

ASSESSMENT OF GCM IMPLEMENTATION in Bangladesh, India, Nepal, Pakistan & Sri Lanka



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SARTUC

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ABBREVIATIONS AND ACRONYMS

ADD	Abu Dhabi Dialogue
ADQCC	Abu Dhabi Quality and Conformity Council
BCSM	Bangladesh Civil Society for Migrants
BDT	Bangladesh Taka
BEOE	Bureau of Emigration and Overseas Employment (Pakistan)
BLA	Bilateral Labour Agreement
BMET	Bureau of Manpower, Employment and Training (Bangladesh)
CoD	Country of Destination
CoO	Country of Origin
COVID- 19	Coronavirus Disease
CSO	Civil Society Organisation
CTEVT	Council for Technical Education and Vocational Training (Nepal)
CWA	Community Welfare Attaches (Pakistan)
DEMO	District Employment and Manpower Office (Bangladesh)
DoFE	Department of Foreign Employment (Nepal)
ECR	Emigration Check Requirement
ESC	Employment Service Centre (Nepal)
EU	European Union
FBR	Family Background Report
FEB	Foreign Employment Board (Nepal)
FEMIS	Foreign Employment Management Information System
FEWF	Foreign Employment Welfare Fund (Nepal)
FSA	Foreign Service Agreement
FY	Fiscal Year
G2G	Government to Government
GCC	Gulf Cooperation Council
GCM	Global Compact for Safe, Orderly and Regular Migration
GEFONT	General Federation of Nepalese Trade Unions (Nepal)
GoI	Government of India
GoN	Government of Nepal
GPOG	General Principles and Operational Guidelines on Fair Recruitment
ICMPD	International Centre for Migration Policy Development
ICM	India Centre for Migration
ILO	International Labour Organisation
IMRF	International Migration Review Forum
IO	International Organisation
IOM	International Organisation for Migration
ITUCBC	International Trade Union Confederation Bangladesh Council
KSA	Kingdom of Saudi Arabia
MFA	Migrant Forum in Asia

MiGOF	Migration Governance Operational Framework
MoC	Memorandum of Cooperation
MoFA	Ministry of Foreign Affairs
MoHRE	Ministry of Human Resources and Emiratization (UAE)
MoLESS	Ministry of Labour Employment and Social Security (Nepal)
MoPHRD	Ministry of Overseas Pakistanis and Human Resource Development
MoU	Memorandum of Understanding
MoWCSC	Ministry of Women, Children and Senior Citizens (Nepal)
MRC	Migrant Resource Centre
MRW	Minimum Referral Wages
NADRA	National Database and Registration Authority (Pakistan)
NAVTTTC	National Vocational and Technical Training Commission (Pakistan)
NCCHT	National Committee on Combating Human Trafficking
NGO	Non-Government Organisation
NNSM	National Network for Safe Migration (Nepal)
NPR	Nepalese Rupee
NRI	Non Resident Indian
NSDC	National Skill Development Corporation (India)
NSIS	National Skills Information System
NSTB	National Skills Testing Board (Nepal)
NQF	National Qualifications Framework
NSTC	National Skill Testing Committee (Nepal)
NVQF	National Vocational Qualification Framework
OEC	Overseas Employment Corporation (Pakistan)
OECD	Organisation for Economic Cooperation and Development
OEP	Overseas Employment Promoter (Pakistan)
OPF	Overseas Pakistani Foundation
OSH	Occupational Safety and Health
PDO	Pre-departure Orientation
PDOT	Pre-departure Orientation Training
PKR	Pakistani Rupee
PMEP	Prime Minister's Employment Programme (Nepal)
POE	Protector of Emigrants (India)
PRA	Private Recruitment Agency
RA	Recruitment Agency
REFRAME	Global Action to Improve Recruitment Framework of Labour Migration
RPL	Recognition of Prior Learning
SARTUC	South Asian Regional Trade Union Council
SDGs	Sustainable Development Goals
SLBFE	Sri Lanka Bureau of Foreign Employment
SMS	Short Message Service
SSC	Skills Sector Council (India)
SSW	Specified Skilled Workers
SWADES	Skilled Workers Arrival Database for Employment Support (India)
ToT	Training of Trainers
TTC	Technical Training Centre (Bangladesh)
TVET	Technical Vocational Education Training
UAE	United Arab Emirates

UN	United Nations
UNWomen	United Nations Entity for Gender Equality and the Empowerment of Women
UNFPA	United Nations Population Fund
UNICEF	United Nations International Children's Emergency Fund
UNODC	United Nations Office on Drugs and Crime
USD	United States Dollar
VNR	Voluntary National Report
VSTDA	Vocational and Skill Development Training Academy (Nepal)

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EXECUTIVE SUMMARY

India, Bangladesh, Nepal, Pakistan, and Sri Lanka—five major South Asian countries with emigrant populations—adopted the Global Compact for Safe, Orderly and Regular Migration (GCM) in December 2018.* In this backdrop, South Asian Regional Trade Union Council (SARTUC) reviewed the implementation of selected decent work-related objectives under the GCM such as fair and ethical recruitment, wage protection, access to justice as well as gender responsive policies and whole-of-government and whole-of-society approach, in the five South Asian countries. The assessment was done based on review of literature, information collected through virtual and in-person interviews, and sub-regional consultations.

Skill Development and Skill Certification

The skill development agenda for prospective and returnee migrants has accorded priority in the South Asian sub-region in the recent years. Separate institutions have been set up in all South Asian countries to provide both short-term and long-term skills development training and courses. Also, an e-system to keep record of prospective migrant workers and returnees and their skills has been introduced in Bangladesh, India and Sri Lanka. However, the uptake of such systems is very low.

Social Protection of Migrants

South Asian migrant workers have limited or no social protections in the migration cycle. Although some relief assistance programmes have been introduced in the subregion, they have not been able to address socio-economic needs of migrant

workers. Also, migrant workers, compared to nationals of destination countries, face major legal and practical obstacles in accessing social protection benefits especially when they are outside the country, they have been insured in. Nepal, Sri Lanka, Pakistan, Bangladesh and India have all established welfare funds for the protection of migrant workers. However, such funds only provide limited benefits to migrant workers and their families. The COVID-19 pandemic has revealed various protection gaps in different countries, especially the social protection deficits and restricted or limited access to health care and insurance coverage experienced by migrant workers who have lost their jobs, incomes and support systems, and those in irregular situations.

Fair and Ethical Recruitment

There is significant sensitization and awareness among relevant government agencies, trade unions, CSOs, recruitment agencies and journalists about the importance and implications of enhancing fair and ethical recruitment because of the efforts and support of institutions like ILO and IOM. Governments have also incorporated this objective in their national policies and plans and the bilateral labour agreements. Despite these efforts, South Asian migrant workers have been facing widespread deception and extortion in the recruitment process and are made to pay high recruitment fees. While restriction/ban imposed on women migration in some of the South Asian countries are also against the principle of fair recruitment and human rights.

Likewise, the countries in the subregion have made significant efforts to ensure access to

* 'The Global Compact for Safe, Orderly and Regular Migration (GCM)', International Organization for Migration, accessed 29 April 2020, iom.int/global-compact-migration

information on safe and beneficial migration; the risks and opportunities in migration; the culture, weather and working conditions in Countries of Destinations (CoDs); and the rights and responsibilities of aspirant and returnee migrant workers through institutionalised systems. Despite the efforts of the governments of South Asian countries, the COVID-19 pandemic has exposed migrant workers' lack of timely access to authentic information.

Protection of Migrant Workers and Their Rights

The COVID-19 pandemic revealed various decent work deficits facing South Asian migrant workers in destination countries in the form of violations of fundamental human rights; forced labour and trafficking; wage theft, non-payment and low payment of wages; long working hours; abusive and fraudulent recruitment practices; psychological abuse; non-compliance with OSH standards; lack of social protection of migrants; and inadequate access to basic services. Such experiences have revealed that the existing justice systems, including transborder justice systems, have failed to protect migrant workers and their rights.

Migrant Workers' Rights of Freedom of Association

Freedom of association and right to join workers' association and trade unions is a fundamental right enshrined in various international legal instruments. Unions or workers' associations provide a platform for migrant workers to share their grievances and seek justice and redressal. Many destination countries have not, however, permitted migrant workers to obtain membership of trade unions and associations. An overwhelming majority of migrant workers from South Asian countries have not obtained membership of workers' welfare associations and/or trade unions and many are completely unaware about such forums. The outbreak of the Covid-19 pandemic and consequent impact on the safety and dignity, human rights, and fundamental freedoms of migrants has further vindicated the need for and the importance of providing migrant workers with agency to voice their issues.

Participation and Engagement: Adherence to the Whole-of-Government and the Whole-of-Society Approach

In the countries like Bangladesh, Nepal and Sri Lanka, there have been some discussions and consultations among limited stakeholders including on formulating plans and policies as well as conducting reviews of GCM implementation. There have also been efforts to ensure inter-ministerial and inter-governmental cooperation as well as collaboration with trade unions and employers' associations and civil society to deal with migration related issues. However, evidence suggests that policies and plans including GCM related action plans in the South Asian subregion have been formulated without or limited participation of relevant stakeholders. Migrant workers and their associations continue to be pervasively excluded, exploited, and marginalised, and are denied space and opportunity to advocate for putting the human rights and labour rights of workers at the forefront of the political and policy agenda. Even when stakeholders participate in meetings and consultations, their participation is not meaningful but ritualistic instead. Nevertheless, there have been some notable initiatives in the countries under study. There are also barriers such as unwillingness on the part of bureaucrats and political leadership to follow the whole-of-government and the whole-of-society approach; and weak or no coordination between relevant government ministries, diplomatic missions and agencies at central and subnational level. Likewise, coordination between UN agencies responsible to support the stakeholders in implementing the GCM in line with the whole-of-government and the whole-of-society approach is also very weak.

Recommendations

- It is crucial to establish bilateral or multilateral recognition frameworks to certify and recognise skills acquired by youths in countries of origin. A system for online certificate accreditation and recognition of migrant workers' skills can be set up both in the Countries of Origin (CoOs) and the Countries of Destination

(CoDs). Such provision should also be included in the BLAs.

- Social protection should be extended to South Asian migrant workers across borders. Governments of countries of origin and destination should collaboratively work to extend social protection coverage to the migrant workers, particularly low-income remittance-recipient households or vulnerable migrant households.
- Governments of South Asian countries should move towards ensuring universal social protection so that it also provides a security blanket for migrant workers and their families.
- To curb deception and unscrupulous recruitment practices by recruitment agencies and agents, governments should strengthen investigation and oversight.
- It is important to enhance migrant information systems to provide up-to-date information to the migrants and their families including about policy decisions of the authorities with regard to repatriation and return during periods of crises and conflicts and ensure access to information for migrants and their families.
- There should be public health and safety emergency preparedness and response measures in the CoOs and CoDs and the safety of migrants must be prioritised during crises and emergencies.
- Access to justice for migrant workers must be safeguarded. Governments of both CoDs and CoOs should facilitate collection and record keeping of migrant workers' grievances related to wage theft and exploitation and the related evidence.
- The governments of South Asia countries and the CoDs should set up a transitional justice mechanism to provide migrant workers and their families with access to remedies against exploitation, wage theft and discrimination, irrespective of their current residence, at the earliest. Judicial processes, including submission of evidence, can be facilitated through technology.
- CoDs should allow migrant workers to exercise agency and engage in negotiations with employers for the enforcement of labour standards, dispute resolution and for defending the rights and welfare of migrant workers.
- Workers' organisations in CoOs should collaborate with trade unions and partners in CoDs should accord priority to safeguarding the work, rights, and interests of migrant workers.
- Trade unions, CSOs, migrant workers and UN agencies should encourage and make the governments accountable to their commitments to adhere to the whole-of-society and whole-of-government approach.
- The governments of South Asian countries, especially the core ministries with responsibilities with regard to migration and migrants, should foster meaningful multi-stakeholder engagement and meaningful participation of relevant government agencies at central and subnational levels of governance in all steps of decision making about policies, plans, implementation, review and follow up. Review and reporting on the implementation of GCM, including the drafting of national voluntary reports, should be done with proper, adequate and meaningful participation of all relevant stakeholders including migrant workers and their networks.
- The UN Network on Migration needs to make concerted efforts to ensure synergy among UN agencies in the South Asian countries and to ensure that governments also follow the whole-of-government and whole-of-society approaches while key decisions are made regarding migration and migrant workers.
- In the platforms like ADD and GCM, there should be serious and open discussions and reviews about the failure or inaction on the part of governments and employers as well as the failure of the existing migration frameworks to protect migrants and their rights during the COVID-19 situation.
- It is essential to develop inclusive disaster, pandemic and crises preparedness,

prevention, response, and recovery measures that protect migrant workers and their rights irrespective of their migratory status.

- As per the commitments expressed regarding the ratification and implementation of relevant instruments on labour migration, labour rights, decent work and forced labour, there should be proactive and strong advocacy and pressure on the countries of origin and destination to ratify important ILO conventions namely C189, C87, C98, C155, C190. Governments of South Asian countries should work at regional and international levels to make sure that CoDs ratify these conventions.
- Policies and plans about employment and migration should be grounded in empirical evidence, and there should be gender-sensitive provisions that facilitate safe and dignified migration as well as sustainable reintegration of migrants.
- Policies and practices should ensure equal treatment of migrants regardless of their migration status, gender and whether they work in the informal or the formal economy.

