

# Training Manual on **Fair and Ethical Recruitment of Migrant Workers**





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**The Training Manual has been prepared by Dr. Jeevan Baniya and Ms. Sadikshya Bhattarai, with essential financial backing provided by the GOALS Project in collaboration with the ILO.**

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P.O. Box 3613, Stone House, Sarshmarg, Kathmandu, Nepal

Phone +977-1-5705323

Email: [sartuc.kathmanduoffice@gmail.com](mailto:sartuc.kathmanduoffice@gmail.com);

Website: <https://www.sartuc.org>

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**Laxman Basnet**

**General Secretary**

**South Asian Regional Trade Union Council (SARTUC)**

Content	Time
<b>DAY 1</b>	
Module 1: Introduction	
Session 1: Introduction and Overview of the Training	60 minutes
Session 2: Recruitment Scenario in Nepal	80 minutes
Module 2: Legal and Institutional Framework	
Session 1: Legal Instruments Governing Labour Migration from Nepal	70 minutes
Session 2: Institutional Framework for Regulating Labour Migration	70 minutes
<b>DAY 2</b>	
Module 3: Fair Recruitment	
Session 1: Introduction to Fair Recruitment	70 minutes
Session 2: Challenges in Fair Recruitment	80 minutes
Module 4: The Role of Different Actors in Fair Recruitment	
Session 1: ILO General Principles and Role of Government and Employers	70 minutes
Session 2: Role of trade unions and non-governmental organizations in fair recruitment	90 minutes

## Definition of Key Words

**Employers:** Persons or entities that engage employees or workers, either directly or indirectly.

**Employer Pays Principle:** No worker should pay for a job - the costs of recruitment should be borne not by the worker but by the employer (IHRB 2022).

**Forced labour:** Forced labour refers to “situations in which persons are coerced to work through the use of violence or intimidation, or by more subtle means such as accumulated debt, retention of identity papers or threats of denunciation to authorities” (ILO 2017).

**Human Trafficking (Trafficking in Person):** Trafficking in persons is defined as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.” (The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime, 2000)

**Irregular or Undocumented Migrant:** An irregular or undocumented migrant is someone who is not authorized to enter, to stay or to work in the country of destination (ILO 2017).

**Labour Migration:** Labour migration is defined as the “movement of persons from one geographical location to another in order to find gainful employment. Labour migration may be internal, for example rural to urban, or international, across borders” (ILO 2017). For the purpose of this training, labour migrants cover migrants moving across international borders.

**Recruitment Process:** It encompasses the advertisement, information dissemination, preselection and selection, placement into employment and return to the country of origin where applicable (ILO 2020).



## Module 1:

# Introduction

## Session 1: Introduction and Overview of the Training

### *Objectives*

- To provide an overview of the training
- To understand participants' expectations from the course

Globally, cross-border movement of people in search of decent work and better livelihoods has become an important phenomenon (ILO, 2021). In Nepal, labour migration or migration for foreign employment represents large majority of international migration taking place from the country. An increasing number of Nepali men and women are migrating in search of a livelihood and consequently remittance sent by Nepali migrant workers continue to be the lifeline of the Nepali economy. The data from the Department of Foreign Employment (DoFE) shows that over 4 million 'new entry' labour permits were issued to Nepali workers for overseas employment, excluding India, 2009/10 to 2018/19 (MoLESS 2020). Despite the impact and disruptions caused by the COVID-19 pandemic in foreign employment sector of Nepal, in 2019/20 and 2020/21, 368,433 and 166,698 labour permits (both for new entry and re-entry) had been issued. Consequently, remittance has significantly contributed to the economy of Nepal and migrants' households. Nepal received USD 8.2 billion in remittances in 2021 which is equal to 23.8 per cent of Nepal's GDP (Ratha et al. 2022).

Although labour migration contributes to socio-economic development for both origin and host nations, for migrant households and the migrant workers themselves, it can come with significant cost. Migrant workers face challenges during all stages of their migration cycle including deception during the recruitment process, high recruitment cost and inadequate information on the recruitment process. The means by which workers are recruited into their jobs is a critical determinant of whether they enjoy decent work, especially in migration contexts where workers heavily rely on intermediaries due to lack of knowledge and information (ILO 2020).

The Government of Nepal has implemented 'no recruitment fees' or 'employer pays' policy for migration from Nepal to some destination countries. Likewise, it has expressed its commitment for fair recruitment in international forum such as Global Compact for Migration (GCM) and has also signed bilateral agreements accordingly. However, Nepali migrant workers continue to pay recruitment agencies for recruitment and placement in jobs abroad that far exceeds the legal limit prescribed by the government. Unscrupulous recruitment practices such as charging of exorbitant recruitment fees puts migrant workers and their families into the vicious cycle of debt and exploitation. For this reason, there is need to promote fair recruitment for all, within and across national borders.

Ensuring fair and ethical recruitment requires a coordinated approach of relevant government institutions, CSOs, employers and workers. Therefore, it is quintessential for the trade unions, civil society organisations, governments and other stakeholders to work together to ensure protection and promotion of the rights of migrant workers and their welfare in both countries of destination and country of origin. In this regard, various actors related to foreign employment and migration sector including workers'

and civil society organizations, by engaging in social dialogue and training, and raising awareness among their constituent members, can play a pivotal role in promoting fair recruitment practices. This manual is designed to empower and capacitate trade union leaders, Civil Society Organizations (CSOs) leaders, women leaders and recruitment associations such as Nepal Association of Foreign Employment Agencies (NAFEA) on safe migration of Nepali migrant workers through the fair recruitment process. For this, this training aims to enable participants to understand various aspects of fair recruitment including legal and regulative framework for fair recruitment and the role of trade unions and non-governmental organization in monitoring and ensuring fair recruitment.

**Facilitators' Note: Module1, Session 1** [Please note that the group discussions and activities mentioned needs to be tested and further revised. Also, the materials/sources needed will need to be determined after the pilot testing.]

The 'Training Manual on Fair and Ethical Recruitment of Migrant Workers' comprises of four modules and eight sessions over a two-day period. Session 1 of Module 1 is important for setting a tone of the two-days training and to understand participants' expectations.

Facilitators are encouraged to lead engagements and discussions that will encourage participants to start sharing and communicating. Start with an 'ice-breaker and getting to know each other' – an interactive session run before the main proceedings, that help participants to get to know each other and understand the purpose of the event.

