consultation. Agents were generally dissatisfied with the fact that they were not included as consultants in policy-making and bilateral and regional consultative processes. The GoI has encouraged agents to register with newly formed fora, such as the Federation of Overseas Recruitment Agents of India (FORAI), to be used as platforms for dialogue.

A number of employers echoed the concerns described by recruitment agencies. One employer stated:

“Sometimes a meeting takes place among [the Ministry of Interior, Embassy officials, and recruiting companies], but in the end, [the Government] makes decisions unilaterally. Some of the changes in policies are too abrupt. The companies do not get enough time in advance to adjust.”

Often, a hostile relationship develops between recruitment agents and government officials in countries of origin, largely due to lack of communication between the parties, as well as differing interests. The development and institutionalisation of a dialogue and regular conferences that bring together relevant government officials, recruitment agents, and civil society organisations (hereinafter referred to as ‘CSOs’) can serve to enhance collaboration, consistency, and predictability within the regulatory framework that can be advantageous to all parties. Countries of origin should invest in such a dialogue.

Finding 22: Systems such as eMigrate require stronger coordination with countries of destination, otherwise they risk becoming inefficient and promoting further exploitation of migrant workers.

Recruitment agencies were critical of the eMigrate System, particularly of the amount of documentation that was required by employers, and the software glitches. The interviewed

government officials, on the other hand, insisted that initially existing problems had been fixed. HR / employer representatives had a positive view of the eMigrate System.

Respondents noted that the GoI was getting increasingly involved in the recruitment process, fixing, for instance, the minimum salary for various job categories. The costs for migrants would, however, increase as they had to pay an additional AED 500 (approx. USD 136) to the government agencies for validation of their qualifications. Moreover, migrants from Kerala are also required to register with NORKA and ODEPC, which facilitate online registration for those seeking employment overseas, but also entail additional costs. The eMigrate System has made salary payment more efficient – and it reduces, but doesn't eliminate fraud and exploitation, particularly in the shape of contract substitution. As mentioned above (Finding 13), the lack of coordination between the governments of India and the UAE still allows for the signing of second contracts by workers upon their arrival in the UAE, which then have primacy of any contracts signed in India and can differ significantly from the original job offer.

The categorisation into two types of endorsement marked by stamps on the passport, either ECR and ECNR (see section 1.2.2), is an important step in reducing unnecessary bureaucratic checks for everyone. Under this system, only low-skilled workers who often lack education and are most exposed to exploitation need to go through the ECR scheme. This requires officials in charge to issue exit papers and ensures that they check the papers, including employment contract and offer letter, properly. The biggest challenge, according to one official, is the discrepancy between offer letter and work contract. In the case of those qualifying for an ECR visa, the PGE checks minimum salary, skill categories, working conditions, holidays, and contract papers carefully. Upon approval of the PGE, workers will be able to proceed to take up their jobs. Still, some employers will submit an appropriate contract to officials in India, but use a different contract upon arrival of the worker in the UAE. For those under the ECNR scheme, the responsibility for checking the validity of relevant documents falls on the worker, who is presumably more educated, and thus able to read contracts, and less vulnerable to exploitation.

Both, the eMigrate system and the ECR and ECNR scheme, demonstrate good examples for how regulation could be developed to protect migrant workers while potentially limiting the level of bureaucracy and reducing human resource needs, unnecessary delays, and fees. However, obstacles caused by lack of intergovernmental collaboration and numerous unnecessary checks currently still persist and render these measures not only inefficient but even unfavourable to workers.

Chapter 5: Recommendations

Recommendation 1: Establish a recruitment agency certification and ranking system based on a legal and ethical code of conduct that will assist governments, employers, and prospective migrant workers in identifying and promoting agencies that are not involved in illegal recruitment practices. A voluntary, multi-stakeholder certification system can serve to create a community of socially responsible recruitment stakeholders that raise the bar industry-wide and presents workers with viable alternatives to illegal and unethical recruitment practices. In parallel, hold periodical nationwide information campaigns in countries of origin to spread awareness among workers on governmental caps on recruitment fees as well as to promote top-ranked recruitment agencies.

Recommendation 2: Establish a formal mandatory training programme for private recruitment agencies, and build capacities and professionalise government-run recruitment agencies. Country-of-origin governments should provide licensed recruitment agencies with systematic training on the national and country of destination rules and regulations on recruitment, potentially in cooperation with labour attachés or other relevant officials of diplomatic missions in countries of destination as resource persons or guest trainers. Training should be periodic to capture new rules and regulations as well as be mandatory for all recruitment agency staff.

Government recruitment agencies can provide an ethical, safe, and less expensive, alternative to private recruitment agencies. Efforts should focus on enhancing capacity and further professionalising government recruitment agencies to become more competitive and marketable in the recruitment industry. Government-to-government recruitment models could be further investigated for adaptability to the UAE/GCC context.

Recommendation 3: Regulate and professionalise sub-agents with the aim of their full official incorporation in the recruitment process. Sub-agents play a vital and necessary role within the recruitment supply chain. Efforts should focus on regulating and professionalising sub-agents rather than keeping them as an unaccountable informal layer.

Alternatively, in the long term, it is possible to make sub-agents redundant by getting relevant information to the end user in different ways.