BACKGROUND

Migration has a significant impact on the economic and social development of both countries of origin and destination.¹ More than 40 per cent of the international migrant population comprises of individuals born in Asia.² South Asia is one of the major regions of origin for international labour migrants.³ There are major migratory movements in South Asian countries—including Bangladesh, India, Nepal, Pakistan and Sri Lanka—both within the region and globally.⁴ As such, there are more than 12 million Bangladeshis in overseas employment in a total of 174 countries and they have contributed to the continuous economic growth of the country.⁵ As of 2021, more than 18 million Indians live outside India, making India the largest migrant origin country. The number of migrants leaving India almost tripled in less than three decades, rising from 6.6 million in 1990 to 17.5 million in 2019.⁶ India is also a country of destination and stands

as one of the 10 largest migration corridors in the world. The India - United Arab Emirates (UAE) corridor is the third-largest bilateral migration corridor globally with as many as three million people migrating along this corridor while the India - USA corridor is the sixth largest, followed by the India -Saudi Arabia corridor (the ninth largest), and the Bangladesh -India corridor (tenth-largest).⁷ It is estimated that 9.1 million people of Pakistani origin live abroad, and this number accounts for almost 5 per cent of the country's population.⁸ As of December 2019, more than 11 million Pakistanis went abroad for employment to over 50 countries through official procedures.⁹ Similarly, it is estimated that around 10 per cent of the Sri Lankan population is overseas, of which around 1.5 million are migrant workers.¹⁰ Despite the outbreak of the COVID-19 pandemic, the Middle East region continued to remain the main foreign employment destination region accounting for 82.0 per cent of the total departures for foreign employment in 2020.¹¹ The Gulf Cooperation Council (GCC) countries and

1 International Organization for Migration, *Migration in Nepal: A Country Profile 2019* (Kathmandu: International Organization for Migration, 2019), https://publications.iom.int/system/files/pdf/mp_nepal_2019.pdf

2 United Nations Department of Economic and Social Affairs (UN DESA) 2019 International Migrant Stock 2019. UN DESA Population Division, New York. un.org/en/development/desa/population/migration/data/estimates2/estimates19.asp

3 IOM, *Asia Pacific Migration Data Report* (Bangkok: International Organization for Migration, 2021), publications.iom.int/system/files/pdf/Asia-Pacific-Migration-%20Data-Report-2020.pdf

4 'Migration Data in Southern Asia,' migrationdataportal.org/regional-data-overview/southern-asia

5 'Bangladesh Identified as "Champion" Country for GCM Implementation,' *United News of Bangladesh*, 22 July 2020, unb.com.bd/category/Bangladesh/bangladesh-identified-as-champion-country-for-gcm-implementation/54995

6 UN, *Asia-Pacific Migration Report 2020: Assessing Implementation of the Global Compact for Migration* (Bangkok: Economic and Social Commission for Asia and the Pacific, United Nations, 2020), unescap.org/sites/default/files/APMR2020_FullReport.pdf

7 M. McAuliffe and A. Triandafyllidou (eds.), *World Migration Report 2022* (Geneva: International Organization for Migration, 2021), publications.iom.int/system/files/pdf/WMR-2022.pdf

8 'Pakistan Welcomes UN Agreement that Facilitates Safe Immigration,' *Dawn*, 09 February 2022, dawn.com/news/1674019

9 'Labour Migration in Pakistan,' ILO, ilo.org/islamabad/areasofwork/labour-migration/lang--en/index.htm, accessed March 28, 2022,

10 Ministry of Foreign Relations, *The Role of Foreign Employment in the Economic Revival of Sri Lanka: Challenges and Opportunities* (Colombo: Ministry of Foreign Relations of Sri Lanka, 2020) un.int/srilanka/sites/www.un.int/files/Sri%20Lanka/2020/July/01/speech--sfr.pdf

11 Central Bank of Sri Lanka, *Annual Report 2020* (Central Bank of Sri Lanka, 2020), cbsl.gov.lk/en/publications/economic-and-financial-reports/annual-reports/annual-report-2020

Malaysia are the major destinations for migrant workers from the South Asian region.

The region also receives significant remittance from migration. India is one of the world's largest remittance recipients alongside China, the Philippines, Pakistan, and Bangladesh. In 2020 alone, India had received over USD83 billion, the world's highest, as remittance.¹² Remittance also contributes to Nepal's macro and micro economic development.¹³ Nepal received NPR 631 billion as remittance in F/Y 2020/21.¹⁴ Similarly, foreign employment and remittances stand as a key source of income and the largest source of foreign exchange for Sri Lanka.¹⁵ Remittance comprises around eight per cent of Sri Lanka's GDP and, in 2019, the country received a total of USD 6.7 billion in remittances from various countries of destination.¹⁶ Most migrants from the region are low-skilled or medium-skilled migrants.¹⁷ Migrants from the region continue to experience practices of unscrupulous recruitment, incidents of deaths and injuries, wage theft and exploitation, and lack of access to justice. They also lack adequate information and effective support systems. The impact of the COVID-19 pandemic has further aggravated their vulnerabilities, exposing the poor state of migration governance.

In this context, a critical review of the commitments made by states towards the protection of migrants and their rights through the Global Compact for Safe, Orderly and

Regular Migration (GCM) is essential. The aforementioned South Asian countries adopted GCM in December 2018 in Marrakesh, Morocco¹⁸ which was endorsed by the UN General Assembly on 19 December 2018.¹⁹ The Compact focuses on forging common understanding about migration and sharing responsibilities to make it safe, regular, orderly, and advantageous for everyone.²⁰ The GCM is guided by the vision of 'common understanding, shared responsibilities, and unity of purpose regarding migration' and is based on a set of crosscutting guiding principles—people-centred approach, international cooperation, national sovereignty, rule of law and due process, sustainable development, human rights, gender-responsiveness, child-sensitivity, whole-of-government approach, and whole-of-society-approach.²¹ It provides 'a 360-degree vision of international migration' and acknowledges the need for a comprehensive approach to address the risks and challenges of migration for individuals and communities as a whole.²² The Member States and other relevant stakeholders need to work on the implementation of all objectives of the GCM. They are also obligated to conduct reviews of progress at the national and regional levels although, notably, no voluntary reviews on the status of implementation of the GCM have been carried out by some member states.

As state parties to the GCM, the countries are also obligated to report progress and submit reports periodically at regional and internal forums such as the GCM Regional Review Forum and International Migration Review Forum (IMRF). All GCM member states, including the South Asian countries reviewed in this assessment, will meet in New York from 17 – 20 May 2022 to share updates regarding the status of implementation of GCM and the progress made thus far. In this backdrop, South Asian Regional

12 M. McAuliffe and A. Triandafyllidou, eds., *World Migration Report 2022* (Geneva: International Organization for Migration, 2021). publications.iom.int/system/files/pdf/WMR_2022.pdf

13 IOM, *Migration in Nepal: A Country Profile 2019* (Kathmandu: International Organization for Migration, 2019).

14 NRB, *Current Macroeconomic and Financial Situation of Nepal* (Kathmandu: NRB, 2022)

15 Central Bank of Sri Lanka, *Annual Report 2020* (Central Bank of Sri Lanka, 2020), <https://www.cbsl.gov.lk/en/publications/economic-and-financial-reports/annual-reports/annual-report-2020>

16 'Online Mechanism for Migrant Workers' Complaints,' *Daily News*, 05 January 2021, [dailynews.lk/2021/01/05/local/237935/online-mechanism-migrant-workers%E2%80%99-complaints](https://www.dailynews.lk/2021/01/05/local/237935/online-mechanism-migrant-workers%E2%80%99-complaints)

17 ESCAP, UN, *Asia-Pacific Migration Report 2020: Assessing Implementation of the Global Compact for Migration* (Bangkok: Economic and Social Commission for Asia and the Pacific, United Nations, 2020), unescap.org/sites/default/d8files/knowledge-products/AP_Migration_R_2020.pdf

18 'Global Compact for Migration,' *International Organization for Migration*, accessed 29 April 2022, <https://www.iom.int/global-compact-migration>

19 Ibid.

20 Ibid.

21 'Global Compact for Safe, Orderly and Regular Migration (final draft),' https://refugeemigrants.un.org/sites/default/files/180711_final_draft_0.pdf

22 Ibid.

Trade Union Council (SARTUC) reviewed the status of implementation of selected decent work-related objectives under the GCM such as fair and ethical recruitment, wage protection, access to justice as well as gender responsive policies and the whole-of-government and whole-of-society approach in five South Asian countries, namely Bangladesh, India, Nepal, Pakistan, and Sri-Lanka.

2. APPROACH AND METHODS

This assessment was carried out using a mixed method approach that consisted of review of relevant publications and news reports, and primary data collection through interviews and consultations. Information about the implementation of the GCM was collected through virtual and in-person interviews with representatives of trade unions mainly affiliates of SARTUC, CSOs and IOs, and experts from the South Asian sub-region. Information collected through interviews was triangulated with information collected from desk review. The assessment also utilised insights shared by representatives of trade unions and CSOs from the South Asian region in the Sub-Regional Consultation on the Implementation of the Global Compact for Safe, Orderly and Regular Migration (GCM) held on 20 – 21 April 2022 in Kathmandu by SARTUC and MFA with support from Solidarity Centre.²³ The insights were particularly helpful in ascertaining the status of participation of trade unions and CSOs in decision making with regard to policies and plans as well as in formulating recommendations. The assessment has also benefited from the lead author's participation in various meetings and consultations related to GCM and migration over the past 4 years following the adoption of GCM in December 2018.

²³ See the list of participants from the South Asian region in the annex 1.

3. REVIEWS AND CONSULTATIONS ON GCM IMPLEMENTATION

Bangladesh and Nepal from the South Asian sub-region have decided to be GCM champion countries. Bangladesh has been actively involved in preparation and in negotiations in international forums such as IMRF. H.E. Rabab Fatima, one of the co-facilitators of the Progress Declaration on IMRF is the Permanent Representative of Bangladesh to the UN. Bangladesh is also one of the first countries in the world to have developed a national Migration Governance Operational Framework (MiGOF) aligned with the GCM objectives and Sustainable Development Goals (SDGs). The Ministry of Labour Employment and Social Security (MoLESS), Government of Nepal convened a two-day long consultation on Nepal's progress on the implementation of the GCM with the objective of reporting in the regional review meeting and held a Multi-Stakeholder Consultation on International Migration Forum and National Implementation Strategy on the Global Compact on Safe, Orderly and Regular Migration on 7 April 2022. It also submitted a voluntary review report on GCM implementation in the Asia-Pacific Regional Review of Implementation of the Global Compact for Safe, Orderly and Regular Migration held in Bangkok from 10-12 March 2021.²⁴ Likewise, the Foreign Minister of Nepal expressed commitment to engage in the IMRF in a video address at the Ministerial Meeting of the Champion Countries of GCM and also provided an update on Nepal's preparation for a national plan for the implementation of the GCM and emphasized on the importance of partnership and cooperation

²⁴ 'Voluntary GCM Review,' *Economic and Social Commission for Asia and the Pacific*, United Nations, accessed 7 May 2022, https://migrationnetwork.un.org/sites/g/files/tmzbdl416/files/docs/nepal_voluntary_gcm_survey_report.pdf

between sending and receiving countries to maximize the contribution of migration in securing mutual development benefits.²⁵

Pakistan submitted a voluntary national report on its progress on the implementation of the GCM in the regional review.²⁶ The Senate of Pakistan participated in a virtual event on 'Advancing Implementation of the Global Compact for Safe, Orderly, and Regular Migration (GCM) in Asia and the Pacific' on 8 February, 2022.²⁷ Representatives from the Pakistani senate participated in the event and expressed Pakistan's deep commitment to the GCM agenda and process.

In Sri Lanka, following the adoption of the GCM, a study on migration from a gender perspective was carried out and its findings later submitted to the UN Migration Network Hub.²⁸ The study analysed the implications of migration rules, regulations, and policies in Sri Lanka, in the country's efforts to integrate gender perspectives

²⁵ 'Foreign Minister's video address at the Ministerial Meeting of the Champion Countries of the Global Compact on Safe, Orderly and Regular Migration (GCM),' Ministry of Foreign Affairs, Government of Nepal, accessed 7 May 2022, mofa.gov.np/foreign-ministers-video-address-at-the-ministerial-meeting-of-the-champion-countries-of-the-global-compact-on-safe-orderly-and-regular-migration-gcm/

²⁶ Government of Pakistan, *GCM Voluntary National Report* (Geneva: United Nations Network on Migration, 2021). migrationnetwork.un.org/resources/pakistan-gcm-voluntary-national-report-regional-review-asia-and-pacific

²⁷ 'Pakistan Welcomes UN Agreement that Facilitates Safe Immigration,' *Dawn*, 9 February 2022, dawn.com/news/1674019.

²⁸ KNOMAD, *Migration and Gender Outcomes: Analysis of Selected Policies in Sri Lanka* (Colombo: KNOMAD, 2018). migrationnetwork.un.org/hub/resource?gcm_objectives=All&cross_cutting_theme=All®ion=All&country=227&text=&type_of_resource=All&embed_node=980

into migration issues. In particular, the study focused on three policies: the imposition of a maximum chargeable amount that agents can collect for recruiting migrant workers, mandatory predeparture training for migrants, and the Family Background Report requirement. This study was expected to contribute to GCM objectives 6 and 7, and to SDG 5—gender equality.

India, too, has contributed to the UN Migration Hub with different studies and research since the adoption of the GCM. For example, in 2019, the Ministry of External Affairs in India readied and submitted a booklet on pre-departure orientation training.²⁹ In 2020, India took part in a study that was carried out to investigate skills shortages in the field of information and communication technology in Canada, Germany, Indonesia, Singapore and Thailand.³⁰

As of writing this report, however, India and Sri Lanka have not conducted any consultations or voluntary reviews.

²⁹ Overseas Employment Division, *Pre-Departure Orientation for Migrant Workers - India* (New Delhi: Overseas Employment Division, 2019).

³⁰ ILO, *Skills Shortages and Labour Migration in the Field of Information and Communication Technology in Canada, Germany, India, Indonesia, Singapore and, Thailand* (Geneva: ILO, 2020).

4. DECENT WORK FOR MIGRANT WORKERS

The Compact includes the decent work agenda in Objectives 5, 6 (facilitate fair and ethical recruitment and safeguard conditions that ensure decent work), 15 (provide access to basic services to migrants), 16 (empower migrants and societies to realise full inclusion and social cohesion), 18 (invest in skills development and facilitate mutual recognition of skills, qualifications and competences) and 22 (establish mechanisms for the portability of social security entitlements and earned benefits). More specifically, the objective 6 of the GCM (fair and ethical recruitment and safeguard conditions that ensure decent work) aims to better protect migrants against exploitations through improved recruitment mechanisms. Social protection for migrant workers is an important pillar of decent work. The GCM objectives 15 and 22 emphasise that all migrants, regardless of their migration status, should have access to basic services, including health care and education. Objective 18 of the GCM calls on member states to ‘invest in skills development and facilitate recognition of skills, qualifications and competences’ through building of bilateral and global skills partnerships. In fact, skills development helps enter, remain in and succeed in the labour market as well as to enjoy decent work. The GCM recognises the states’ obligation to ‘respect, protect and fulfil the human rights of all migrants, regardless of their migration status, while promoting the security and prosperity of all our communities.’ Freedom of association and right to join workers’ association and trade unions is a fundamental right enshrined in various international legal instruments.³¹ Unions or workers’ associations

³¹ ‘Universal Declaration of Human Rights,’ United Nations, accessed 21 August 2021, <https://www.un.org/en/about-us/universal-declaration-of-human-rights/>, ‘International

provide a platform for migrant workers to share their grievances and seek justice and redressal.³² Collective bargaining has played a crucial role in protecting workers and enterprises by enhancing resilience during the COVID-19 pandemic.³³ The GCM also states that all workers are entitled to enjoy the rights to freedom of association and collective bargaining, including the right to join and participate in trade unions. The Compact also strongly recognizes the role of trade unions and employers in the implementation of the Compact. The Compact is based on the whole-of-government and whole-of-society guiding principles, which calls for inclusion of actors at all levels and sectors of the government, as well as migrants, diaspora communities, local communities, civil society members, academia, the private sector, parliamentarians, trade unions, national human rights institutions, the media and other relevant stakeholders for implementation of GCM (para 44). The following sections discuss the progress in achieving the said objectives in the aforementioned South Asian countries.

Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,’ United Nations Treaty Collection, accessed 29 August 2021, https://treaties.un.org/doc/source/docs/A_RES_45_158-E.pdf; ‘ILO Declaration on Fundamental Principles and Rights at Work,’ accessed 29 August 2021, https://www.ilo.org/declaration/thedeclaration/textdeclaration/WCMS_716594/lang--en/index.htm.