Instruction for the trainer/facilitators	<ul style="list-style-type: none"> <li>➡ Introduce yourself and other fellow trainers.</li> <li>➡ Explain the objective of the training.</li> <li>➡ Inform the participants that this is only the introduction and will come back to the issues faced by migrant workers in the following sessions.</li> </ul>
Ice-breaker and getting to know each other	<ul style="list-style-type: none"> <li>➡ Divide the participants in groups. Provide them with charts and give them 15 minutes and ask each pair to include the following information: <ul style="list-style-type: none"> <li>○ Name of the persons in group, where they are from, organizations they are affiliated with.</li> <li>○ Ask about their migration history or their knowledge on migration. If the participant has migrated before, ask them about how much they paid as recruitment fess, if they had taken any skill training and how they accessed information on migration.</li> <li>○ Their expectation from the course; their understanding of fair and ethical recruitment and what do they want to learn from the training.</li> <li>○ Once the preparation and discussion time is over, the facilitators should present their own chart as an example and to initiate the conversation.</li> <li>○ Invite one of the participants from each group to introduce their team members and their expectations. Make sure to give no more than 5 minutes to each group. If the participants are shy, the trainers introduce themselves with their partners first as an example. After everyone introduces himself/herself, ask one of the participants to name their fellow participants.</li> <li>○ Post the charts in the room for everyone to see.</li> </ul> </li> </ul>

### Other notes for facilitator and trainers

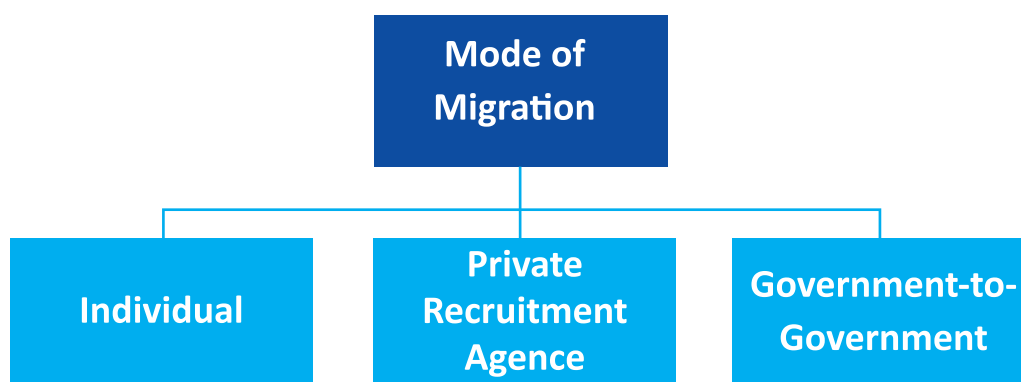
- ➡ Present the session and overall training plan with information on each session and objective behind each session. Link the plan/sessions with the information the participants would like to learn from this training in regard to fair and ethical recruitment carried out in the ice-breaker. Note any issues or topic that the participants have mentioned/raised during the ice-breaker that are not covered by the manual. Assess whether the information can be provided during the training or is part of the objectives. If not, then clearly inform the participants accordingly.
- ➡ Note that recruitment agencies process the migration of workers who fall under the ‘new entry’ category of labour migration. Returning migrants are placed under the ‘re-entry’ category since they only have to renew their labour permits and normally do it themselves or with minimal support from some intermediaries. ‘Re-entry’ permits are issued to those migrant workers returning to the same job on a renewed contract.
- ➡ Note that the official figures from DoFE does not include those who migrate to India or who migrate via ‘irregular’ channel.

## Session 2: Foreign Employment Recruitment Landscape in Nepal

### Objectives

- To describe the recruitment landscape for migration for foreign employment and understand the roles of recruitment agencies in recruitment process.

The recruitment process in Nepal takes place through different modalities and involves a wide range of actors, both regulated and unregulated. These include direct hiring or via individual recruitment, recruitment through private employment agencies and government-to-government recruitment.



Labour migration from Nepal is largely facilitated by **Private Recruitment Agencies** (PRAs or locally known as ‘manpower companies’). These recruitment agencies **are private businesses that have been set up to supply Nepali workers to clients/employer abroad**. The major responsibilities of these agencies include (but is not limited to): a) exploring job opportunities through their overseas networks, b) arranging for the necessary paperwork, and c) acquiring labour permits, visa, and air tickets for the workers. Migrant workers from Nepal can, in theory, migrate or employers can directly hire Nepali men and women without involvement of recruitment agents/agencies. However, this rarely happens in practice. According to government records, there are currently more than 830 recruitment agencies currently active in the country.

## Government-to-government recruitment

Migration to few countries from Nepal occurs under the government-to-government modality that restricts involvement of private recruitment agencies in facilitating cross-border migration. Republic of Korea [or South Korea hereafter] and Israel can be the prime example for this. Migration to South Korea from Nepal for employment occurs under the Employment Permit System (EPS) based on the Memorandum of Understanding signed in 2007 by the governments of Nepal and South Korea. The MoU with South Korea has provisions outlining the duties and responsibilities of the respective government regarding the recruitment, selection and placement process, and protections and employment conditions of the migrant workers in South Korea. Furthermore, the most recent Memorandum of Cooperation (MoC) on sending Nepali workers with the status of residence of Specified Skilled Workers (SSW) to Japan and Agreement related to temporary employment of Nepali workers in the labour market of Israel also promotes government-to-government recruitment.

However, migration for employment abroad is facilitated not only by private employment agencies but other informal intermediaries or brokers both within and across international borders. In the case of Nepal, the prospective migrant workers tend to seek overseas job vacancies through word of mouth of friends, relatives and local sub-agents, or advertisement in the local media (Verité 2016).

**Informal labour intermediaries are generally unregistered, work outside the purview of existing legal framework and may comprise small enterprises or individual agents, sub-agents or brokers who recruit workers in remote areas and connect them to employment abroad or to the large private recruitment agencies.** Often, family members, relatives, neighbours, friends including current, and returnee migrant workers also act as intermediaries connecting aspirant migrants to other sub-agents or to recruitment agencies. However, it should be noted that these individuals may not always identify themselves as brokers or agents.

**Facilitators' Note: Module 1, Session 2** [Please note that the group discussions and activities mentioned needs to be tested and further revised. Also, the materials/sources needed will need to be determined after the pilot testing.]

Instruction for the trainer	<ul style="list-style-type: none"> <li>➡ Use PowerPoint presentation slides</li> <li>➡ Explain the objective of the session as mentioned above.</li> </ul>
Discussion with participants together in a group prior to presentation	<ul style="list-style-type: none"> <li>➡ Discuss the key features of the international recruitment landscape and labour migration process in Nepal</li> <li>➡ Ask the participants to list out the key actors and their roles related to recruitment. Give them no more than 10 minutes for this activity.</li> <li>➡ List down each of the actors and their roles identified by the participants on the white board or a chart paper. Add any additional information not included or discussed by the participants based on the information provided above. Then discuss in group allowing participants to discuss the lists they have prepared.</li> <li>➡ Engage the participants to discuss these questions and make the session participatory.</li> </ul>

## Module 2:

# Legal and Institutional Framework

### Objectives

- To provide an introductory knowledge of the existing legal and institution framework governing and regulating labour migration for foreign employment and fair recruitment of workers in Nepal.

## Session 1: Legal Instruments Governing Labour Migration from Nepal

The Foreign Employment Act (FEA) of 2007 and the Foreign Employment Rules (FER) of 2008 are the key national legislations governing and regulating foreign employment/labour migration in Nepal. In addition to these national laws, Nepal has signed bilateral agreements with some destination countries of Nepali migrant workers and shown its commitments to international conventions, and regional compacts, dialogues, and processes, in order to enhance safe, regular and beneficial migration.