Recommendation 4: Digitise and decentralise delivery mechanisms of pre-departure orientation (PDO) to encompass workers living in rural and remote areas, and adjust contents to information needs of workers. Among the most important reasons for workers to cancel their overseas employment early and return home, incurring costs for agents and employers, is lack of preparation for their new working and living environment in the country of destination resulting in home sickness and adjustment difficulties. Therefore, PDO must be seen as a crucial investment for employers and agents which will prepare workers better and thus reduce the risk of them dropping out of the recruitment process. It is recommended to re-think how information can be delivered to prospective and new workers and what type of information is necessary, to ensure PDO a) gets to those who need it in a user-friendly fashion, and b) provides relevant and up-to-date information. PDO should be complemented by a comprehensive Post-Arrival Orientation (PAO) programme. Attending PDO and PAO should be strictly mandatory and a prerequisite for obtaining emigration clearance and issuance of residence permit respectively.

Recommendation 5: Establish a seasonal work visa system as an alternative to labour supply companies. The structural setup of labour supply companies in the recruitment system continues to create an environment that places workers at greater risk of exploitation during and after the recruitment process. A potential alternative to labour supply companies is the development of a seasonal work visa whereby a worker can come to the UAE, self-sponsored, at their own expense and seek employment within a specified timeframe. This has the merit of cutting out the middleman, addressing seasonal needs, and taking advantage of the fact that many people already do come to the UAE on visitor visas with the intention of eventually seeking work. This will allow job seekers to legally engage in temporary work over this period during seasons where a temporary increase in labour is of critical need.

Recommendation 6: Restrict semi- and low-skilled workers from transferring from visitor, tourist, and family visas to work permits without entering through their respective country of origin. Semi- and low-skilled workers should not be permitted to convert their visitor visa into a work permit in the UAE as this excludes them from protective mechanisms in their country of origin and increases their vulnerability to contract substitution and other forms of exploitation. The introduction of this restriction needs to go hand in hand with the overall reform of the industry from an employee-pays to an employer-pays model as high recruitment fees paid by workers are a major reason for the latter to try avoiding recruitment agencies.

Recommendation 7: Duration and cost of litigation for workers to file complaints in countries of origin should be made shorter and more affordable respectively. In addition, nation-wide public information campaigns are necessary to address the stigma of fear of reprisal and blacklisting of workers for filing a complaint.

Recommendation 8: Establish an incentivised complaints mechanism for workers, and increase awareness of complaints and redressal mechanisms in the UAE. Under this system, workers should have the ability to file a complaint against an employer without having to fear reprisal. On the other end, employers with consistently low complaints records against them should be rewarded by the government through, for example, easing of regulations and fast-track recruitment. However, penalties against employers with high complaints records should become stricter. Such a complaint system can be effective in eliminating contract substitution and informal fees paid to employers.

Recommendation 9: Establish a system of serial liability where employers are required to pay the bulk of recruitment costs, and held accountable for illegal and unethical behaviour of their recruitment personnel and partner recruitment agencies in the UAE and countries of origin. Employers that recruit more than a specific number of migrant workers should be obliged to present an annual plan to the MoHRE explaining how they will ensure to monitor and identify any illegal practices in their recruitment cycles. Employers can receive training from international organisations and other recruitment experts on how to

develop strong internal regulations to monitor and identify illegal recruitment practices. Employers should cover the recruitment costs of their workers, which should be set high enough by recruitment agencies to accommodate the early withdrawal of candidates from the recruitment process, and thus minimise their risks. Simultaneously, employers should introduce strict internal regulations to ensure that its personnel, responsible for recruitment, are not involved in any illegal or unethical practices.

Recommendation 10: Establish bilateral working groups on priority challenges within the recruitment cycle between countries of origin and destination, for example, establish a working group to align UAE regulations with India's eMigrate System. Measures such as the eMigrate system and the ECR/ECNR scheme need operations audit in order to determine the key gaps in protection as well as cases where work may be duplicate or serves limited purpose.

Recommendation 11: Develop a mechanism for institutionalised dialogue on recruitment between government and recruitment industry stakeholders in countries of origin and destination. Stakeholders in countries of origin can include government officials, recruitment agents, and CSOs. Stakeholders in countries of destination can include employers (associations), government officials, recruitment agents and embassies of labour sending-states. Such dialogue can enhance collaboration, consistency, and predictability within the regulatory framework which will be to the advantage of all stakeholders in the recruitment industry.

Final Note: It is commonly known that, in addition to challenges in management and cases of corruption that may exist within the recruitment industry and regulatory bodies in countries of origin, one of the key challenges faced by governments of countries of origin is a lack of resources to effectively monitor the industry. If the UAE and other countries of destination provided financial support that builds capacities of countries of origin to better regulate and monitor recruitment, this could go a long way in addressing irregularities within the recruitment process, making recruitment to the GCC fairer and more transparent. As noted in a recent publication by the World Bank, improvements in labour migration

have a far greater potential to contribute to development and poverty reduction than liberalising trade regimes. As such, by investing in systems that improve recruitment processes in countries of origin for the benefit of both workers and employers, the UAE and other countries of destination could be doing a service not only to employers in the UAE and individual workers; it could also contribute enormously to supporting broader development initiatives in countries of origin and destination.

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