³² ‘ILO: Access to Justice Often Out of Reach for Migrant Workers in South-East Asia,’ International Labour Organization, 26 July 2017, [ilo.org/asia/media-centre/news/WCMS_566072/lang--en/index.htm](https://www.ilo.org/asia/media-centre/news/WCMS_566072/lang--en/index.htm).

³³ ILO, *Social Dialogue Report 2022*, (Geneva: International Labour Organization, 2022), https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_842807.pdf

4.1 STATUS OF SKILL DEVELOPMENT AND SKILL RECOGNITION

Bangladesh, India, Nepal, Pakistan and Sri Lanka are working in their own ways to upskill, recognise and certify prospective migrant workers and returnee migrants through bilateral and multilateral agreements and various other plans and programmes. Towards the goal of recognising and developing the skills of prospective and returnee migrant workers, these five countries have adopted various strategies as well as set up new institutions.

Bangladesh has identified migrant workers as one of the key contributors to the country's economy.³⁴ Bangladesh has a separate institutional body and policy guiding the overall migration process, welfare and skill development of migrant workers. The Bureau of Manpower, Employment and Training (BMET) through Technical Training Centres (TTCs) and District Employment and Manpower Offices (DEMOs) carry out skill training related activities.³⁵ The Government of Bangladesh, through the TTCs, has been conducting various types of long and short term vocational and skill development training with the objective of preparing a skilled labour force.³⁶ Different categories of training are currently being provided by the Bangladeshi government with special arrangements being made for female returnee migrants.³⁷ Notably, persons aspiring to migrate for domestic work are required to take the training mandatorily.³⁸ Six of the total 64 TTCs in the country provide training exclusively to female trainees.³⁹ These

training courses are provided in five different languages—Japanese, Korean, English, Arabic and Cantonese.⁴⁰ The Government of Bangladesh also allows private sector institutions to operate training programmes targeted at aspirant migrant workers.⁴¹ There are two types of skill training and certifications in Bangladesh: training and certifications from national level affiliates and training programmes conducted in collaboration with UK and Australia based training providers. Certifications from some of these national training programmes, however, are not recognised in some countries of destination (CoDs). As for training programmes conducted in collaboration with UK and Australia based training providers, aspirant migrant workers can take an examination and receive certification.⁴² Additionally, Bangladesh is also developing an e-system of recognition of prior learning for migrant workers to assess skill recognition in countries of destination and origin.⁴³ There are 411 Recognition of Prior Learning (RPL) centres in the country at present. However, only a limited number of migrant workers are certified for their existing or newly acquired skills in Bangladesh or in the CoDs.⁴⁴

In **India**, the National Skill Development Corporation (NSDC),⁴⁵ together with the Ministries of the federal Government of India (GoI), state governments, corporates, other industrial bodies and foundations as well as various international bodies, skills training councils and other stakeholders, has been playing a leading

34 Interview with Key Informant from Bangladesh, 16 April 2022

35 Interview with Key Informant from Bangladesh, 16 April 2022

36 'Ministry of Expatriates' Welfare & Overseas Employment', accessed 7 May 2022, mof.portal.gov.bd/sites/default/files/files/mof.portal.gov.bd/page/5e31763f_f5b2_4ecb_bf9a_edc8609d2f3f/G-2_08_40_Expatriate_English.pdf; Ministry of Expatriates' Welfare & Overseas Employment, *Voluntary GCM Review Survey Report Bangladesh* (Dhaka: Ministry of Expatriates' Welfare & Overseas Employment, 2020).

37 'About Us', Bangladesh National Portal, accessed 7 May 2022, probashi.gov.bd/site/page/69b716ae-5555-4eec-b003-73d2320c4d0a/About-MoEWOE

38 Interview with Key Informant from Bangladesh, 16 April 2022

39 Migrant Resource Centre, *Guide for Technical Training*

Centres (TTCs) (Dhaka and Cumilla: Migrant Resource Centre, n.d.). mrc-bangladesh.org/en/downloads/23-publications/99-guide-for-ttc-to-deliver-select-services-of-demo-for-migrant-workers/download

40 Ibid.

41 Interview with Key Informant from Bangladesh, 16 April 2022

42 Ibid.

43 UN, *Asia-Pacific Migration Report 2020*, 88.

44 ILO, *Recognition of Prior Learning (RPL) for Migrant Workers in Asia: Webinar Report* (Dhaka: ILO, 2020). ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_757257.pdf

45 National Skill Development Corporation (NSDC) is a not-for-profit public limited company that aims to promote skill development by catalysing creation of large, quality and for-profit vocational institutions. Additionally, the organisation provides funding to build scalable and profitable vocational training initiatives.

role in developing new products and services, and institutionalising knowledge exchange and capacity building initiatives.⁴⁶ In the last few years, India has taken several other initiatives to increase the number of its skilled workers in the global labour market. In particular, the GoI has entered into various bilateral agreements (BLAs) with the governments and other institutions in major CoDs for Indian labour migrants and has been conducting various skill development training programmes in collaboration with the institutions in labour receiving countries to upskill Indian migrant workers. For example, the Indian Consulate in Sharjah is running training programmes along with Sharjah University for upskilling blue collar workers.⁴⁷ Similarly, in October 2019, NSDC signed a Memorandum of Understanding (MoU) with TakaMol Holding, a semi-government agency under the auspices of the Ministry of Labour and Social Development of the Kingdom of Saudi Arabia (KSA), to conduct skill verification programmes for potential migrants in India.⁴⁸ Likewise, in 2019, NSDC signed an MoU with a business group and a skilling council to conduct RPL assessment and certify employees working with an Abu Dhabi based company.⁴⁹ The NSDC has been working with the UAE's Ministry of Human Resources and Emiratisation (MoHRE) and Abu Dhabi

Quality and Conformity Council (ADQCC) as well enabling Indian migrant workers in UAE to compete on various qualifications prescribed by the employers in the UAE.⁵⁰ India and the UAE work jointly for skill certification and mobility of workers. Under this scheme, workers mobilised by training centres in India have started migrating to the UAE through RPL by fulfilling the criteria set by the concerned Indian Skills Sector Councils (SSCs).⁵¹

In June 2020, the Indian cabinet granted approval to launch the *Passport* as a national initiative to all workers seeking employment within India and abroad.⁵² For the first time in India, the Skill India International Centre is being set up with the objective of increasing foreign employment opportunities among the skilled manpower available in the country and also to provide training and orientation on services such as operations, counselling, skills training, pre-departure orientation, foreign language training, placement and immigration and post placement support.⁵³ Lately, the GoI has launched the Skilled Workers Arrival Database for Employment Support (SWADES) to harness the skills of Indian migrant workers returning home from abroad amidst the COVID-19 pandemic by conducting skill assessment and creating a common platform to seek employment opportunities.⁵⁴ Besides SWADES, some other digital platforms/tools have also been developed with the aim of linking returnee migrants to employment opportunities.⁵⁵

In the last few years, GoI has taken various initiatives to upskill migrant workers working in various countries around the world and potential migrant workers. However, due to lack

46 National Skill Development Corporation (NSDC), *Skilling India's Youth, Shaping India's Future* (New Delhi: NSDC, n.d.). ansdcindia.org/sites/default/files/files/NSDC-Annual-Report-2019-20.pdf

47 A. Didar Singh, *Addressing Skills Development to Improve Access to Foreign Skills* (International Organization of Employers, 2021). ioe-emp.org/index.php?eID=dumpFile&t=f&f=155888&token=335ec4062cec8903f3b0b3b72e84ba2c91a77d53

48 Navdeep Suri and Manish Kumar, *Mapping Skills: A Roadmap for India and the UAE* (New Delhi: Observer Research Foundation, 2020). orfonline.org/wp-content/uploads/2020/07/ORF-Special-Report-112-Skills-Mapping1.pdf; As stated in the MoU several Skill Assessment Centres would be established across India to deliver assessments in the identified benchmarked qualifications to potential migrant workers. As a part of the project, a portal has also been developed for candidate assessment booking and overall management of the same.

49 Government of India (GoI), *Annual Report 2020-21* (New Delhi: Ministry of Skill Development and Entrepreneurship (MSDE), GoI, n.d.). msde.gov.in/sites/default/files/2021-08/English-%20Annual%20Report%20of%20MSDE%20for%202020-21.pdf

50 Suri and Kumar, *Mapping Skills: A Roadmap for India and the UAE*.

51 Ibid.

52 UN, *Asia-Pacific Migration Report 2020*.

53 *Press Trust of India*, 'Skill India International Centre to Come Up In Odisha's Bhubaneswar For Training Youth', Republicworld.com, 16 April 2022, <https://www.republicworld.com/india-news/general-news/skill-india-international-centre-to-come-up-in-odishas-bhubaneswar-for-training-youth-articleshow.html>

54 ILO, *Use of Digital Technology in the Recruitment of Migrant Workers* (Geneva: International Labour Organization, 2021). ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_831814.pdf

55 Ibid.

of employment opportunities within the country, those returning from foreign employment remain unemployed. As such, the condition of returnee migrants in India is worse than in the destination countries.⁵⁶

The Government of Nepal (GoN) is conducting various training and has established various institutions to upskill prospective migrant workers and optimise the benefit from foreign employment with the promotion of a skilled workforce. The Employment-oriented Skill Development Training Operation Procedure, 2019 provides guidelines to the Foreign Employment Board (FEB) on organising skill development training for migrant workers. As specified in the procedure, FEB can organise such training independently or jointly with other institutions. The GoN has set up the Vocational and Skill Development Training Academy (VSTDA) under the auspices of the Ministry of Labour Employment and Senior Citizens (MoLESS) to implement various skill development related programmes in order to increase employment among Nepali youths both at home and abroad.⁵⁷ More recently, during the fourth meeting of the Nepal-Qatar Joint Committee to review the labour agreement signed in 2005, held in Kathmandu in December 2021, the Qatari government assured to help the GoN in setting up training centres in all the seven provinces to enhance the skills of Nepali migrant workers.⁵⁸ Currently, the FEB jointly with the Council for Technical Education and Vocational Training (CTEVT) is providing 160 hours of training to aspiring migrant workers. There are 18 different courses that prospective migrant workers can choose from.⁵⁹ More than 7,000 outgoing migrants as well as returnee

migrant workers received the training in the fiscal year (F/Y) 2020/2021.⁶⁰ Likewise, all the seven provincial governments and a majority of local governments of Nepal have also prioritized, in their annual plans and programmes, skill development and employment creation including for aspirant and returnee migrants.

Likewise, the GoN has also established a Brain Gain Centre at the Ministry of Foreign Affairs to harness the skills and expertise of Nepali diaspora communities.⁶¹ Lately, the GoN and its agencies have introduced several programmes targeting returnee migrants. The FEB, in coordination with the National Skills Testing Board (NSTB), has also launched initiatives to recognise the skills of returnee migrant workers and certify the skills they have acquired while working abroad.⁶² Although certification is free of cost, the uptake of this facility is very low.⁶³ Apart from this, the GoN has introduced various other programmes and schemes to facilitate entrepreneurship within the country by promoting the knowledge and skills of returnee migrants. Some of these programmes include soft loan schemes to returnee migrants and felicitation of returnee entrepreneurs. Although the government has laid down a plan for providing subsidised loans to returnee migrants, its implementation has remained a challenge.⁶⁴ A large proportion of migrants who have gone for foreign employment have received some form of training before leaving the country for foreign employment or after their return, enabling them to start their own businesses or find other employment opportunities.⁶⁵ However, lack of personal capital remains a significant challenge for returnees.⁶⁶ The FEB has entered into an agreement with CTEVT affiliated educational

56 Avinash Kumar, *Economic Re-Integration of Returning Migrants in the Construction Sector in India* (New Delhi: International Labour Organization, 2018). [ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new-delhi/documents/publication/wcms_616322.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new-delhi/documents/publication/wcms_616322.pdf)

57 Ministry of Labour, Employment and Social Security (MoLESS), *Voluntary GCM Review Survey Report* (Bangkok: UNESCAP, 2021), 3.

58 Khabarhub, 'Qatar Agrees to Review Labour Agreement with Nepal', *Khabarhub*, 3 December 2021, <https://english.khabarhub.com/2021/03/224052/>.

59 Foreign Employment Board (FEB), *Policy, Program and Budget for the Fiscal Year 2021/22* (Kathmandu: FEB, 2021)

60 MoLESS, *Voluntary GCM Review Survey Report*.

61 Ibid.

62 Ibid.

63 MoLESS, *Nepal Labour Migration Report 2020* (Kathmandu: MoLESS, 2020). moless.gov.np/wp-content/uploads/2020/03/Migration-Report-2020-English.pdf

64 MoLESS, *Nepal Labour Migration Report 2020*.

65 Manoj Sharma Neupane and Umesh Kumar Adhikari, *Needs Assessment of Returnee Migrants and Conflict Victims for Skills Development* (Bhaktapur: Council for Technical Education and Vocational Training, 2021). ctevt.org.np/public/uploads/kcfinder/files/TNA%20of%20RM%26CVs_Final%20Report.pdf

66 Ibid.

institutions to provide free skill training to migrant workers, and the skills of such workers are also tested through examination conducted by the National Skill Testing Committee (NSTC).⁶⁷ Notably, The FEB provides a refund of the fee paid by examinees if they pass the skill test conducted by the National Skills Testing Board (NSTB).⁶⁸ In addition, Nepal is also in the process of revising the Technical Education and Vocational Training Council Act and developing a National Vocational Qualifications Framework (NVQS).

Although Pakistan had designed the National Vocational Qualifications Framework (NVQF) to help standardise national skill qualifications against international standards way before the GCM was adopted, it was only in 2018 that the country introduced the Technical Vocational Education Training (TVET) Strategy to create a comprehensive TVET approach at provincial levels.⁶⁹ Similarly, in 2018, Pakistan laid down the National Skills for All Strategy, a roadmap for providing skills to Pakistanis (outbound and otherwise). The Strategy offered several recommendations for skilling outbound migrant workers. Some of the key recommendations involved the need for strengthening the National Skills Information Systems (NSIS), providing counselling to aspiring migrants, establishing separate TVET institutes for different CoDs, keeping proper record of the Pakistani workforce in foreign countries, formulating a shared TVET qualification standard together with other countries in the South Asian region and establishing a separate regime for the workforce looking for overseas employment.⁷⁰

Pakistan, like other countries in South Asia, has taken various initiatives aimed at gradually improving the skill development, skill identification and certification of aspiring

and/or pre-departure migrants. Towards this goal, Pakistan has been conducting various skill development training and workshops.⁷¹ Established in 2005, the National Vocational and Technical Training Commission (NAVTTTC), the national body responsible for skills training, has launched 'Skilling Pakistan', a multi-stakeholder supported programme. The programme was launched primarily to ensure enhanced employability among the youth population in the country by preparing a skilled youth workforce as per the demand from employers. In this whole process of connecting the skilled graduates to the employers inside and outside the country, the NSIS has played a vital role.⁷² At present, there are more than 4,000 training institutes that provide a range of vocational and technical education to a large number of youths across the country.⁷³ In the span of the five years between 2014 to 2019, NAVTTTC had already equipped more than 200,000 youths with various technical skills enabling the trainee population to engage in various kinds of employment and/or self-employment.⁷⁴

Pakistan is a part of the 'Pilot Project on Skill Development, Certification, Upgrading and Recognition' carried out under the auspices of the Abu Dhabi Dialogue. The pilot program involves two employers in the United Arab Emirates, four training centres in Pakistan (three in Islamabad and one in Punjab), and two assessors, and aims to analyse the effects of skills training programmes on the outcomes of workers in the UAE including wages, productivity, time spent in the destination country, and subjective well-being of construction workers from Pakistan.⁷⁵ In 2021, a comprehensive reintegration strategy was developed, which aimed to facilitate the return of migrant workers and their families, based on

67 FEB, *Policy, Program and Budget for the Fiscal Year 2021/22*.

68 'Foreign Employment Board Started 160-hour Skill Based Training for Youth,' *Collegenp*, 20 March 2021, collegenp.com/event/foreign-employment-board-started-160-hour-skill-base-training-for-youth/.