### A. National Legislation

**Foreign Employment Act, 2007 and Foreign Employment Rules, 2008:** The Foreign Employment Act was first introduced in 1985 followed by the Foreign Employment Rule almost a decade and a half later in 1999. These laws were amended in 2007 and 2008 respectively. Among others, they outline the general duties and functions of recruiting agencies, and the process to be followed by these recruitment agencies for recruitment of workers.

- The Act prohibits an individual or group of individuals to run foreign employment business/private recruitment agency without license.
- PRAs need to get prior approval from DoFE to send workers abroad for employment.
- The act also mentions that ‘in the event of failure to send a worker for foreign employment within the time-limit’, the concerned recruitment agency shall ‘return the amount received from the concerned worker, as well as an interest on that amount at the rate of twenty percent per annum, to the concerned worker within thirty days’.
- The act states that ‘prior to the departure of a worker for foreign employment, a contract shall be made between the employer institution or its agent and the worker and the licensee and the worker on the terms and conditions of employment, terms and conditions to be observed by both parties and remuneration to be received by the worker, after getting the worker to clearly understand such terms and conditions and provisions of remuneration’.
- The act also has provision for punishment and fines for recruitment agencies in the event of
  - carrying on foreign employment business without license,
  - sending workers by recruitment agencies without obtaining permission,
  - sending minors for foreign employment,

- iv. sending workers to countries banned by Government,
- v. concealing or altering documents or report,
- vi. collecting visa fees, service charges and promotional costs in excess and
- vii. not following the contract signed with the migrant workers, etc.

**Table 1: Other recent amendments to Foreign Employment Act 2007.**

<b>Recruitment Agency</b>	<p>A recruitment agency has to send at least 100 workers for two consecutive fiscal years for license renewal.</p> <p>Increase in the cash deposit and guarantee amount to be provided by the recruitment agencies for license registration or renewal and categories Private Recruitment Agencies in Nepal into three categories:</p> <ul style="list-style-type: none"> <li>i. PRAs sending up to 3,000 workers annually need to deposit NPR 5 million cash and provide a bank guarantee of NPR 15 million;</li> <li>ii. PRAs sending from 3,000 to 5,000 workers annually need to deposit NPR 10 million cash and provide a bank guarantee of NPR 30 million; and</li> <li>iii. PRAs sending more than 5,000 workers annually need to deposit NPR 20 million cash and provide a bank guarantee of NPR 40 million.</li> </ul>
<b>Labour Permits Renewal</b>	<p>The Labour and Employment Office in each provincial headquarter has been granted the authority for labour permit renewal along with addressing grievances of migrant workers.</p> <p>Migrant workers can renew their permit in destination from Nepali diplomatic mission for up to two times.</p>
<b>Complaints and Grievance Registration</b>	<p>The Chief District Officer (CDO) in each district has the authority to receive all complaints (fraud cases) related to foreign employment involving individuals and facilitate negotiations and provide necessary compensation to victims. In the event these cases cannot be resolved through negotiation or if the cases are difficult to be resolved, the CDO needs to transfer such cases including cases related to recruitment agencies ('institutional cases') to DoFE.</p> <p>Diplomatic missions are mandated to transfer cases of fraud and abuses to DoFE for adjudication.</p>



<b>Access to Compensation</b>	Migrant workers and their family members can file for compensation from the Foreign Employment Board at the municipal level in case of migrant workers' deaths or injuries in the destination countries or within one year after end of contract period.
<p><b>‘Free-visa and free-ticket’ policy</b></p> <p>The Government of Nepal in 2015 introduced the ‘free-visa, free-ticket’ policy in order to curb unethical recruitment practices and high recruitment fees charged by recruitment agencies to migrant workers for the six GCC countries and Malaysia. Prior to the enactment of the policy, recruitment agencies could formally charge migrant workers NPR 70,000 and NPR 80,000 for Malaysia and GCC countries respectively. The new policy required employers to cover workers’ visa costs and round-trip airfares and recruitment agencies are only allowed to charge up to a maximum of NPR 10,000 for their services and the workers themselves are responsible for other costs related to medical check-up, insurance and pre-departure orientation training.</p> <p>The ‘free visa, free ticket’ policy was meant to bring about a significant reduction in the formal cost of migration and it was expected that the excessive and unauthorized recruitment fees charged to Nepali migrant workers would be eliminated and migrants would benefit from the foreign employment. However, even after years since the introduction of the policy, its success has remained doubtful at best. Recruitment agencies have continued to collect hefty sums from migrant workers while providing them with receipts for NPR 10,000 only.</p>	

## B. Bilateral Agreements

Migration of Nepali workers to some of the destination countries is also guided and governed by the bilateral agreements the Government of Nepal has signed with those countries of destination. These bilateral agreements signed by Nepali government aims to ‘expand its extra-territorial jurisdiction and accord more protection to its citizens abroad’ (Sijapati et al. 2017).

- i. Memorandum of Understanding (MoUs) with the United Arab Emirates (2019), South Korea (2007), Malaysia (2018), Mauritius (2019), and Bahrain (2008)
- ii. Bilateral labour agreements (BLAs) with Jordan (2017) and Qatar (2005).

- iii. The Japan International Training Cooperation Organization (JITCO) programme, 2003 and Memorandum of Cooperation (MoC) on sending Nepali workers with the status of residence of Specified Skilled Workers (SSW), 2019.
- iv. 'Agreement related to temporary employment of Nepali workers in the labour market of Israel' with Israel, 2020.

#### **These BLAs and MoUs help to:**

- i. Establish a framework for fair, mutually beneficial and transparent recruitment process, employment (wages, overtime, working conditions) and repatriation of Nepali migrant workers abroad and regulation for recruitment fees and costs.
- ii. Facilitate cooperation between the sending and receiving countries to address matters related to trafficking in persons and forced labour or restrictions on movement or communication with families and the Diplomatic Missions.
- iii. Establish mechanism to monitor, review and take decisions on issues regarding the safety, security and welfare of the worker while especially considering special characteristics of women.
- iv. Establish mechanism for dispute resolution and access to justice for migrant workers.
- v. Promote international labour standards of rights at work, encourage decent work opportunities, enhance social protection and strengthen social dialogue on work-related issues

However, it should also be noted that these bilateral agreements also differ in terms of provisions related to recruitment process, recruitment costs, envisaged role and responsibilities of the Government of Nepal and sending organizations in recruitment, procedure for dispute resolutions, among others.

### **C. International Conventions and Regional Consultative Processes**

International labour agreements and international labour standards are important policy tools that provides concrete obligations to member states to address and protect the rights of migrant workers. The Government of Nepal has expressed its commitment in various international, regional and national for a that contributes towards safe, regular and beneficial migration.

- Nepal has ratified 11 ILO conventions such as C029 - Forced Labour Convention, 1930 (No. 29), C100 - Equal Remuneration Convention, 1951 (No. 100), C111 - Discrimination (Employment and Occupation) Convention.
- Nepal is a signatory of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979, which also contains recommendations on women migrant workers who may be at risk of abuse and discrimination. In 2021, Nepal ratified Protocol to Prevent, Suppress, and Punish Trafficking in Person especially Women and Children (Palermo Protocol), 2000, a major international instrument to combat human trafficking.
- Regional Consultative Process and Compact such as Global Compact for Migration (GCM), the Abu Dhabi Dialogue, the Bali Process, the Colombo Process, and the 2014 SAARC declaration on migration. Nepal is champion country of Objective 6 of GCM 'Facilitate fair and ethical recruitment and safeguard conditions that ensure decent work'.