69 ILO, *Review of Law, Policy and Practice of Recruitment of Migrant Workers in Pakistan* (Geneva: ILO, 2020), 9.

70 Government of Pakistan and GIZ, *National 'Skills for All' Strategy: A Roadmap for Skill Development in Pakistan* (Islamabad: Government of Pakistan and GIZ, 2018).

71 UNESCAP, *Asia-Pacific Regional Review of Implementation of the Global Compact for Safe, Orderly and Regular Migration* (Bangkok: UNESCAP, 2021), 6.

72 ILO, *Review of Law, Policy and Practice of Recruitment*.

73 'About Us,' National Skills Information System, accessed 18 April 2022, <http://www.skillingpakistan.org/>.

74 'Our Performance (2014-19),' National Vocational and Technical Training Commission (NAVTTTC), accessed 7 May 2022, <https://navttc.mne.skillingpakistan.org/performance/>.

75 World Bank, *A Migrant's Journey for Better Opportunities: The Case of Pakistan* (New York: World Bank, 2018).

skill development/certification, re-employment, entrepreneurship, and social inclusion.⁷⁶ Likewise, the Government of Pakistan is working with the International Labour Organisation (ILO) under the EU-funded Global Action to Improve the Recruitment Framework of Labour Migration (REFRAME) project for mapping the National Qualifications Frameworks to facilitate harmonization of National Qualifications Frameworks with the Regional NQFs.⁷⁷

Despite the high literacy rate, skill mismatch and uneven distribution of vocational institutes in Sri Lanka is still a challenge. The country has labour shortage in industries such as construction and tourism and these sectors import labour from other countries to fill these gaps,⁷⁸ while mismatch of skills is said to be a concern for investors in Sri Lanka.⁷⁹ Sri Lanka has limited training institutions with international accreditation recognised by foreign employers that provide job-oriented training to bridge the skills gap and increase the readiness of Sri Lankan migrant employees to enter international markets.⁸⁰ Many people are not able to connect with vocational and tertiary education and have to thus resort to short-term earning and informal employment. Although the share of labour migration under professional and skilled employee categories combined has increased significantly, there exists a large mismatch between the international demand for jobs and Sri Lanka's supply capacity despite the upward trend in the migration of skilled labour. Through the Abu Dhabi Dialogue, Sri Lanka and the UAE were engaged in negotiations to implement a pilot project, among other initiatives, which would systematise the certification of acquired

76 UNESCAP, *Asia-Pacific Regional Review of Implementation of the Global Compact*, 25.

77 ILO, *Fair Recruitment Country Brief: Pakistan* (Islamabad: ILO, 2020). https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_741045.pdf.

78 'Prices, Wage, Employment and Productivity,' cbsl.gov.lk/sites/default/files/cbslweb_documents/publications/annual_report/2019/en/8_Chapter_04.pdf

79 'National Output, Expenditure, Income and Employment,' cbsl.gov.lk/sites/default/files/cbslweb_documents/publications/annual_report/2020/en/6_Chapter_02.pdf

80 'External Sector Development and Policies,' cbsl.gov.lk/sites/default/files/cbslweb_documents/publications/annual_report/2020/en/13_Box_04.pdf

skills and upgrade training for Sri Lankan workers in the construction industry. However, there is no process in place at present to verify and validate foreign migrant workers' job-specific skills and competencies at the time of issuing employment visas.⁸¹ A Private sector organisation, namely the Employers' Federation of Ceylon, Sri Lanka, had implemented a pilot project in 2017 to provide Skills Passports to returnee migrant workers which aimed at keeping records of migrants and returnees and linking them with prospective job opportunities.

Separate institutions have been set up in all South Asian countries with the objective of providing vocational training to prospective migrant workers and returnees. Countries like Bangladesh, India and Nepal have also initiated digital platforms for skill recognition of migrant workers and returnees enabling them with the opportunity to find better employment schemes at home and abroad. Although various institutions have been set up with the aim of upskilling migrant workers, due to the lack of proper operational guidelines, these institutions have not been able to coordinate and collaborate with all other stakeholders that are equally responsible for making the migration process safe, regular and orderly. As a result, such institutions, which have been set up with the objective of developing the skills of migrant workers or returnees, have not been able to create an environment conducive to coordination or cooperation with other agencies. Most of the time, these initiatives to upskill the migrant workers are pioneered by the governments in the respective countries of origin without due consideration to how other stakeholders like employers, recruitment agencies, media, academia, and international organisations can contribute to and stimulate the process. In the case of Nepal, although there is a provision to provide skill certificates by identifying the skills of workers returning from foreign employment, the number of returnee migrants wanting to acquire skill certificates is very low. Due to lack of

81 IOM, *Migration Governance Snapshot: The Democratic Socialist Republic of Sri Lanka* (Colombo: IOM, 2018). [Migrationdataportal.org/sites/g/files/tmzbd1251/files/2018-05/MGI%20report%20Sri%20Lanka_0.pdf](https://migrationdataportal.org/sites/g/files/tmzbd1251/files/2018-05/MGI%20report%20Sri%20Lanka_0.pdf)

employment opportunities within the countries of origin and lack of funds with returnees, most of those returning from foreign employment remain unemployed. In Bangladesh, for instance, as a consequence of the lack of employment opportunities in the home country, coupled with the lack of appropriate reintegration services and facilities, these migrant workers choose to re-migrate.⁸²

4.2 SAFE WORKING ENVIRONMENT FOR MIGRANTS

Migrant workers are among the most vulnerable of workers around the world and are at constant risk of exploitation, discrimination, abuse and deportation. The lack of access to proper redressal mechanisms further compounds the risk.⁸³ The Gulf region, one of the major regions of destination for South Asian migrant workers, is reported to be the world's worst regions in terms of safeguarding workers' rights.⁸⁴ The health and well-being of migrant workers receives lowest state priority in the Gulf.⁸⁵ A study conducted among Bangladeshi migrant workers in the United Arab Emirates (UAE) showed that absence of proper health and labour protections is resulting in poor health outcomes for such workers.⁸⁶

In India, the India Centre for Migration (ICM) has been conducting training of trainers

(ToT) workshops and is certifying master trainers. The trainers provide pre-departure orientation training (PDOT) to migrant workers to ensure that workers migrate safely for overseas employment with an enhanced skill set. The PDOT centres have developed comprehensive manuals and handbooks in seven languages (Hindi, English, Bangla, Malayalam, Punjabi, Tamil, Telugu) and the ICM has also developed a pre-departure orientation (PDO) manual on the specified skilled workers (SSW) scheme of the Government of Japan.⁸⁷ Also, the government launched the Pre-departure Orientation Training (PDOT) program in 2018. This was done bearing in mind the need to orient prospective migrant workers about soft skills such as language, culture, other kinds of regulations in the destination country, the emigration process and welfare measures. The National Skill Development Corporation (NSDC) is the implementing agency for this programme and two variants, i.e., short and long term variants of the orientation training programme, are provided to prospective migrant workers.⁸⁸ These candidates are mobilized via Recruitment Agents (RAs).⁸⁹ As of 28 July 2021, more than 100,000 participants have already received the pre-departure orientation training under the programme.⁹⁰ Also, the Ministry of External Affairs in India started online pre-departure orientation training in April 2021.⁹¹

Nepal has developed several country-specific PDOTs for Nepali migrant workers that are to be implemented soon. The PDOTs provide information about the legislative provisions of

82 'Social Reintegration of the Returnee Female Migrant Workers in Bangladesh', ICMPD Budapest Process Secretariat, accessed 7 May 2022, budapestprocess.org/silkroutesfacility/projects-in-the-silk-routes-countries/184-social-reintegration-of-the-returnee-female-migrant-workers-in-bangladesh.

83 IOM, WHO and United Nation Human Rights Office of the High Commissioner, *International Migration, Health and Human Rights* (Geneva: IOM, 2013). ohchr.org/sites/default/files/Documents/Issues/Migration/WHO_IOM_UNOHCHRPublication.pdf

84 International Trade Union Confederation, *2020 ITUC Global Rights Index: The World's Worst Countries for Workers* (Brussels: International Trade Union Confederation, n.d.). ituc-csi.org/IMG/pdf/ituc_globalrightsindex_2020_en.pdf

85 Yara M. Asi, 'Migrant Workers' Health and COVID-19 in GCC Countries,' *Arab Center Washington DC*, 7 July 2020, <https://arabcenterdc.org/resource/migrant-workers-health-and-covid-19-in-gcc-countries/>.

86 Rati Kumar and Raihan Jamil. 'Labor, Health, and Marginalization: A Culture-Centered Analysis of the Challenges of Male Bangladeshi Migrant Workers in the Middle East,' *Qualitative Health Research* 30, No.11 (2020): 1-14. [10.1177%2F1049732320922180](https://doi.org/10.1177%2F1049732320922180)

87 'Home', 'Consular Services', 'Diaspora and Migration Issues', 'Autonomous bodies', 'India Centre for Migration', accessed on 29th March 2022, <https://mea.gov.in/icm.htm>.

88 GoI, *Annual Report 2020-21*.

89 'Home', 'Schemes and Initiatives', 'Schemes Initiatives through NSDC', accessed 7 may 2022, msde.gov.in/en/schemes-initiatives/schemes-initiatives-through-nsdc

90 'Home', 'Media Centre', 'Press Releases', 'Pre-Departure Orientation Training Programme Trains 1 Lakh Participants', accessed 7 may 2022, mea.gov.in/press-releases.htm?dtl/34068/PreDeparture_Orientation_Training_Programme_trains_1_lakh_participants

91 'Home', 'Media Center', 'Press Releases', 'PDOT Program Trains 1 Lakh Participants', *Ministry of External Affairs*, 28 July 2021, https://www.mea.gov.in/press-releases.htm?dtl/34068/PreDeparture_Orientation_Training_Programme_trains_1_lakh_participants

the CoDs, social and cultural customs, health and safety related subjects, and encourage aspirant migrants to promote savings, among others. In addition, the GoN has also emphasised on the need for compliance with occupational safety and health (OSH) standards for Nepali migrant workers and raised the issue in bilateral discussions such as Joint Technical Committee meetings and made efforts to address the same in new BLAs.⁹² However, hundreds of Nepalis continue to lose their lives, sustain injuries and face health hazards in the GCC countries and Malaysia. As such, the FEB in Nepal reported that it disbursed compensation to the families of 1,243 deceased workers, and to 143 workers who had been mutilated or severely injured while working abroad in FY 2020/21.⁹³

Sri Lanka's National Migration Health Policy stipulates the importance of access to essential preventive and public health services for all immigrants, irrespective of their legal status or country of origin and their legal status.⁹⁴ The Ministry of Health provides access to free COVID-19 testing, treatment and information for migrants and is expanding laboratory testing capacity at the Bandaranaike International Airport in Colombo to facilitate the return of Sri Lankan migrant workers from abroad, as well as to establish procedures for entry of migrants and tourists.⁹⁵ Through pre-departure training—ranging from five days (for persons leaving Sri Lanka for work other than domestic work) to 40 days (for housekeeping assistants/ domestic

workers travelling to the Middle East)—provided to migrant workers, the Sri Lankan government seeks to empower migrant workers and ensure the safety of migrants.⁹⁶

Although countries in the South Asian sub-region have been conducting orientation training with the aim of providing different types of information about CoDs and workplaces to workers going to different countries, there have been fewer efforts from the countries of origin in terms of ensuring the safety of workers in CoDs. In Nepal, PDOT centres have mentioned that it is difficult to devise a separate curriculum specifically for migrant workers in the fee that has been prescribed. Because of this, they still use dated curriculums. Although some of the origin countries have raised issues related to the safety of migrant workers in bilateral meetings with the governments of the CoDs, no substantive progress has been made towards safeguarding OSH of migrant workers and these migrant workers continue to sustain injuries and suffer other health hazards.

Challenges in the implementation of the GCM are also associated with resolving the persistent problems faced by migrant workers and supporting them during crisis situations. Migrant workers, especially from the South Asian region, are exposed to agonising living and working conditions, and cultural and language barriers while also being restricted by limited local knowledge, and weak social networks. While these problems affect them in their day to day lives in different ways, they also limit the ability of migrant populations to avoid infections, receive adequate health care, and cope with the economic, social, and psychological impacts induced by crisis situations. During times of pandemic, migrants are likely to encounter a double burden related to the risk of infection and the lack of resources to tackle such risks. A key challenge that needs to be addressed in the forthcoming rounds of GCM implementation lies in devising a concrete inter-governmental policy to carve out an effective plan in supporting migrant workers during crisis situations so as to ensure that they

92 Onlinekhabar, 'Nepal, Qatar Officials Discussing Labour Migration Reforms in Kathmandu,' *Onlinekhabar*, 3 December 2021, <https://english.onlinekhabar.com/nepal-qatar-labour-migration-meet.html>; MyRepublica, 'Nepal - UAE Joint Committee Meeting: Nepal to Social Security, Safety of Nepali Workers,' *MyRepublica*, 15 March 2022, <https://myrepublica.nagariknetwork.com/news/nepal-uae-joint-committee-meeting-nepal-to-stress-social-security-safety-of-nepali-workers/>; Setopati, 'Nepal UAE Sign Labour Agreement,' *Setopati*, 14 June 2019, <https://en.setopati.com/political/148091>; Kunda Dixit, 'Nepal and Malaysia Rewrite Rules of for Migrant Labour,' *Nepali Times*, 15 September 2019, <https://www.nepalitimes.com/here-now/nepal-and-malaysia-rewrite-rules-for-migrant-labour/>.

93 Foreign Employment Board, *Major Welfare Activities of Fiscal Year 2020/21* (Kathmandu: Foreign Employment Board, 2021).

94 IOM, *Migration Governance Snapshot*.

95 UN, *Asia-Pacific Migration Report 2020*.

96 *Ibid.*

are not rendered vulnerable. Lessons learnt from the COVID-19 pandemic can offer a guideline in this regard.

4.3 WAGE THEFT, RIGHTS VIOLATIONS AND ACCESS TO JUSTICE

Migrant workers are among the most vulnerable groups facing different forms of exploitation and labour and human rights violation during the recruitment stage and in the workplace.⁹⁷ In recent times, reports of wage theft of migrant workers from South Asian countries working in the GCC countries and Malaysia have been on the rise.

Studies have revealed that Bangladeshi migrant workers experienced wage theft throughout the COVID-19 period. A study carried out in Bangladesh reveals that many Bangladeshi migrant workers who returned from the Gulf during the pandemic have experienced wage theft. The study, carried out by the Bangladesh Civil Society for Migrants (BCSM) in 45 districts between 25 March and 6 May 2021, shows that at least 1,160 Bangladeshi workers who returned home from the six GCC countries after February 2020 have lost an average of USD 2,119 in wages and other entitlements during the pandemic.⁹⁸ After the onset of the COVID-19 pandemic, the issue of wage theft of Bangladeshi migrant workers was raised on numerous occasions by different CSOs in Bangladesh, and studies have also been conducted to explore the degree of wage theft faced by migrant Bangladeshis. Individual migration experts and rights organisations in the country have together called on the government of Bangladesh to take necessary steps to recover these unpaid wages.⁹⁹ However, as of April 2021,

⁹⁷ ILO, *Trade Union Action to Promote Fair Recruitment for Migrant Workers* (Geneva: ILO, 2020).

⁹⁸ C R Abrar, Inzumul Haque and Nazmul Haque, *Addressing Systemic Challenges of Wage Theft: Bangladeshi COVID Returnees from the Gulf States* (Dhaka: Migrant Forum Asia and Refugee and Migratory Movements Research Unit, 2021), <https://justiceforwagetheft.org/api/files/1629375594003ta8w8m3y7jb.pdf>.

⁹⁹ 'Bangladeshi Returnee Migrant Workers Call for Government Help to Retrieve Their Unpaid Wages,' *Freedom Collaborative*, 27 April 2021, freedomcollaborative.org/newsletter-archive/bangladeshi-returnee-migrant-workers-call-for-government-help-to-retrieve-their-unpaid-wages.

the government in Bangladesh had not taken concrete steps for supporting migrant workers in getting their wages back. A news report mentions that the Government had been exploring ground level realities about the incidence of wage theft and communicating with the diplomatic missions abroad to gather relevant information.¹⁰⁰

In recent years, the Government of **India** (GoI) has been fixing minimum referral wages (MRWs)¹⁰¹ to regulate the wages of Indian migrant workers working in different occupations in the Emigration Check Required (ECR) countries.¹⁰² Although the GoI tries to ensure that Indian migrant workers obtain a prescribed minimum referral wage in the relevant occupational category, many argue that India has set the referral wages so high that this has dissuaded employers in CoDs from recruiting Indian workers.¹⁰³ In July 2021, the Indian government decided to restore the MRWs for workers—previously reduced in 2020—in the GCC countries. The MRWs were adjusted downwards, arguably, to protect employment of Indian labour migrants working in the Gulf. The Telangana Gulf Workers Joint Action Committee led the movement demanding for the abolition of circulars reducing the minimum wage. Telangana's NRI affairs minister requested the Ministry of External Affairs to reconsider the decision.

¹⁰⁰ Md Owasim Uddin Bhuyan, 'Govt Move Sought to Recover Returned Migrant Workers' Unpaid Wages,' *The Business Insider*, 20 April 2021, <https://www.businessinsiderbd.com/national/news/4919/govt-move-sought-to-recover-returned-migrant-workers-unpaid-wages>.

¹⁰¹ The origin country fixes a minimum wage for migrant workers in terms of different occupational categories and also for different countries. The major rationale for putting the concept of minimum referral wages, as stated by the Ministry of External Affairs, is "to ensure that an Indian [migrant] worker is not put to a disadvantageous position by the [foreign employer] by unilaterally fixing wages, which might be much less than the prevailing wages in the host country as well as in India"

¹⁰² The 18 countries for which emigration clearance is required for ECR passport holders and nurses traveling for work are as follows: Afghanistan, Bahrain, Indonesia, Iraq, Jordan, Kuwait, Lebanon, Libya, Malaysia, Oman, Qatar, Kingdom of Saudi Arabia, Sudan, South Sudan, Syria, Thailand, United Arab Emirates and Yemen.

¹⁰³ S K Sasikumar, Seeta Sharma, *Minimum Referral Wages for International Migrant Workers from India: An Assessment* (New Delhi: ILO, 2016). ilo.org/wcmsp5/groups/public/asia/ro-bangkok/sro-new_delhi/documents/publication/wcms_538168.pdf

Subsequently, the civil society representatives in Telangana too filed a Public Interest Litigation in the state's High Court demanding the withdrawal of the circulation.¹⁰⁴ As the labour market started to stabilise, the situation was reviewed in consultation with embassies in the Gulf before deciding to restore MRWs to be effective from 15 July 2021.¹⁰⁵ The issue with MRWs is very crucial particularly because most of the GCC countries lack minimum wage systems.¹⁰⁶

Over the past 10 years, there has been a relative decline in Pakistani migrants classified as 'unskilled', and a rise in 'semi-skilled' and 'skilled' migrants.¹⁰⁷ This indicates gradual improvements in the salaries and incomes of the migrants. During the COVID-19 pandemic, however, Pakistani migrants faced widespread employment loss, non-payment of dues/wages and a lack of access to justice.¹⁰⁸ Some studies have shown that migrant workers are experiencing salary cuts and delays in the payment of wages or benefits. The Overseas Pakistani foundation has been helping migrant workers who have returned from abroad to seek transitional justice, particularly the recovery of unpaid wages or dues from the employers in their respective CoDs.¹⁰⁹ An ILO report quoted a prospective migrant worker as saying the following about the plight of Pakistani migrant workers during the pandemic:¹¹⁰

The workers who choose to proceed overseas to the GCC countries on a 'freelancing visa'

104 Ch Sushil Rao, 'Minimum Referral Wages for Gulf Countries Back to Original, Workers Happy,' *The Times of India*, 24 July 2021, timesofindia.indiatimes.com/india/minimum-referral-wages-for-gulf-countries-back-to-original-workers-happy/articleshow/84706024.cms.

105 Media Center, 'Question No.228 Minimum Referral Wages', Ministry of External Affairs, 4 August 2021, mea.gov.in/lok-sabha.htm?dtl/34095/QUESTION+NO228+MINIMUM+REFERRAL+WAGES

106 Nidhi Menon and Rohini Mitra, 'How India's Move to Reduce Minimum Referral Wages Could Hurt Its Workers in the Gulf,' Scroll, 23 June 2021, <https://scroll.in/article/997850/how-indias-move-to-reduceminimum-referral-wages-could-hurt-its-workers-in-the-gulf>

107 UN, *Asia Pacific Migration Report 2020*.

108 ILO, *The Impact of COVID-19 on Labour Migration Governance, Recruitment Practices and Migrant Workers* (Geneva: ILO, 2021)

109 Ibid, 14.

110 Ibid, 35.

are treated like slaves by their guarantor. Such workers have no rights to [make] claims about their wages, working hours and choice of employment. Hardly any such migrants could claim and access health benefits and other protective mechanisms.

Incomes and earnings of Sri Lankan migrants were severely affected during the COVID-19 pandemic. Sri Lankan migrant workers in the CoDs suffered job loss, contract expirations and pay cuts in the first wave of the pandemic due to the global economic downturn caused by the pandemic.¹¹¹

The Ministry of Foreign Employment Promotion and Welfare, together with the Sri Lanka Bureau of Foreign Employment, prepared the National COVID-19 Response Plan in collaboration with International Organisation for Migration (IOM), ILO and other stakeholders. The Plan has developed distinct measures to be taken at the CoDs, measures to be taken to repatriate migrant workers back to Sri Lanka, measures to be taken at borders, measures for the reintegration of returnee migrants and measures to be taken to support re(migration).¹¹² In a recent visit to Malaysia (on 30 April 2022), the Minister of Labour, Employment and Social Security of Nepal proposed to the Minister for Home Affairs of Malaysia to increase the minimum wage, services and facilities of Nepali migrant workers in Malaysia including those working as security guards.¹¹³

Lately, there have been an increase in reported cases of employment loss and wage theft by migrant workers from all South Asian countries, particularly those working in the GCC countries

111 Central Bank of Sri Lanka, National Output, Expenditure, Income and Employment (Colombo: Central Bank of Sri Lanka, 2021), https://www.cbsl.gov.lk/sites/default/files/cbslweb_documents/publications/annual_report/2020/en/6_Chapter_02.pdf

112 'Question No. 7,' OHCHR, accessed 7 May 2022, ohchr.org/sites/default/files/Documents/Issues/Migration/CFI-COVID/SubmissionsCOVID/Sri_Lanka.pdf.

113 Rastriya Samachar Samiti (RSS), 'Nepal Urges Malaysia to Increase Minimum Wage of Nepali Migrant Workers,' *myRepublicai*, 30 April 2022, <https://myrepublica.nagariknetwork.com/news/nepal-urges-malaysia-to-increase-minimum-wage-of-nepali-migrant-workers/>.

and Malaysia. Notably, the governments of countries like India, Pakistan and Sri Lanka, together with various non-governmental organisations in the countries, took some initiatives to ensure that these workers receive the wages they are entitled to, but to no avail. For example, the Overseas Pakistani Foundation has been helping returnees in the process of seeking transitional justice. A landmark change has taken place recently with Qatar passing a law on non-discriminatory wage which has benefitted hundreds of thousands of migrant workers working in the country. With this, Qatar has become the first country in the region to do so.¹¹⁴

Withholding of passports of foreign employees by employers has become a multi-sectoral practice in many CoDs as employers confiscate the passports and other documents of migrant workers after their arrival to prevent them from leaving. Such practice is considered abusive and a sign of forced labour.¹¹⁵ Migrant workers have the right to be able to leave their place of employment and the destination country without any constraints after fulfilling their contractual obligations as provided in various national and international legal instruments as well as BLAs.¹¹⁶ However, in the case of South Asian migrant workers, the right to return from CoDs was not always upheld during the COVID-19 pandemic. For example, during the COVID-19 pandemic, Nepali migrant workers' right to return was not fully respected in various CoDs owing to an absence of a detailed national legal framework¹¹⁷

114 Aljazeera, 'Qatar's Landmark Minimum Wage Comes into Force,' *Aljazeera*, 19 March 2021, [aljazeera.com/news/2021/3/19/qatars-enforces-new-minimum-wage-legislation](https://www.aljazeera.com/news/2021/3/19/qatars-enforces-new-minimum-wage-legislation).

115 Jeevan Baniya and Sadikshya Bhattarai, Analysis of Recruitment Reviews from Migrant Workers (Kathmandu: GEFONT, 2020). <https://www.recruitmentadvisor.org/sites/default/files/inline-files/Recruitment%20Reviews%20-%20Final.pdf>.

116 Chandan Kumar Mandal, 'Nepali Workers Aren't Much Hopeful about Qatar Labour Reforms,' *The Kathmandu Post*, 26 October 2019, <https://kathmandupost.com/2019/10/26/nepali-workers-aren-t-much-hopeful-about-qatar-labour-reforms>; Chandan Kumar Mandal, 'Labour Market Reforms,' *The Kathmandu Post*, 31 December 2019, <https://kathmandupost.com/national/2019/12/31/labour-market-reforms>.

117 The Foreign Employment Act of 2007 in Nepal has a provision of assisting the return of migrant workers during crisis situations, but a separate document that guided the

to help facilitate the return of Nepali migrant workers during times of crisis. Migrant workers' right to return is also curtailed because of the confiscation of travel documents by their employers in the CoDs, —an issue that was reported by various studies on migrant workers from all the South Asian countries during the review period. For instance, a recent report on the status of Nepali migrant workers mentions that '*excessive working hours, psychological abuse and the withholding of identity documents [of migrant workers] were all reported as violations, but overall the most common forms of exploitation were fraud and coercion, meaning that the majority of migrants initially consented to their job offers, but later found themselves in a situation that was different from the one they had been promised*'.¹¹⁸ The cases of confiscation of travel documents of migrant workers from Bangladesh and India has also been reported by recent studies.¹¹⁹ Similarly, Pakistani workers face various problems in destination countries with their employers such as non-implementation of Foreign Service Agreement (FSA), tough working conditions and confiscation of passports.¹²⁰ Studies have revealed that the COVID-19 pandemic further exacerbated the situation resulting in increased wage theft, passport confiscation, unsafe living and working conditions, and excessive work demands, which indicate forced labour practices and violate domestic and international labour standards. As such, during the GCM review period, forced labour issues came to the fore at a time when government support mechanisms were in a state of disarray.

Most workers are unable to register their

repatriation did not exist during the onset of COVID-19

118 Freedom Collaborative, 'Data Gathered by Nepali CSOs Highlights a Lack of Protection for the Country's Migrant Workers,' *Freedom Collaborative*, 15 February 2022, <https://freedomcollaborative.org/newsletter-archive/data-gathered-by-nepali-csos-highlights-a-lack-of-protection-for-the-country-s-migrant-workers>.

119 MFA, *Crying Out for Justice: Wage Theft Against Migrant Workers During COVID-19* (Maynila: MFA, 2022), 15-18. <https://justiceforwagetheft.org/api/files/16454497686693kyxqz1x2p.pdf>

120 UNESCAP, Pakistan Voluntary Review of GCM (Bangkok: UNESCAP, 2020), https://migrationnetwork.un.org/sites/g/files/tmzbd416/files/docs/pakistan_voluntary_gcm_survey_report.pdf

grievances owing to fear of termination from work and retaliation from employers and recruitment agencies.¹²¹ Studies on labour migration and access to justice indicate that inadequate information about the available complaint redressal and justice mechanisms and legal procedure as well as the high cost for seeking legal assistance, lengthy judicial processes, and lack of evidence create challenges for migrant workers in seeking justice.¹²² Inaccessibility of justice for migrant workers has been exacerbated by the ongoing COVID-19 pandemic.¹²³

The GCM calls for ensuring access to justice of migrant workers in both countries of origin and CoDs. Bangladesh, India, Nepal, Pakistan and Sri Lanka have all taken steps to improve migrant workers' access to justice during the GCM review period. In Bangladesh, a technical Working Group on Counter-Trafficking and Labour Migration under the auspices of the Bangladesh United Nations Network on Migration was established in 2019. Likewise, a national consultation on research findings to promote migrant workers' access to the justice system was held in Bangladesh, together with strong advocacy efforts for the inclusion of migrant workers in the Social Safety Net Program and to prevent discrimination and exploitation faced by migrant workers. At the regional level, organisations have been lobbying for the creation of a standard contract for migrant workers, which includes the provisions of wage protection and social protection.¹²⁴ **In Nepal**, labour attachés

are deployed in all diplomatic missions in countries with more than 5,000 Nepali migrant workers. Labour attachés are responsible for solving labour-related issues, coordinating with employers for grievance handling and supporting Nepali migrant workers. The diplomatic missions, through their standard working procedures, disseminate information related to the rights and responsibilities of migrant workers, health and safety issues and available support mechanisms.¹²⁵ The GoN has also prepared a separate directive—*Directive for the Legal Defense of Nepali workers in Foreign Employment, 2019 (2075 B.S.)*—to offer proper instructions to the FEB on using the Foreign Employment Welfare Fund for providing legal assistance to Nepali migrant workers.¹²⁶ Also, various internal human rights and labour rights related instruments as well as BLAs signed with CoDs prohibit withholding or confiscation of migrant workers' documents.¹²⁷

In Pakistan, several mechanisms to facilitate access to justice for Pakistani migrant workers, both in Pakistan and abroad, have been initiated, including several digital platforms. Pakistan has established an online complaint mechanism for migrant workers.¹²⁸ The Government had launched a new online complaint management system for its citizens working overseas in 2016 with the aim to reduce the barriers faced by workers subjected to employment related exploitation in accessing grievance mechanisms.¹²⁹

121 Migrant Forum Asia, *Challenges on Access to Justice for Migrants* (Quezon City: Migrant Forum Asia, n.d.), National Human Rights Commission, *Research-Report on the Situation of the Rights of Migrant Workers: Recruitment Practices and Access to Justice of Migrant Workers* (Kathmandu: National Human Rights Commission, 2019).