However, neither Nepal nor any of the major migrant destination countries have ratified some of the major international Conventions that caters specifically to migrant workers.

- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW), 1990,
- ILO Convention 97 – Migration for Employment Convention (revised), 1949,
- ILO Convention 143 – Migrant Workers (Supplementary Provisions) Convention, 1975

<b>Facilitators’ Note: Module 2, Session 1</b> [Please note that the group discussions and activities mentioned needs to be tested and further revised. Also, the materials/sources needed will need to be determined after the pilot testing.]	
<b>Instruction for the trainer</b>	<ul style="list-style-type: none"> <li>➤ Use PowerPoint presentation slides</li> <li>➤ Explain the objective of the session as mentioned above.</li> <li>➤ Note that all the bilateral agreement differs in terms of their content and how and whether they address fair recruitment practices.</li> </ul>
<b>Group Discussion</b>	<ul style="list-style-type: none"> <li>➤ Discuss about the limitations of the existing recruitment monitoring strategies i.e., laws and policies (of recruitment agencies and other actors) in Nepal.</li> <li>➤ Discuss how can stakeholders in the trainings contribute to monitoring recruitment processes?</li> <li>➤ Encourage participants to draw from their professional backgrounds and experiences in order to enrich the discussions.</li> <li>➤ Engage the participants to discuss these questions and make the session participatory.</li> </ul>

## Session 2: Institutional Framework for Regulating Labour Migration

### a. Ministry of Labour, Employment and Social Security

Ministry of Labour, Employment and Social Security (MoLESS) is the apex body governing labour migration from Nepal. MoLESS is responsible for formulating and implementing policies, laws and regulation of labour migration for foreign employment in Nepal.

Sections	Departments
<ul style="list-style-type: none"> <li>• Administrative Division</li> <li>• Employment Management Division</li> <li>• <b>Foreign Employment Management Sub-division</b></li> <li>• Employment Coordination and Information Sub-division</li> <li>• Labour Relation and Social Security</li> <li>• Prime Minister Employment Programme</li> </ul>	<ul style="list-style-type: none"> <li>• Department of Labour and Occupational Safety</li> <li>• <b>Department of Foreign Employment</b></li> <li>• Vocational and Skill Development Training Centee</li> </ul>

**Figure 1: Organization Structure of the MoLESS**

## b. Department of Foreign Employment

Department of Foreign Employment (DoFE) is one of the three departments under MoLESS and is responsible for the overall regulation of labour migration from Nepal. It was formed in 2008 as mandated in Foreign Employment Act 2007.

Policy related functions	Regulatory functions
<ul style="list-style-type: none"> <li>• carry out policy work related to the Foreign Employment Act, regulation, directives and working procedures</li> <li>• carry out labour agreements</li> <li>• coordinate and collaborate with other national and international organization for matters related to labour migration</li> </ul>	<ul style="list-style-type: none"> <li>• oversight and monitoring of private recruitment agencies,</li> <li>• issuance of labour permits,</li> <li>• handle grievances related to foreign employment,</li> <li>• investigate and prosecute foreign employment related cases, coordinate for the repatriation and provide compensations</li> </ul>

**Figure 2: Major Function of Department of Foreign Employment (DoFE)**

As stipulated in the Foreign Employment Act, DoFE is responsible for monitoring foreign employment, including through investigation of cases involving high recruitment fees and deception regarding contracts. DoFE has also set up an alternative dispute resolution (ADR) system to facilitate the resolution of migrant workers' grievances.

Federal	Provincial
<ul style="list-style-type: none"> <li>• Ministry of Labour, Employment and Social Security</li> <li>• Department of Foreign Employment</li> <li>• Foreign Employment Board</li> <li>• Foreign Employment Tribunal</li> <li>• Ministry of Foreign Affairs</li> </ul>	<ul style="list-style-type: none"> <li>• Ministry of Social Development</li> <li>• Ministry of Industry, Labour and Employment</li> <li>• Ministry of Labour, Employment and Transportation</li> </ul>

**Figure 3: Government Agencies with labour migration related responsibility**

### i. Foreign Employment Board (FEB)

Established as per the Section 38 of the Foreign Employment Act 2007, Foreign Employment Board (FEB) works for the management of labour migration from Nepal. Its functions include:

- To conduct study and research on international labour markets and explore new destinations.
- To manage the Foreign Employment Welfare Fund.
- To formulate, approve and monitor the curriculum and fees of pre-departure orientation training, and skill training.
- To produce, publish and distribute audio-visual awareness and information materials promoting safe foreign employment.
- Formulate, implement, monitor and evaluate programs for capacity building and socio-economic reintegration for migrant workers returning from foreign employment.

- To provide financial assistance for health services to migrant workers and their family members and to provide scholarships to the children of the families of the workers who have died or been injured/disabled.
- To increase the institutional capacity of the stakeholders related to foreign employment and mobilize them.
- To work for the safety of migrant workers in coordination with the Nepali embassies in the destination countries.

## **ii. Foreign Employment Tribunal**

Foreign employment tribunal (FET) is a semi-judicial body established as per the provision in Foreign Employment Act 2007. The provision related to operation of FET has been outlined in the Foreign Employment Tribunal Rules, 2012. The main function is to provide justice to migrant workers who are victims to fraudulent practices during foreign labour migration process and ‘for originally trying and settling cases other than those punishable by the Department as mentioned in this Act’.

## **iii. The Ministry of Foreign Affairs (MoFA)**

The Ministry of Foreign Affairs (MoFA), in relation to foreign labour migration is responsible for:

- Ensuring the protection of migrant workers' rights at various labour destinations in close coordination and collaboration with the Nepali diplomatic missions.
- Formulation and implementation of Nepal's foreign policy.
- Strengthening bilateral, regional and multilateral relations with other countries, and
- Supporting in the rescue and repatriation of Nepali migrant workers.

Other important institutions also include District Administration Office (DAO), Labour and Employment Offices under MoLESS.

At the Provincial level, the Ministry of Social Development (MoSD) in Madhesh, Gandaki, Karnali and Sudurpashchim provinces, the Ministry of Industry, Labour and Employment in Province 1 and the Ministry of Labour, Employment and Transportation in Bagmati and Lumbini provinces are responsible to formulate, implement and regularize policies, plans, programs and standards regarding employment promotion within the province in coordination with local levels

Rights and jurisdiction of the local government of Nepal has been specified in the Local Government Operation Act (LGOA) 2017. Under the Local Government Operation Act 2017 the local governments have been accorded responsibility to

- collect information of the employed (both Nepali and foreign migrants working at the local level) and unemployed population and migrant workers,
- provide financial literacy and skill training to prospective migrants and
- work on reintegration of returnee migrants and make use of their skills and knowledge within the country.

**Facilitators' Note: Module 2, Session 2** [Please note that the group discussions and activities mentioned needs to be tested and further revised. Also, the materials/sources needed will need to be determined after the pilot testing.]

<b>Instruction for the trainer</b>	<ul style="list-style-type: none"> <li>➡ Use PowerPoint presentation slides</li> <li>➡ Explain the objective of the session as mentioned above.</li> </ul>
<b>Group Discussion</b>	<ul style="list-style-type: none"> <li>➡ Discuss about how effective and efficient coordination between the three tiers of governments well as ministries be promoted for migration governance and what are the challenges in ensuring effective coordination.</li> <li>➡ Encourage participants to draw from their professional backgrounds and experiences in order to enrich the discussions.</li> <li>➡ Engage the participants to discuss these questions and make the session participatory.</li> </ul>

## Module 3:

# Fair Recruitment

## Session 1: Introduction to Fair Recruitment

### Objectives

- To become familiar with the features of fair recruitment process
- To understand actors involved in fair recruitment process

### What is fair recruitment?

Recruitment plays significant role in the future situation of migrant workers in regard to decent work. Currently, there is no internationally agreed definition of the term ‘fair recruitment’. **As per International Labour Organization (ILO)**, fair recruitment:

‘Can generally be understood to mean recruitment carried out within the law, in line with international labour standards and with respect for human rights, without discrimination on the basis of gender, ethnicity, national or legal status. It should be at no cost to workers and should protect them from exploitative situations. This means that governments need to translate international standards into effective laws and regulations, and to implement and enforce them effectively. Segments of the population in particularly vulnerable situations, including women workers, migrant workers, domestic workers, workers in the informal economy and others, should be provided with additional protection against abuses. Fair recruitment also entails due diligence in respect of human rights and access to dispute-resolution mechanisms and remedies where abuse is alleged to have occurred’ (ILO and International Training Centre of the ILO, 2018).’

### Defining Recruitment and Other Related Costs

ILO General Principles and Operational Guidelines for Fair Recruitment (ILO 2020), recruitment fees include:

- payments for recruitment services offered by labour recruiters, whether public or private, in matching offers of and applications for employment,*
- payments made in the case of recruitment of workers with a view to employing them to perform work for a third party,*
- payments made in the case of direct recruitment by the employer, or*
- payments required to recover recruitment fees from workers.*

Related costs include expenses related to *medical costs, insurance costs, costs for skills and qualification tests, costs for training and orientation, costs for tools, uniforms, safety gear, and other equipment needed to perform assigned work safely and effectively, travel and lodging costs within or across national borders in the recruitment process, including for training, interviews, consular appointments, relocation, and return or repatriation, and administrative costs related to application and service fees for preparing, obtaining or legalizing workers’ employment contracts, identity documents, passports, visas, etc.*

The Sustainable Development Goals (SDGs) includes targets [SDGs 8 (Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all), and 10 (Reduce inequality within and among countries)] pertinent to labour migration and fair recruitment. Some specific goals and targets are listed below:

- **Target 8.5:** By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value.
- **Target 8.7:** Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.
- **Target 8.8:** Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment
- **Target 10.7:** Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies



**Figure 4: Main Actors involved in Establishing Fair Recruitment**

**Facilitators' Note: Module 3, Session 1 and 2** [Please note that the group discussions and activities mentioned needs to be tested and further revised. Also, the materials/sources needed will need to be determined after the pilot testing.]

<b>Instruction for the trainer</b>	<ul style="list-style-type: none"> <li>➡ Use PowerPoint presentation slides</li> <li>➡ Explain the objective of the session as mentioned above.</li> </ul>
<b>Discussion with participants together in a group</b>	<ul style="list-style-type: none"> <li>➡ Discuss with participants what fair and ethical recruitment means? Use the information provided by the participants during the ice-breaker to initiate the discussion.</li> <li>➡ Ask, why fair and ethical recruitment is important and what is the most important, according to them, for making recruitment of labour migrant from Nepal fair and ethical.</li> <li>➡ List down information provided by the participants on the white board or a chart paper. Add any additional information not included or discussed by the participants based on the information provided above. Then discuss in group allowing participants to discuss the lists they have prepared.</li> <li>➡ Engage the participants to discuss these questions and make the session participatory.</li> </ul>

## Session 2: Challenges in Fair Recruitment

### Objectives

- To understand recruitment-related abuse and exploitation faced by migrant workers
- To understand challenges in fair recruitment

Below are some of the most common forms of abuse and exploitation that can occur in all phases of the recruitment process (ILO and International Training Centre of the ILO, 2018):

- *Charging (high) recruitment fees to workers*
- *Threats and intimidation, including verbal and psychological abuse*
- *Deception with regards to contracts, salary, working and living conditions, as well as failure to disclose relevant information*
- *Restriction of freedom of movement*
- *Retention of identity documents with the aim of controlling jobseekers. The confiscation of passport is one of the major concerns in country of destination as the actual movement of migrants at work may be physically constrained because they lack control of their official documents such as passport.*
- *Physical and sexual violence*
- *Recruitment below working age*
- *Recruitment of workers into hazardous and unsafe work.*

All the fraudulent and abusive recruitment practices mentioned above, collectively can make migrant workers vulnerable to human trafficking and forced labour. Migrant workers, especially women migrants and those in irregular situation are at higher risk of being victims of forced labour than other workers. Especially for women migrant workers in domestic work, are particularly vulnerable to abuses, notably due to the fact that national labour laws frequently exclude this sector from coverage' (ILO 2020).



While private recruitment agencies can play an instrumental and positive role in matching labour supply and demand and not all private recruitment agencies are fraudulent, evidence shows that migrant workers face ‘some of the most serious decent work deficits and that their exposure to exploitation and abuse very often takes place at the recruitment stage, or is a consequence of how recruitment is organized, regulated and monitored’ (ILO 2020).

### **Human rights impacts arising out of unfair recruitment practices of unscrupulous recruiters in Nepal (Adapted from ILO and International Training Centre of the ILO, 2018, Module 4)**

<b>Recruitment Practices</b>	<b>Adverse Human Rights Impact</b>
High recruitment fees charged to worker	May lead to debt bondage as worker takes out high loan to fund cost of recruitment, sells assets, or has costs deducted from salary in the destination state, meaning that the migrant is not able to leave the employment (forced labour according to ILO definitions).
Deceit about terms and conditions of employment contract (contract deception or substitution)	May lead to being trapped in forced labour without the ability to escape.
Processing fake documents	In order to circumvent existing regulation such as recruitment ban on domestic workers and ban of certain destination countries or to speed up the recruitment process, PRA may use fake documents. Fake documents leave migrants in an irregular status in the destination state and consequently unprotected.
PRA does not check who or what will be employing the migrant, nor in what conditions this will take place	In recruiting, PRAs may deliver the migrant into a physically, sexually or emotionally abusive employment situation. Worst case scenario might be forced labour and/or trafficking, or a dangerous work environment.
PRA send workers through irregular channel such as using visit visa or via India	In order to circumvent existing regulation such as recruitment ban on domestic workers and ban of certain destination countries, lower the cost of recruitment and speed up the process, PRA may use irregular channel. Workers may be left in an irregular status with no protection in the destination country.
PRA deliberately recruits migrants for countries banned by Nepal	PRAs deliberately recruit migrants for countries that has been banned by the Government of Nepal for foreign employment. In doing so, recruiters may use irregular channel for sending workers abroad. This deprives workers from protection and facilities accorded by the Government of Nepal.