122 Migrant Forum Asia, *Challenges on Access to Justice for Migrants* (Maynila: Migrant Forum Asia, n.d.), https://mfasia.org/migrantforumasia/wp-content/uploads/2018/05/Access-to-justice-is_MFA.pdf

123 Jeevan Baniya, Sadikshya Bhattarai, Binay Jung Thapa and Vibhav Pradhan, *COVID-19 and Nepali Labour Migrants: Impact and Responses* (Kathmandu: Centre for the Study of Labour and Mobility, 2020); Rameshwar Nepal, Jeevan Baniya and Kamal Thapa Kshetri, *Covid-19 Mahamariko Chapetama Nepali Aaprabasi Shramikko Adhikaar: Drut Adhayan Pratibedan (Rights of Nepali Migrant Workers in the Clutches of the COVID-19 Pandemic: Rapid Assessment Report)* (Kathmandu: National Human Rights Commission, 2020).

124 Migrant Forum in Asia, *Crying Out for Justice: Wage*

Theft Against Migrant Workers during COVID-19 (Maynila: Migrant Forum in Asia, 2021).

125 MoLESS, *Voluntary GCM Review Survey Report*.

126 Ministry of Labour, Employment and Social Security, *Directive for the Legal Defence of Nepali workers in Foreign Employment, 2019 (2075 B.S.)* (Kathmandu: Government of Nepal, 2019).

127 UN General Assembly, 'International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,' United Nations Treaty Collection, accessed 29 August 2021; Migration for Employment Convention (Revised), 1949 (No. 97) and Recommendation (Revised) 1949, (No. 86) Protection of Migrant Workers (Underdeveloped Countries) Recommendation, 1955 (No. 100) Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the Migrant Workers Recommendation, 1975 (No. 151); The ILO Declaration on Fundamental Principles and Rights at Work.

128 UNESCAP, *Asia-Pacific Regional Review of Implementation of the Global Compact*, 19.

129 ILO, 'A Better Way for Pakistani Migrant Workers to Combat Exploitation,' *ILO*, 10 February 2016, <https://www.ilo.org>.

In 2018, the Prime Minister launched the app ‘Pakistan Citizens’ Portal’ to register and address grievances, and in 2019 the Ministry of Overseas Pakistanis and Human Resource Development (MOP&HRD) launched the ‘Call Sarzameen’ app/website to register and track complaints filed by overseas Pakistanis. Also, the Punjab Information Technology Board and the Overseas Pakistanis Commission facilitate the ‘Overseas Pakistani’s Complaint Portal’.¹³⁰ Migrant workers can also file complaints related to Overseas Employment Promoters and recruitment agency practices at the seven Protectorate of Emigrants. A Grievance Commissioner Cell for Overseas Pakistanis was established by the Federal Ombudsman to facilitate remittance-related complaints. The Federal Investigation Agency also plays a role, including through dedicated hotlines to receive complaints.¹³¹ Community Welfare Attachés (CWAs) based in 15 Pakistani missions abroad are responsible for ensuring the safety and protection of workers, dispute resolution and intermediation services when migrant workers file complaints against their employers, and gathering information on jobs and in-demand skills in receiving countries.¹³² The CWAs are provided with data of outgoing emigrants in order to provide support to migrant workers in CoDs.¹³³

In Sri Lanka, the Sri Lanka Bureau of Foreign Employment (SLBFE) has introduced an online mechanism to receive complaints or grievances of migrant workers that are related to COVID-19 issues. The complaint facility allows migrant workers to file complaints remotely and the complainants receive updates on the status of their complaint through phone or SMS. During the pandemic, the SLBFE also made arrangements in coordination with diplomatic missions abroad to provide dry rations, basic medical facilities and

temporary accommodation to Sri Lankan workers affected by COVID-19.¹³⁴ The Foreign Ministry also operated ‘Contact Sri Lanka’, a web portal, that served as a virtual help desk to assist overseas Sri Lankans with repatriation and consular issues. Likewise, Sri Lanka has criminalized trafficking in persons and is implementing a five-year national action plan to prevent and combat human trafficking through its National Anti-Human Trafficking Task Force. However, there is a need to increase publicly available and up-to-date information on legal migration processes and government-funded services available to immigrants and emigrants to promote safe and orderly migration.¹³⁵

Further, there exists inadequate access to justice for migrants in distress; lack of social protection, particularly to low-skilled migrants and female domestic workers; and continued discrimination in access to basic services throughout the migration cycle.¹³⁶ Access to justice for migrant workers is still a challenge in Bangladesh. Migrant workers face numerous problems in the form of unethical recruitment and unregulated *dalals*.¹³⁷ There is also a lack of a dedicated arbitral tribunal in Bangladesh. Furthermore, the pandemic exposed and exacerbated the exploitation of migrant workers, as evident from the widespread occurrence of the non-or underpayment of wages for work.¹³⁸ While the missions of some South Asian countries, such as Nepal, recorded instances of wage theft, and are now in the process of reclaiming workers’

[org/global/about-the-ilo/newsroom/news/WCMS_450057/lang-en/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_450057/lang-en/index.htm).

130 ILO, Fair Recruitment Country Brief: Pakistan (Geneva: ILO, 2020), https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_741045.pdf

131 Ibid.

132 Ibid.

133 UNESCAP, *Pakistan Voluntary Review of GCM*.

134 Rasika Somarathna, ‘Online Mechanism for Migrant Workers’ Complaints,’ *Daily News*, 5 January 2021, <https://www.dailynews.lk/2021/01/05/local/237935/online-mechanism-migrant-workers%E2%80%99-complaints>.

135 IOM, *Migration Governance Snapshot*.

136 ILO, *Extending Social Protection to Migrant Workers, Refugees and Their Families: A Guide for Policymakers and Practitioners* (Geneva: International Labour Organization, 2021), https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_826684.pdf

137 Rejimon Kuttappan, ‘Access to Justice is Still a Challenge for Bangladeshi Migrant Women,’ *Migrant Forum In Asia*, n.d., <https://mfasia.org/access-to-justice-is-still-a-challenge-for-bangladeshi-migrant-women/>

138 Laura Foley and Nicola Piper, ‘Returning Home Empty Handed: Examining how COVID-19 Exacerbates the Non-payment of Temporary Migrant Workers’ Wages,’ *Global Social Policy* 21, No. 3 (2021):468-489. 10.1177/14680181211012958.

stolen wages, some countries failed to do so. For example, in India, following the outbreak of the COVID-19 pandemic, migrant workers returned from West Asia in large numbers, but the Indian missions in these countries failed to record cases of wage theft. The returning workers weren't asked whether there were any wages or end of service payments yet to be cleared.¹³⁹

Governments of South Asian countries have been taking measures to facilitate migrant workers to make wage claims in situations where their employers withheld their wages. In Nepal, for example, migrant workers can make claims at decentralized locations¹⁴⁰ at the district level for filing and mediation of claims, closer to their places of residence.¹⁴¹ In India, especially during COVID-19, consulate labour attachés have sought to obtain Power of Attorney from departing migrant workers to enable the consulate or embassy to continue to pursue wage claims on their behalf even after the workers have left. Migrant rights defenders have noted that India has done this particularly well, using embassies' panel of lawyers on retainer to pursue wage claims.¹⁴² Similarly, the government of Bangladesh is collaborating with the governments of France, the Philippines, India and Saudi Arabia to establish a joint process for addressing wage claims and repatriating migrant workers, with wage payments funded by the Saudi Government.¹⁴³

However, studies have shown that government

139 Rejimon Kuttappan, 'Wage Theft is a Violation of Human Rights Violation, Affects India's Economy,' *Money Control*, 18 April 2022, https://www.moneycontrol.com/news/opinion/wage-theft-is-a-human-rights-violation-affects-indias-economy-8373901.html?s=04&fbclid=IwAR1xP1KkJFQsL-9MaTEWskpB8XQKyYEXN2PEQXSty_UeQW-KwF9qcVEX-WJrk.

140 Previously, returned migrant workers were required to travel to Kathmandu to pursue claims against recruiters. Following law reforms in 2019, the District Administration Office can receive complaints against institutions at a district level, and Chief District Officers can mediate grievance cases against individual agents.

141 Bassina Farbenblum and Laurie Berg, *Migrant Workers' Access to Justice for Wage Theft: A Global Study of Promising Initiatives* (Sydney: Migrant Justice Institute, 2021). <https://static1.squarespace.com/static/593f6d9fe4fcb5c458624206/t/61adba9108bec25ce355c6e4/1638775475553/Farbenblum+Berg+2021+MWA2J+with+hyperlinks.pdf>

142 Farbenblum and Berg, *Migrant Workers' Access to Justice for Wage Theft*.

143 Ibid.

response to migrant workers' wage theft has not been satisfactory. While the underpayment of migrant workers' wages became more pervasive during the COVID-19 pandemic, government agencies (in South Asia) were slow to respond and lacked adequate resources to investigate claims.¹⁴⁴ Migrant workers who have been victims of wage theft are highly unlikely to recover their wages as a) migrant workers may refrain from filing claims of wage theft out of fear of deportation, job loss or other forms of retaliation, b) they may not be able to seek legal service to try their cases in court and c) many workers who obtain successful rulings never actually receive their wages because employers frequently liquidate, disappear or simply refuse to pay.¹⁴⁵ Reports have shown that the process of adjudicating wage claims is inaccessible, slow and ineffective, and often carried out through unfair mediation.¹⁴⁶ Hence, in the forthcoming GCM implementation period, governments of South Asian countries must push for professionalised dispute resolution services, ensure workers' legal representation, facilitate the development of technological systems that require employers to transfer wages electronically thus helping identify and generate evidence of wage theft.¹⁴⁷

Millions of migrants from South Asian countries experienced job losses, rampant wage theft, restricted or lack of access to health-care services and other basic services during the COVID-19 pandemic. In fact, the pandemic perpetuated pre-existing challenges and vulnerabilities of migrant workers, particularly the poor migrant workers and their families. Most of them were repatriated to situations of debt bondage. CoDs have been turning a blind eye to issues of wage theft and violations of migrant

144 Laurie Berg and Bassina Farbenblum, 'Ending Impunity for Wage Theft Against Migrant Workers: Here's How,' *Institute for Human Rights and Business*, 9 December 2021, <https://www.ihrb.org/focus-areas/migrant-workers/ending-impunity-for-wage-theft-against-migrant-workers-heres-how#:~:text=is%20not%20inevitable.,Wage%20theft%20has%20long%20been%20part%20of%20the%20labour%20migration,without%20payment%20of%20their%20wages>.

145 Farbenblum and Berg, *Migrant Workers' Access to Justice for Wage Theft*.

146 Ibid.

147 Ibid.

workers' rights. Not only the governments of destination countries, but also the South Asian countries themselves, have not taken active action against wage theft and exploitation of migrant workers. Such a situation has exposed the failure of existing migration governance frameworks and practices.

4.4 FAIR AND ETHICAL RECRUITMENT

States have committed to guarantee fair and ethical recruitment and to protect all migrant workers against all forms of exploitation and abuse to guarantee decent work and maximise the socio-economic contribution of migrants in both countries of origin and destination. In this regard, the GCM makes a clear recommendation to promote signature, ratification, accession and implementation of relevant international instruments related to international labour migration, labour rights, decent work and forced labour.¹⁴⁸ Furthermore, the GCM calls for the dissemination of timely and accurate information for ensuring that migrants do not face hurdles during their migration journey. Also, the ILO General Principles and Operational Guidelines (GPOG) for Fair Recruitment stipulates that worker should not bear or be charged with any recruitment fees or related costs. However, migrant workers in some migration corridors between South-Asia and the Middle East are paying an average of 10 and a maximum of nearly 18 months of wages in recruitment fees and related costs.¹⁴⁹

A majority of migrant workers in South Asia migrate abroad through profit-seeking recruitment agencies that function through a large network of intermediaries. In South Asia, aspiring migrant workers rely on individual (friends and relatives), brokers/sub-agents and private recruitment agencies to get preliminary information about jobs in demand abroad.¹⁵⁰

148 'Global Compact for Migration,' International Organization for Migration, accessed 7 May 2022, <https://www.iom.int/global-compact-migration>.

149 Jamil Mahmud, 'International Migrants Day: Migration Cost High, Pay Low,' *The Daily Star*, 18 December 2021, <https://www.thedailystar.net/nrb/migration/news/international-migrants-day-migration-cost-high-pay-low-2919821>

150 Amnesty International, *Turning People into Profits*:

Since the recruitment agencies charge hefty fees for their service, migrants use various sources such as savings; money gained from land, house or other valuable items like jewellery; and loans to finance their recruitment and other related costs. Most migrant workers are often forced to take large sums of money as loan to pay the high recruitment fees and associated costs which results in them being indebted.¹⁵¹ High recruitment cost and indebtedness during migration increases their vulnerabilities thus increasing the likelihood of being trapped in forced labour situations in CoDs. Additionally, indebtedness can also lead to adverse social, emotional, and psychological impacts on migrants and their families.¹⁵² Also, private recruiters are associated with exploitative practices such as making 'false promises' about the expected salary in CoDs, and retention of passports or work permits to restrict the movement of migrant workers.¹⁵³

Labour migration in Bangladesh is governed by the Overseas Employment and Migrants Act, 2013 which covers various aspects of the labour migration process from recruitment to return. In addition, Bangladesh has ratified various international instruments such as the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990), and the core ILO conventions. However, Bangladesh has not ratified

Abusive Recruitment, Trafficking and Forced Labour of Nepali Migrant Workers (London: Amnesty International, 2017).

151 International Labour Organisation, *Promoting Informed Policy Dialogue on Migration, Remittance and Development in Nepal* (Kathmandu: ILO, 2016); Bandita Sijapati, Ang Sanu Lama, Jeevan Baniya, Jacob Rinck, Kalpana Jha & Amrita Gurung, *Labour Migration and the Remittance Economy: The Socio-Political Impact* (Kathmandu: Centre for the Study of Labour and Mobility, 2017). ceslam.org/our-publications/the-socio-political-impact

152 Amnesty International, *Turning People into Profits*; IOM, *Sub-Regional Study on the Debt of Migrants Assisted with Voluntary Return and Its Impact on The Sustainability of Reintegration in Countries of Origin: A Study Conducted in Côte d'Ivoire, Burkina Faso, Mali, The Gambia, Senegal, and Guinea under the Coordination of IOM Regional Office in Dakar* (Dakar: IOM, 2021).