Migrant workers in Nepal use informal labour intermediaries such as sub-agents or brokers because of several reasons.

- Concentration of formal recruitment agencies in Kathmandu valley and some major cities outside of the valley has enabled emergence of informal labour intermediaries in different parts of the country in order to facilitate linkages between the interested workers with the recruitment agencies (Sijapati et al 2017).
- Secondly, more trust on informal intermediaries compared to recruitment agencies due to them being someone known to the aspirant migrant workers.



- Recruitment agency despite recent ban continues to prefer using these unlicensed agents due to various reasons – to reach rural and remote areas to recruit workers and not having to pay these agents who charge the aspirant migrant workers directly for the service they provide.

Despite existing laws, Nepali migrant workers' access to justice and their ability to seek remedies for labour rights' violations including recruitment related frauds remain limited. Some challenges/barriers in migrant worker's access include:

- Lack of inter-agency/ministerial coordination and collaboration for case management
- Lack of formal redressal mechanisms
- Lack of monitoring mechanism about the situation of migrant workers in destination
- Prejudice and stigma of migrant workers—especially migrant domestic workers—from communities both in countries of origin and destination
- Lack of evidence (e.g., documentary, statements)
- Lack of financial resources/ high cost of legal assistance
- Language barriers
- Fear of retaliation
- Irregular legal status
- Lack of information about rights
- Slow legal process

**Facilitators' Note: Module 3, Session 3** [Please note that the group discussions and activities mentioned needs to be tested and further revised. Also, the materials/sources needed will need to be determined after the pilot testing.]

<b>Instruction for the trainer</b>	<ul style="list-style-type: none"> <li>➤ Use PowerPoint presentation slides</li> <li>➤ Explain the objective of the session as mentioned above.</li> </ul>
<b>Group activity prior to start of the session</b>	<ul style="list-style-type: none"> <li>➤ Divide the participants into group of four to five participants. Ensure that the groups are gender representative.</li> <li>➤ Ask each group to discuss among their members and list out abusive and fraudulent practices that can occur throughout the recruitment process including in time of crisis, such as the COVID-19 pandemic. Give them no more than 15 minutes for this activity.</li> <li>➤ After the discussion, ask each group to present what they have listed and discussed. Provide them no more than 5 minutes to present.</li> <li>➤ List down each of the abusive and fraudulent recruitment practices identified by the participants on the white board or a chart paper. Add any additional information not included or discussed by the participants based on the list provided above. Then discuss in group allowing participants to discuss the lists they have prepared.</li> <li>➤ Discuss why the practices listed by the participants still continues.</li> <li>➤ Engage the participants to discuss these questions and make the session participatory.</li> </ul>
<b>Notes</b>	<ul style="list-style-type: none"> <li>➤ Emphasize that not all PRA are fraudulent or unethical and that not all migrant workers face abusive and fraudulent practices.</li> </ul>

## Module 4:

# The Role of Different Actors in Fair Recruitment

### Objectives

- To become familiar with ILO General Principles and Operational Guidelines for Fair Recruitment (GPOG) and understand role of government and employers in regard to fair and ethical recruitment.
- To understand the particular role of trade unions and non-governmental organizations in promoting and monitoring fair recruitment.

## Session 1: ILO General Principles and Role of Government and Employers

The ILO's General Principles and Operational Guidelines for Fair Recruitment (2016) consolidate core principles associated with fair recruitment and lays out the responsibilities of the various actors involved in the recruitment process. The guideline consists of 13 general principles to orient implementation at all levels and 31 operational guidelines which address responsibilities of specific actors such as governments of countries of destination and origin, employers and labour recruiters among others. The 13 general principles include (ILO, 2016b):

- 1) *Recruitment should take place in a way that respects, protects and fulfils internationally recognized human rights, including those expressed in international labour standards, and in particular the right to freedom of association and collective bargaining, and prevention and elimination of forced labour, child labour and discrimination in respect of employment and occupation.*
- 2) *Recruitment should respond to established labour market needs, and not serve as a means to displace or diminish an existing workforce, to lower labour standards, wages, or working conditions, or to otherwise undermine decent work.*
- 3) *Appropriate legislation and policies on employment and recruitment should apply to all workers, labour recruiters and employers.*
- 4) *Recruitment should take into account policies and practices that promote efficiency, transparency and protection for workers in the process, such as mutual recognition of skills and qualifications.*
- 5) *Regulation of employment and recruitment activities should be clear and transparent and effectively enforced. The role of the labour inspectorate and the use of standardized registration, licensing or certification systems should be highlighted. The competent authorities should take specific measures against abusive and fraudulent recruitment methods, including those that could result in forced labour or trafficking in persons.*
- 6) *Recruitment across international borders should respect the applicable national laws, regulations, employment contracts and applicable collective agreements of countries of origin, transit and*

*destination, and internationally recognized human rights, including the fundamental principles and rights at work, and relevant international labour standards. These laws and standards should be effectively implemented.*

- 7) *No recruitment fees or related costs should be charged to, or otherwise borne by, workers or jobseekers.*
- 8) *The terms and conditions of a worker's employment should be specified in an appropriate, verifiable and easily understandable manner, and preferably through written contracts in accordance with national laws, regulations, employment contracts and applicable collective agreements. They should be clear and transparent, and should inform the workers of the location, requirements and tasks of the job for which they are being recruited. In the case of migrant workers, written contracts should be in a language that the worker can understand, should be provided sufficiently in advance of departure from the country of origin, should be subject to measures to prevent contract substitution, and should be enforceable.*
- 9) *Workers' agreements to the terms and conditions of recruitment and employment should be voluntary and free from deception or coercion.*
- 10) *Workers should have access to free, comprehensive and accurate information regarding their rights and the conditions of their recruitment and employment.*
- 11) *Freedom of workers to move within a country or to leave a country should be respected. Workers' identity documents and contracts should not be confiscated, destroyed or retained.*
- 12) *Workers should be free to terminate their employment and, in the case of migrant workers, to return to their country. Migrant workers should not require the employer's or recruiter's permission to change employer.*
- 13) *Workers, irrespective of their presence or legal status in a State, should have access to free or affordable grievance and other dispute resolution mechanisms in cases of alleged abuse of their rights in the recruitment process, and effective and appropriate remedies should be provided where abuse has occurred.*

### Operational Guidelines for Government

- Monitoring the activities of private recruitment agencies
- Implementation of commitments in regional process and dialogues, and international conventions
- Effective implementation of existing legal instrument related to labour migration and foreign employment in regard to fair recruitment
- Eliminate fraudulent and abusive recruitment practices
- Ensure the availability and operation of grievance and other dispute resolution mechanisms both in Nepal and destination countries that are accessible in practice, rapid and affordable
- Promote cooperation among relevant government agencies, workers' and employers' organizations, and representatives of recruiters
- Create an environment that encourages workers, including migrant workers, to bargain collectively and to form workers' organizations

### Operational Guidelines for Employer

- Ensure that workers receive written employment contracts that are clear, transparent and easily comprehensible. Workers should not be coerced or deceived into signing them and there should be measures in place to prevent contract substitution.
- In cases of alleged abuse in the recruitment process, provide or facilitate access to dispute-resolution mechanisms and appropriate remedies.
- Ensure that workers retain their right to freedom of association and collective bargaining.
- Respect the freedom of workers to terminate or change their employment or to return to their countries of origin.
- Ensure that the principles and guidelines are applied to all workers, regardless of the way in which they are recruited or employed.

**Figure 5: Role of Government and Employers in Fair Recruitment**

## A. Nepal's Compliance to Fair Recruitment Principles

A Review by ILO of Nepal's national law, policy and practice on labour migration and its adherence or compliance to ILO's 13 General Principles for Fair Recruitment, finds partial adherence to and partial compliance to these principles (ILO 2021).

- Foreign Employment Act 2007 prohibits child labour and discrimination on the basis of gender, edicts process for recruitment of Nepali migrant workers and has made orientation training as a mandatory requirement, accorded the DoFE responsibility to monitor and regulated Private Recruitment Agencies in Nepal.
- Nepal has signed BLAs and MoUs with nine destination countries to protect the rights of migrant workers. The employer's pay policy has been set out under the BLAs and MoUs signed by Nepal with Malaysia, Mauritius, Jordan, the UAE and Qatar.
- The Government has introduced the Foreign Employment Information Management System (FEIMS) to involve all the key stakeholders (including the private sector) in the recruitment process – thereby ensuring accountability, strengthened data management, and the systematic monitoring of all actors involved in an integrated system.
- FEB provides free skill training for prospective and returnee migrant workers. Skills Training for Employment Procedure was also implemented in 2019. Also, FEB has initiated occupational skills test of returnees in cooperation with the National Skill Testing Board (NSTB), under the Council for Technical Education and Vocational Training (CTEVT).
- DoFE requires PRAs to submit a contract between the employer and the worker, as well as between a recruitment agency and the worker to obtain pre-approval for sending Nepali workers abroad. Employers are required to verify all job requirements with Nepali diplomatic missions in destination countries and to send the necessary documentation to the DoFE for further confirmation.

- The government has launched a mobile application (BaideshikRojgari) that enables workers to facilitate their search for authentic job offers and track their application process.

**Nevertheless, there are issues as well. Most specifically,**

- FEA does not cover key aspects related to human rights and labour rights, such as forced labour.
- Monitoring of foreign employment related business by the DoFE is found to be limited to financial auditing and its role was more ad hoc/reactive to complaints.
- Deception about terms and conditions of employment continues to be a problem.
- Because of language diversity in Nepal, and as there are fraction of Nepalis who belong to non-Nepali speaking community, having a Nepali translation is not sufficient.
- There is no mutual skill recognition system to recognize these skills once the workers have moved abroad. The skills obtained through existing training programmes are inadequate and do not match with the occupational skills required by employers and are thus not recognized in the destination countries.
- There are shortcomings in the implementation of ‘free-visa free-ticket’ policy implemented by the government in 2015. The Nepal-Jordan labour migration corridor had complied with and implemented the no-recruitment fee principle fairly effectively.
- Access to justice - both in the destination countries and the source country - remains limited.

Policies are often adopted without realistic implementation plans, adequate resources or public engagement, and their actual purpose is often to consolidate power, appease party politics or to maintain popular legitimacy. As a result, even seemingly well-intentioned initiatives often lead to unintended negative consequences for migrant workers, particularly those most vulnerable to abuse such as women or undocumented workers. For example, in 2017, Nepal introduced a ban on migration to GCC countries for domestic work, which disproportionately affected women and drove many to seek irregular migration routes to the Gulf, via India. This exposed them to a greater risk of recruitment-related abuses and deprived them of consular assistance in destination countries.

Access to information alone does not, it seems, create better outcomes for workers: many migrants ... feel compelled to pay more for their recruitment even despite being aware of the “Free Visa, Free Ticket policy”, because of social and family pressures or the need to repay their debts ... Although considerable resources have been allocated to assisting migrants preparing for departure, these outreach and information campaigns often fail to reach those most vulnerable to abuse, including women, illiterate people and non-Nepali speakers.

In government-to-government schemes with Israel and Korea, workers were still legally paying fees up to NPR9 0,000 (USD 761). This contradiction makes it more difficult to “work with the private sector to make them much more responsible towards adopting a more ethical or fair business model... This acts as a very big disincentive for the private sector to adopt ethical recruitment.”

**Source:** [https://fivecorridorsproject.org/uploads/C2\\_3\\_Nepal\\_Kuwait\\_Qatar-overview-and-pathways.pdf](https://fivecorridorsproject.org/uploads/C2_3_Nepal_Kuwait_Qatar-overview-and-pathways.pdf)

**Facilitators' Note: Module 4, Session 1** [Please note that the group discussions and activities mentioned needs to be tested and further revised. Also, the materials/sources needed will need to be determined after the pilot testing.]

<b>Instruction for the trainer</b>	<ul style="list-style-type: none"> <li>➡ Use PowerPoint presentation slides</li> <li>➡ Explain the objective of the session as mentioned above.</li> </ul>
<b>Group activity</b>	<ul style="list-style-type: none"> <li>➡ Divide the participants into group of four to five participants. Ensure that the groups are as gender representative.</li> <li>➡ Ask each group to discuss among their members and list out challenges in implementation of fair and ethical recruitment including 'free-visa, free ticket policy' and employer pays model. Give them no more than 15 minutes for this activity.</li> <li>➡ After the discussion, ask each group to present what they have listed and discussed. Provide them no more than 5 minutes to present.</li> <li>➡ List down each of the challenges identified by the participants on the white board or a chart paper. Add any additional information not included or discussed by the participants based on the list provided above. Then discuss in group allowing participants to discuss the lists they have prepared.</li> <li>➡ Encourage participants to draw from their professional backgrounds and experiences in order to enrich the discussions.</li> <li>➡ Engage the participants to discuss these questions and make the session participatory.</li> </ul>
<b>Notes</b>	<ul style="list-style-type: none"> <li>➡ Emphasize that this and the following session only focuses on the roles of government institutions in enforcing fair recruitment and of trade unions and non-governmental organizations in fair recruitment</li> </ul>

## Session 2: Role of Trade Unions in Fair Recruitment

### i. Advocacy for fair recruitment

- a. Workers' organizations, by engaging in social dialogue in bipartite and tripartite mechanisms and collective bargaining agreements and training, and raising awareness among their constituent members, can play a pivotal role in promoting fair recruitment practices.
- b. Trade unions can advocate to be involved during development, negotiation, monitoring and evaluation for bilateral labour agreements *as well as in possible joint committee meetings between government of Nepal and countries of destination mandated to monitor the implementation of the labour agreements and to foster the alignment of the agreement with international labour standards and the ILO principles and guidelines and definition* (ILO 2020). Such advocacy can be based on evidence-based documentation.
- c. Trade unions can use national, regional and internal platforms and forums to advocate about the rights of migrant workers and the issues faced by migrant workers for fair recruitment.