153 ILO, *Training Toolkit on Establishing Fair Recruitment Processes – Module 4: Monitoring and Enforcement of Recruitment Regulations* (Geneva: ILO, 2018). ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/instructionalmaterial/wcms_682746.pdf

the ILO Convention Concerning Decent Work for Domestic Workers, 2011. In the current GCM review period, new laws and reforms have been introduced for the protection of migrant workers in Bangladesh. Bangladesh enacted the Wage Earners' Welfare Board Act 2018 and issued the 'Overseas Employment and Migrants (Recruiting Agency Classification) Rules 2020'. The latter classifies agencies into four categories based on performance as anticipated in the 2013 Overseas Employment and Migrants Act.¹⁵⁴ Bangladesh acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol) in 2020.¹⁵⁵ As of 2019, Bangladesh has signed two bilateral agreements with Qatar and Kuwait, and Memorandums of Understanding (MoUs) with Cambodia, Bahrain, Brunei, China, Hong Kong SAR, Iraq, Jordan, Libya, the Maldives, Malaysia, Oman, Saudi Arabia, the Seychelles, Singapore, the Republic of Korea and the United Arab Emirates. Additionally, a Memorandum of Cooperation was signed with Japan in 2018.¹⁵⁶

The Government of Bangladesh recently enacted two rules concerning recruitment—the 'Recruitment Agent License and Conduct Rules 2019', and the 'Recruitment Agents Classification Rules 2020'.¹⁵⁷ However, Bangladesh has struggled to achieve the standards of fair and ethical recruitment because of challenges prevalent in the regulation of recruitment agencies. For example, in early 2015, Bangladeshi workers were being sent to Malaysia under a G2G plus model wherein only ten recruitment agencies were allowed to send workers to Malaysia.¹⁵⁸ The Government of Bangladesh had set the migration cost at BDT 40,000 (ca USD 450), but the recruitment agencies managed to increase it to BDT 400,000 (ca USD

4,500), and in the process, many aspirant migrants fell victim to abuse and trafficking. This resulted in the suspension of labour migration from Bangladeshi to Malaysia in September 2018 (this was eventually reopened in 2021 after repeated requests from the Bangladesh government to the Malaysian government to reopen the labour market for Bangladeshi migrants). The Malaysian government has, however, allowed only 25 recruitment agencies from Bangladesh to send workers to Malaysia to allow for better monitoring and accountability of recruitment agencies, a decision opposed by the Bangladeshi government.¹⁵⁹ In addition, Bangladesh is reported to have one of the highest recruitment costs in the South Asian region.¹⁶⁰ Bangladeshi workers were paying USD 1,675 to USD 5,150 as recruitment fees in 2017 while the average cost of recruitment for a Bangladeshi migrant worker stood at BDT 4.17 *lakh* (ca USD 4,700) in the period from 2015 to 2018.¹⁶¹ According to the Cost of Migration Survey – 2020 of Migration Bureau of Statistics, Bangladeshi workers need nearly 18 months on average to recover the money they pay for migration.¹⁶² Also, the Government of Bangladesh has increased the recruitment fees to BDT 1.2 *lakhs* (ca USD 1,300).¹⁶³ On a positive note, the Government of Bangladesh has established 42 District Employment and Manpower Office (DEMO) and is planning to establish such offices in 22 more districts for ensuring decentralization of the migration process.¹⁶⁴

The Career Services Office (CSO) BRAC in Bangladesh, provides information on safe

154 UN, *Asia-Pacific Migration Report 2020*, 79-80.

155 UN, *Asia-Pacific Migration Report 2020*, 104.

156 Government of Bangladesh, Draft National Action Plan 2021-2025 (Dhaka: Government of Bangladesh, 2021).

157 Ibid.

158 Rashad Ahamad, 'Migration to Malaysia Job Market Still in Limbo,' *New Age*, 17 April 2022, <https://www.newagebd.net/article/168278/migration-to-malaysia-job-market-still-in-limbo?fbclid=IwAR0-Cskwz-fg90XfmETenlQRjPwQiUogjKd0dv1IH50E6KJes9Vq41OGNGc>.

159 Ibid.

160 Interview with a key informant from Bangladesh, April 16, 2022

161 David Segall and Sarah Labowitz, *Making Workers Pay: Recruitment of the Migrant Labour Force in the Gulf Construction Industry* (New York: NYU Stern School of Business, 2017); Bangladesh Bureau of Statistics, *Cost of Migration Survey 2020* (Dhaka: ILO, 2021), https://www.ilo.org/dhaka/Whatwedo/Publications/WCMS_766198/lang-en/index.htm

162 Jamil Mahmud, 'International Migrants Day: Migration Cost High, Pay Low,' *The Daily Star*, 17 April 2022, <https://www.thedailystar.net/nrb/migration/news/international-migrants-day-migration-cost-high-pay-low-2919821>.

163 Interview with a key informant from Bangladesh, April 16, 2022

164 Ministry of Expatriates' Welfare & Overseas Employment, *Voluntary GCM Review Survey Report*.

migration to potential migrant workers to ensure they know their rights and how to exercise them. It works with Bangladeshi embassies abroad to support migrants and provides information to migrant workers' families on the utilization of remittances.

In India, the Emigration Act, 1983 prevents recruiting agencies from charging more than the prescribed fee from the emigrants.¹⁶⁵ India is currently in the process of drafting a new Emigration Bill to replace the Emigration Act of 1983.¹⁶⁶ The proposed Emigration Bill, 2021 is expected to provide an opportunity to introduce a long-awaited reform in the recruitment process for nationals seeking employment outside India.¹⁶⁷ The Bill has introduced the provision of establishing a Emigrants' Welfare Committee to oversee, review, direct, aid, and address the grievances of Indian emigrants. Also, the Bill has proposed to establish help desks in India and abroad and a three-tier institutional framework.¹⁶⁸ Furthermore, the Employment (Amendment) Rules 2009, Section 13, states that, 'No recruiting agent shall collect from the worker the charges more than the equivalent of his wages for 45 days as offered under the employment contract, subject to a maximum of 20,000 rupees, in respect of services provided by it to that worker and the recruiting agent shall issue a receipt to that worker of the amount collected by it in this regard'. This law, thereby, demonstrates some important concepts related to recruitment fees: a maximum limit, a limit related to the worker's anticipated salary, and the need for workers to be provided with receipts.¹⁶⁹ In view of the

exploitative employment practices in the United Arab Emirates (UAE), increasing cases of hiring Indian nationals with tourist visas and increased complaints of visa frauds; fraudulent practices on the part of recruitment agencies; trafficking of women; mental harassment of Indian nationals in the workplace; and non-payment of salaries, the State of Kerala, in 2019, established an immigration investigation unit within the crime branch to curb the overseas fraud cases.¹⁷⁰

In Nepal, as most recruitment agents are in the capital—Kathmandu—and in bigger cities, aspiring migrant workers depend on intermediaries including brokers, friends and relatives for information on overseas jobs. Private recruitment agencies also depend on sub-agents to reach potential clients in remote places. However, Nepali migrant workers pay recruitment agencies fees that far exceed the legal limit prescribed by the government.¹⁷¹ Studies have shown that recruitment agencies charge Nepali workers more than ten times the maximum recruitment cost legally permitted by the government for the GCC countries and Malaysia (NPR 10,000 or ca USD 82) and provide migrant workers with receipts for just the amount equivalent to the government prescribed fees.¹⁷² The Department of Foreign Employment (DoFE) works towards regulating recruitment agencies in Nepal. However, the Department has not been effective in the monitoring and supervision of recruitment agencies.¹⁷³ The government introduced the 'free-visa, free-ticket' policy in 2015 to regulate unscrupulous recruitment agencies and to curb the charging of exorbitant recruitment fees and associated costs for the GCC countries and

165 Government of India (GoI), *The Emigration Act, 1983* (New Delhi: GoI, 1983). indiacode.nic.in/bitstream/123456789/1779/1/198331.pdf

166 Ministry of Labour and Employment (MLE), *Annual Report 2020-21* (New Delhi: GoI, 2021). labour.gov.in/sites/default/files/Annual_Report_202021_English.pdf

167 Shilpa Patil, 'Critical Analysis of the Emigration Bill 2021', *Pleaders*, 5 November 2021, blog.ipleaders.in/critical-analysis-of-the-emigration-bill-2021/.

168 GoI, *The Emigration Bill, 2021* (New Delhi: GoI, 2021). mea.gov.in/Images/amb1/Emigration-Bill-2021.pdf

169 United Nations Office of Drugs and Crime (UNODC), *The Role of Recruitment Fees and Abusive and Fraudulent Practices of Recruitment Agencies in Trafficking in Persons* (Kathmandu: UNODC, 2015). unodc.org/documents/human-

trafficking/2015/Recruitment_Fees_Report-Final-22_June_2015_AG_Final.pdf

170 K P Sai Kiran, 'New Team to Deal with Overseas Job Fraud Cases in Kerala', *The Times of India*, 14 September 2019, Timesofindia.indiatimes.com/city/thiruvananthapuram/new-team-to-deal-with-overseas-job-fraud-cases/articleshow/71119158.cms.

171 UNODC, *The Role of Recruitment Fees and Abusive and Fraudulent Practices*; Amnesty International, *Turning People into Profits*.

172 International Labour Organisation, *Promoting Informed Policy Dialogue on Migration, Remittance and Development in Nepal* (Kathmandu: ILO, 2016).

173 Ibid.

Malaysia, in line with GCM objective 6.¹⁷⁴ This policy marked a step taken by Nepal towards implementing the ‘Employer Pays’ Principle.¹⁷⁵

The Government of Nepal has also signed BLAs and MoUs/ MoCs with the governments of some of the major CoDs including Jordan, the UAE, Mauritius and Malaysia that obligate employers to pay for the recruitment fees, airfare and other migration-related costs of Nepali migrant workers. Some of the principles enshrined in the BLAs/ MoUs are the Employer Pays Principle, Standard Employment Contracts, Equality of Treatment, and minimum referral wages for Nepali migrant workers.¹⁷⁶ Furthermore, the Nepali government has banned private recruitment agencies from using informal agents for recruiting migrant workers. Similarly, to eliminate the risks in the recruitment process of Nepali migrant workers, the government has initiated the requirement for mandatory attestation of the job demands by Nepali diplomatic missions abroad prior to approving labour permits.¹⁷⁷ DoFE has operationalised a comprehensive information system—the Foreign Employment Management Information System (FEMIS)—that is linked with all the stakeholders engaged in the process of recruitment and placement of the migrant workers seeking foreign employment. Also, different trade unions and CSOs are working to promote fair and ethical recruitment in Nepal.

The Government of Nepal has also undertaken legal and regulatory changes to ensure fair and ethical recruitment in the review period. It ratified the Palermo Protocol in March 2020. The Ministry of Home Affairs and the Ministry of Women, Children and Senior Citizens are taking necessary measures to amend the Human Trafficking and Transportation (Control) Act, 2007 to ensure alignment with the Protocol.¹⁷⁸ The 2007 Foreign Employment Act and the 2008

Foreign Employment Rules were amended in 2019. Major changes relate to the decentralization of the foreign employment administration, the regulation of recruitment agencies and subagents, and the protection of migrant workers.¹⁷⁹ Pilot testing of the International Recruitment Integrity System was carried out in Nepal and the Philippines; certification was then launched in selected countries in December 2018 and is being extended to other countries.¹⁸⁰ On the regional front, the Migrant Recruitment Advisor web platform (Recruitment Advisor, 2020) was developed by the International Trade Union Confederation, with support from the ILO Fair Recruitment Initiative, to provide peer-to-peer reviews about recruitment agencies and help protect migrant workers from abusive employment practices. The Migrant Recruitment Advisor currently has coordination teams in five countries (Indonesia, Malaysia, Nepal, the Philippines and Sri Lanka).¹⁸¹

In Nepal, the establishment of Migrant Resource Centre (MRC) in selected locations has created an atmosphere in which potential migrant workers can get advice and support in seeking decent work overseas. The creation of Employment Service Centres (ESCs) in all local government units in Nepal further supports both potential migrant workers and returnees in accessing advice and information about local employment opportunities. Initiatives such as these have helped migrant workers make informed decisions about foreign employment.¹⁸² The PDOT also disseminates information related to foreign employment to aspirant migrant workers.

In Pakistan, the recruitment industry has grown in recent years and, as of 2019, comprised approximately 2,062 licensed OEPs and one public agency—the Overseas Employment Corporation (OEC).¹⁸³ A large network of informal/unlicensed

174 Bandita Sijapati, Mohd Ayub and Himalaya Kharel, ‘Making Migration Free: An analysis of Nepal’s ‘free-visa, free-ticket’ scheme’, in S. Irudaya Rajan (ed), *South Asia Migration Report 2017: Recruitment, Remittances and Reintegration* (Oxon and New York: Routledge, 2017).

175 MoLESS, *Voluntary GCM Review Survey Report*.

176 Ibid.

177 Ibid.

178 Ibid.

179 UN, *Asia-Pacific Migration Report 2020*.

180 Ibid.

181 UN, *Asia-Pacific Migration Report 2020*.

182 MoLESS, *Voluntary GCM Review Survey Report*.

183 ILO, Fair Recruitment Country Brief: Pakistan (Geneva: ILO, 2020), https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_741045.pdf

intermediaries also operate in this space and both OEPs and migrant workers rely on them to further facilitate the recruitment process. These subagents have been charging excessive fees to migrant workers, failing to provide accurate information about their working conditions, and sometimes pushing migrant workers into irregular migration channels.¹⁸⁴ Although Pakistan has not signed any of the conventions related to labour migration, it has entered into a number of BLAs to regulate the migration of workers from Pakistan.¹⁸⁵ Most recently, the Government of Pakistan has signed BLAs on labour migration with the UAE and Japan, and is making efforts for signing similar agreements with other countries.¹⁸⁶ In the review period, Pakistan has taken various initiatives to improve labour migration governance in the country. The most notable initiative taken by Pakistan to curb abusive and fraudulent recruitment practices was associated with the digitisation of aspirant migrants' details. Pakistan implemented a project titled 'Registration of Intending Emigrants Via Biometric System Linked with NADRA' in all seven Protectorate offices working under Bureau of Emigration and Overseas Employment (BE&OE) to digitize the registration process, improve efficiency and curb malpractices. This has enabled mandatory presence of all prospective migrant workers at the Protectorate office for Pre-Departure Briefing and registration of Foreign Service Agreement.¹⁸⁷

In addition, Pakistan has also been implementing the REFAME project that seeks to work in partnership with ILO constituents in Pakistan to address the challenges related to the recruitment of migrant workers in line with the ILO's General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs.¹⁸⁸ Legal and

regulatory provisions have been put in place to curb unscrupulous activities of recruitment agencies in Pakistan. In terms of limiting migration costs, existing laws and rules provide clear guidelines to be followed by recruitment agencies, i.e., OEPs. Under the current provisions, the Emigration Rules (Clause 15-A) prohibit OEPs from charging fees beyond the actual expenses incurred for air tickets, medical exams, work permits, levies, visas, and documentation along with a service fee capped at PKR 6000 (ca USD 32).¹⁸⁹ However, some studies have revealed that migrant workers usually pay higher than the prescribed fees to expedite the migration process.¹⁹⁰

Furthermore, Pakistan started uploading a list of verified foreign jobs on the Bureau of Emigration and Overseas Employment (BE&OE) website.¹⁹¹ More recently, Pakistan has launched an online foreign jobs portal to help aspirant job seekers search for details of overseas jobs opportunities with Licensed OEPs and curb the role of mafias who were perceived to 'loot' innocent youths in the name of providing jobs in foreign countries.¹⁹²

Pakistan developed the first National Emigration and Welfare Policy for Overseas Pakistanis in 2020. The overall goal of the policy is to make emigration from Pakistan safe, orderly and regular; ensure the protection and welfare of emigrant workers and their families; engage the Pakistani diaspora; and facilitate the reintegration of returning migrants. Among the many specific objectives of this policy, it was intended to make the recruitment process for overseas employment fair and equitable and foster greater collaboration on migration among Pakistan's institutions dealing with migration-related issues.¹⁹³ The BE&OE has

184 Ibid.

185 'Situation Report: International Migration in South and South-West Asia,' UNESCAP, accessed 7 May 2022, <https://sitreport.unescapsdd.org/pakistan/bilateral-agreements-protection-migrant-workers-and-status-ratification-key-international>.