## Trade Unions and their Role in Promoting Fair Recruitment

Trade unions have an important role to play in the protection of human and labour rights of migrant workers and promoting fair recruitment. This role of trade unions has also been recognized by Global Compact for Migration. Some examples of role of trade unions in supporting fair recruitment includes:

- During the ILO tripartite meeting in 2016 and 2018 for the adoption of ILO GPOG General Federation of Nepalese Trade Unions (GEFONT) had played a key role as expert particularly in defining recruitment fees.
- GEFONT was involved in Bilateral Labour Agreement between Nepal and Jordan to monitor and ensure workers' rights are included.
- GEFONT provides support to migrant workers in various destinations through their support groups established in cooperation with local trade union. These support groups are available in destinations such as Hong Kong, South Korea, Malaysia, Bahrain Kuwait, Qatar, Lebanon, Jordan and India.
- GEFONT have been supporting Recruitment Advisor by collecting web-based evidence in Nepal and ensuring migrant workers' voice is documented and heard by regulator. This has enabled them to advocate for improvement of regulation and its implementation including monitoring of recruitment agencies.
- International Trade Union Confederation (ITUC) and its national affiliates and partners have been actively promoting fair recruitment and informing migrant workers about their rights and support they can receive from unions in origin and host countries while following the guidelines in GPOG and information disseminated by Recruitment Advisor.

**ii. Policy Implementation:** Trade Unions can help in ensuring the government of Nepal's implementation of commitments in regional process and dialogues such as the GCM, and international conventions as well as existing legal instrument related to labour migration and foreign employment in regard to fair recruitment.

**iii. Monitoring and oversight role:** Trade unions and other organizations in collaboration with relevant government authority can support in (ILO 2020):

- *detecting if fair recruitment principles are respected by recruiters and employers, and, if not, denouncing,*
- *checking if complaint and dispute resolution mechanisms are available, accessible and function properly and effectively, and*
- *facilitating workers' access to these mechanisms and supporting workers in going through the labour courts.*

**To do so, trade unions and CSOs can (ILO, 2020):**

- *carry out field visits to the location of workers – if possible,*
- *conduct surveys on working conditions, including interviews with workers; support the identification and reporting of abuses of workers' working conditions,*
- *understand labour and recruitment regulations applied in the countries of origin and destination respectively,*

- *identify recruiters who comply with the ILO fair recruitment principles and guidelines and definition, and provide that information to the workers to encourage them to use only compliant recruiters,*
- *participate in human rights due diligence procedures at the enterprise level in order to influence and monitor the procedures, and*
- *monitor recruitment agencies, including intermediary recruiters, in order to detect the payment of recruitment fees and other costs by workers; and where cases of violations are identified, taking relevant actions at the national level or international level.*

### **Recruitment Advisor**

In 2018, the ITUC and ILO established Recruitment Advisor to enhance workers' rights and reduce vulnerability to forced labour. It is a web platform ([www.recruitmentadvisor.org](http://www.recruitmentadvisor.org)) that functions as a digital tool to support advocacy and worker organizing. Recruitment Advisor currently has coordination teams in 7 countries (the Philippines, Indonesia, Nepal, Sri Lanka, Kenya, Hong Kong and Bahrain). Together with several other organizations in each country, the team reaches out to the workers to raise awareness on the workers' rights to be fairly recruited based on ILO General Principles and Operational Guidelines for Fair Recruitment and to encourage workers to share and learn about recruitment through Recruitment Advisor.

In Nepal, GEFONT leads the implementation of the project. To achieve this, Recruitment Advisor provides:

- *up-to-date information on fair recruitment options and on existing support services in countries of origin and destination countries.*
- *an opportunity for migrant workers to share their experiences and rate recruitment agencies.*
- *a reporting mechanism and referral to effective support for migrant workers that have been victims of deceptive and fraudulent recruitment practices.*

The platform also provides a support service and has a reporting system of violations experienced by migrant workers implemented in collaboration with Migrant Forum in Asia (MFA).

Source: Jeevan Baniya and Sadikshya Bhattarai, Analysis of Recruitment Reviews from Migrant Workers (Kathmandu: ITUC, 2022).

### **iv. Service provision (ILO, 2020)**

- *Protecting workers and ensuring access to justice: Representing workers in case of disputes, supporting workers in filing cases in labour or civil courts as well as for immigration issues, collaborating with Nepali labour attachés in destination countries. Trade Unions can support governments through supporting in identifying and eliminating barriers to effective access to grievance and other dispute resolution mechanisms.*
- *Organizing workers: Facilitating in development of workers' network for example establishing contact with and between workers through social media especially to reach migrants in remote areas including domestic workers.*
- *Informing workers: Disseminating information or counselling workers on fair recruitment, safe migration and (human and labour) rights among others.*



- v. Trade Unions should foster collaboration with government agencies and civil society organizations in Nepal as well as trade unions across different migration corridors to support migrant workers and promote fair recruitment.

**Facilitators' Note: Module 4, Session 2** [Please note that the group discussions and activities mentioned needs to be tested and further revised. Also, the materials/sources needed will need to be determined after the pilot testing.]

<b>Instruction for the trainer</b>	<ul style="list-style-type: none"> <li>➔ Use PowerPoint presentation slides</li> <li>➔ Explain the objective of the session as mentioned above.</li> </ul>
<b>Group activity</b>	<ul style="list-style-type: none"> <li>➔ Divide the participants into group of four to five participants. Ensure that the groups are as gender representative.</li> <li>➔ Ask each group to discuss among their members the following questions: <ul style="list-style-type: none"> <li>○ Drawing from Session 2 of Module 3 on abusive and fraudulent practices, and Session 1 of Module 4 on challenges in implementation of fair recruitment in Nepal, discuss the role of various stakeholders i.e., governments, workers' organizations, employers' associations, and/or non-governmental in addressing the challenges.</li> <li>○ What roles of worker's organization and Civil Society Organizations are overlapping? What are trade unions currently doing to foster fair and ethical recruitment in Nepal.</li> <li>○ How trade unions and non-governmental organizations work together with government agencies to ensure a fair recruitment process?</li> </ul> </li> <li>➔ Give them no more than 15 minutes for this activity.</li> <li>➔ After the discussion, ask each group to present what they have listed and discussed. Provide them no more than 5 minutes to present.</li> <li>➔ List down each of the actors and their roles identified by the participants on the white board or a chart paper. Add any additional information not included or discussed by the participants. Then discuss in group allowing participants to discuss the lists they have prepared.</li> <li>➔ Encourage participants to draw from their professional backgrounds and experiences in order to enrich the discussions.</li> <li>➔ Engage the participants to discuss these questions and make the session participatory.</li> </ul>

## Resources

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[www.sartuc.org](http://www.sartuc.org)

**South Asian Regional Trade Union Council (SARTUC)**

Sarashmarg, Anamnagar, Kathmandu, Nepal

Mobile: +977-9851021878

P.O.Box - 3613

Phone: +977-1-5705323, Fax: +977-1-5244959