186 UNESCAP, *Asia-Pacific Regional Review of Implementation of the Global Compact*.

187 UNESCAP, *Pakistan Voluntary Review of GCM*.

188 ILO, Fair Recruitment Country Brief: Pakistan (Geneva: ILO, 2020), <https://www.ilo.org/wcmsp5/groups/public/--->

[ed_protect/---protrav/---migrant/documents/publication/wcms_741045.pdf](https://www.ilo.org/wcmsp5/groups/public/---protrav/---migrant/documents/publication/wcms_741045.pdf)

189 Bureau of Emigration and Overseas Employment, *Emigration Rules, 1979 [Updated 2021]* (Islamabad: Government of Pakistan, 1979), beoe.gov.pk/files/legal-framework/rules.pdf

190 World Bank, *A Migrant's Journey for Better Opportunities*.

191 UNESCAP, *Pakistan Voluntary Review of GCM*.

192 Business Recorder, 'BEOE Launches Online Foreign Jobs Portal,' *Business Recorder*, 14 January 2022, [brecorder.com/news/40147051/beoe-launches-online-foreign-jobs-portal](https://www.brecorder.com/news/40147051/beoe-launches-online-foreign-jobs-portal).

193 UNESCAP, *Asia-Pacific Regional Review of Implementation of the Global Compact*.

regularly made amendments to the Emigration Ordinance and accompanying Rules, to make them compatible with the changing context, with the most recent changes made in 2019.¹⁹⁴

In Pakistan, a Migrant Resource Centre (MRC) was set up in 2016 for the welfare of migrant workers. The MRC operates to provide potential and outgoing migrants with information and counselling in various areas, such as overseas employment, rights and protection of migrants, access to education systems in the CODs, and skills development and vocational training programmes in Pakistan. The counsellors at the MRC in Pakistan work to increase aspirant migrant workers' awareness on the benefits of safe and regular migration and the dangers and consequences of irregular migration.¹⁹⁵ Likewise, the BE&OE in Pakistan implemented an awareness campaign through electronic, print and social media to educate aspirant migrants about safe, orderly and regular migration processes. It has also established window facilitation desks in Protectorate Offices and all international airports of the country to provide access to basic services.¹⁹⁶

Sri Lanka has entered into multiple formal and semi-formal agreements with CoDs for the benefit of its migrant workers. The formal BLAs signed with Italy and Qatar, and MoUs signed with the Republic of Korea, Malaysia, the United Arab Emirates, Libya, Jordan and Bahrain all aim to better regulate the recruitment processes and procedures for migrant workers in these CoDs. Similarly, the MoU between Sri Lanka and Australia aims to prevent and combat the smuggling of migrants. Following the adoption of the GCM, a consultation held in Sri-Lanka in 2019¹⁹⁷ identified gaps in the foreign employment process such as sub-agents engaged in forging documents and the lack of

standardised employment contracts enforced by the government. During the consultation, representatives of CSOs emphasized on the need to raise awareness on regular and ethical recruitment among agents and sub agents and encourage them provide a proper legal employment contract in the native language of the migrant workers. Continued exploitation of migrant workers including charging of excessive recruitment fees; the prevalence of corruption in the recruitment sector due to insufficient prosecution; lack of penalisation of recruitment agents; and lack of strong regulation were also identified as major challenges.¹⁹⁸ Sri Lanka's Bureau of Foreign Employment has developed measures to promote the ethical recruitment of its nationals at the pre-departure stage. These measures include publishing the Code of Ethical Conduct for Licensed Foreign Employment Recruitment Agencies and the Operational Manual for Labour Sections of Sri Lankan Diplomatic Missions in Destination Countries, which covers handling migrant workers' grievances and repatriation procedures.

Sri Lanka is also an active member of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (the Bali Process).¹⁹⁹ In addition, the Migrant Recruitment Advisor platform allows workers to comment on their experiences, rate recruitment agencies and learn about their rights. Initially available in English, Indonesian, Nepali and Tagalog, it will be made available in more languages.²⁰⁰

Studies have revealed that countries in the South Asian region still face challenges in the implementation of fair and ethical recruitment. In Nepal, for example, unethical recruitment practices and widespread deception and extortion by PRAs has made Nepali migrant workers vulnerable to human and labour rights violations.²⁰¹ In Bangladesh, local brokers/agents

194 ILO, *Review of Law, Policy and Practice of Recruitment*.

195 'Introduction,' Migrant Resource Centre (Migrant Resource Centre), accessed 28 March 2022, <https://www.mrc.org.pk/en/about/migrant-resource-centre>.

196 UNESCAP, *Pakistan Voluntary Review of GCM*.

197 Voice Of Migrant Workers (VoMW), National consultation on the Global Compact for Safe, Orderly and Regular Migration (GCM): Process and Progress in Sri Lanka (2019).

198 Asanga Niles Fernando and Alison Lodermeier, 'Understanding Adverse Outcomes in Gulf Migration: Evidence from Administrative Data from Sri Lanka,' *International Migration Review* 56, No. 1 (2022): 155-75. [10.1177/01979183211025493](https://doi.org/10.1177/01979183211025493)

199 IOM, *Migration Governance Snapshot*.

200 UN, *Asia-Pacific Migration Report 2020*.

201 Jeevan Baniya and Sadikshya Bhattarai, *Analysis of*

remain important actors in labour migration as they are responsible for connecting migrants and recruitment agencies. However, they generally escape the monitoring system and law enforcement, and evade ethical recruitment practices as a result of which thousands of migrant workers experience exploitation.²⁰² Likewise, Bangladesh has also seen a rise in the cases of exploitation of aspirant migrant women workers in the review period.²⁰³

Similarly, despite the efforts of the governments in ensuring dissemination of accurate information related to migration, challenges continue to persist. This is evidenced by the limited capability of governments and regulators to tackle misinformation as well as migrant workers' lack of access to authentic information throughout the COVID-19 pandemic in relation to their health, employment, travel and access to justice, among others. Government efforts in this regard have been criticized on various grounds. For example, in Nepal, the PDOT centres have been criticized with regard to their accessibility as most are located in the Kathmandu valley or in major cities and have been accused of issuing fake certificates without conducting mandatory orientation training programmes.²⁰⁴ Also, the orientation training provided to prospective migrants has been found to be inadequate in many respects as many migrant workers do not receive any information on working hours; overtime hours and pay; rights and responsibilities of migrants in the destination country; fines for early termination of contract; or vacation and leave.²⁰⁵ The role of diplomatic missions in disseminating information to their nationals in the CoDs is crucial during crisis

Recruitment Reviews from Migrant Workers (Kathmandu: GEFONT, Forthcoming). <https://www.recruitmentadvisor.org/sites/default/files/inline-files/Recruitment%20Reviews%20%20Final.pdf>.

202 Aminul Haque Tushar, 'Fair and Ethical Recruitment of Migrant Workers and Bangladesh's Progress,' *Daily Observer*, 20 April 2021, <https://www.observerbd.com/news.php?id=309055>.

203 Ibid.

204 Asis M and Agunias D. 'Strengthening Pre-departure Orientation Programmes in Indonesia, Nepal and the Philippines,' *Migration Policy Institute Issue Brief* 5 (2012):1–11.

205 Joelle Mak, Ligia Kiss and Cathy Zimmerman, *Pathways to Prevent Labour Exploitation in Nepal: Do Pre-migration Interventions Work?* (London: SWiFT Research and London School of Hygiene and Tropical Medicine, 2019).

situations. However, the role of embassies was not found to be satisfactory during the COVID-19 period. For example, a Bangladeshi migrant worker claimed the following, according to a report: '*Everyone in the Bangladesh embassy is sleeping (Emabssyr sobai ghumaytese). We do not receive any help from them. They eat and sleep and remain busy taking care of themselves (Ora sudhu khay ar ghumay ar nijeder niyei beysto thake). Whenever we went there, they would hardly give us 20 minutes. They do not care about us (Amader kono pattai dey na)*'.²⁰⁶

4.5 SOCIAL SECURITY FOR MIGRANT WORKERS

In the review period, countries in the South Asian region have undertaken different steps to promote social security mechanisms for their migrant workers. In Nepal, the government utilized the Prime Minister's Employment Programme (PMEP) that provides 100 days of wage employment to the unemployed, including returnee migrant workers and informal sector workers to tackle the rise in unemployment that resulted after the onset of the COVID-19 pandemic, and made provisions for providing subsidized loans to workers unable to initiate their own business in Nepal. Likewise, the Citizen Investment Trust in Nepal offers different types of voluntary retirement schemes open to both public and private sector workers as well as self-employed and migrant workers.²⁰⁷ However, data on the uptake of this scheme by migrant workers is not readily available, and hence, the actual benefits of the scheme for migrant workers can only be speculated. Apart from such schemes, there are no substantive social security provisions in Nepal for migrant workers, except for the mandatory medical insurance done by migrant workers and lump-sum allocations made to the families of migrant workers who die or sustain injuries during their contract period abroad, provided

206 Lamea Momen and Priya Deshingkar, 'Hyper-Precarious Lives: Bangladeshi Migrants on Azad Visas in Qatar During COVID-19,' *COMPAS University of Oxford*, 25 June 2020, <https://www.compas.ox.ac.uk/2020/hyper-precarious-lives-bangladeshi-migrants-on-azad-visas-in-qatar-during-covid-19/>.

207 ILO, *Social Protection Responses to COVID-19 in Nepal*, (Kathmandu: ILO, 2021).

through the FEB.²⁰⁸ The Foreign Employment Welfare Fund (FEWF) in Nepal, established as per the Foreign Employment Act 2007 and based on the contributions of outgoing migrant workers, assists 'documented' migrant workers and their families in the event of death or injury.²⁰⁹ The main objective of the Fund is to provide social security to current as well as returnee migrant workers and ensure the welfare of their families.²¹⁰

In Pakistan, the Overseas Pakistanis Foundation (OPF) supports the welfare of overseas Pakistanis and their families. Aspirant migrant workers are required to contribute to the welfare fund to become members of the OPF.²¹¹ Upon securing membership, the Foundation provides a range of services including (but not limited to) education schemes, residential schemes, health care, financial assistance, facilitating remittances, support to victims of emergencies, and assistance in recovering the outstanding benefits of repatriated Pakistani workers.²¹² The Government of Pakistan has also initiated a scheme of mandatory insurance coverage for all outgoing emigrants. Under the scheme, every aspirant migrant worker is insured for up to PKR 1 million (ca USD 5,400) against a one-time premium of PKR 2,500 (ca USD 13), in the event of death or disability. Insurance coverage is renewable for an additional 5 years upon payment of a premium of PKR 2,500 (ca USD 13).²¹³ In Sri Lanka, a contributory pension scheme was adopted as a unilateral arrangement to provide social security to migrant workers, whereby the contribution amount can be paid on a monthly basis or as a lump sum. The scheme provides pension to contributors after 60 years of age and provides them with survivors' benefit.²¹⁴

208 Ibid.

209 MoLESS, *Nepal Labour Migration Report 2020*.

210 Ibid.

211 Work Abroad (Migrant Resource Centre, 2022), <https://www.mrc.org.pk/en/information-hub/work-abroad/protection-for-labour-migrants-process-costs-and-benefits>

212 ILO, Fair Recruitment Country Brief: Pakistan (Geneva: ILO, 2020), https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_741045.pdf

213 UNESCAP, *Pakistan Voluntary Review of GCM* (Bangkok: UNESCAP, 2020).

214 M. Oliver, 'Social Protection for Migrant Workers Abroad: Addressing the Deficit via Country-of-origin

Furthermore, immigrants have equal access to social security schemes such as the Employee Provident Fund and the Employee Trust Fund. Sri Lanka also has social security portability agreements with some Organisation for Economic Cooperation and Development (OECD) countries and the Republic of Korea.²¹⁵ However, accessing the fund and insurance schemes is found to be a cumbersome process and sometimes denied to migrant workers.²¹⁶

The COVID-19 pandemic has revealed the lack of access to and importance of social protection for migrants, specifically for those who lost their jobs, incomes, and support systems, and those in 'irregular' situations. Their access to health care and insurance proved to be restricted or limited. Social protection for migrant workers is an important pillar of decent work. The GCM also emphasizes that all migrants, regardless of their migration status, should have access to basic services, including health care and education (GCM, Objective 15, para. 31), and that migrant workers at all skill levels should have access to social protection in CoDs (GCM, Objective 22, para. 38). Migrant workers and their families experience significant difficulties in accessing social protection, including sickness and health-care benefits, and other social security benefits, due to their status nationality, or because of employment and residence time periods (in CoDs) that are shorter than what is required. Closely associated with this is also the challenge of portability of social protection particularly when migrant workers are not in the country they have worked. Migrant workers, compared to nationals working their entire lives in one country, face major legal and practical obstacles in accessing social protection benefits. Also, Nepal, Sri Lanka, Pakistan, Bangladesh and India have all established welfare funds for the protection of migrant workers. However, such funds only

Unilateral Measures?', in McAuliffe, M. and M. Klein Solomon (Conveners), *Ideas to Inform International Cooperation on Safe, Orderly and Regular Migration* (2017). https://publications.iom.int/system/files/pdf/social_protection.pdf

215 IOM, *Migration Governance Snapshot*.

216 Voice Of Migrant Workers (VoMW), National Consultation on the Global Compact for Safe, Orderly and Regular Migration (GCM): Process and Progress in Sri Lanka.

provide limited benefits to the migrant workers and their families.

4.6 MIGRANTS' RIGHTS AND FREEDOM OF ASSOCIATION AND MEMBERSHIP IN TRADE UNIONS

Freedom of association or the right to form and join workers' associations and trade unions is a fundamental right enshrined in various international instruments such as the Universal Declaration of Human Rights 1948, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990, and the ILO Declaration on Fundamental Principles and Rights at Work 1998, among others.²¹⁷ The GCM also states that all workers are entitled to enjoyment of their fundamental rights, such as the right to be free from forced labour and the rights to freedom of association and collective bargaining, including the right to join and participate in trade unions (GCM, Objective 6, para.22(c), (f), (i)).

Unions or workers' associations provide a platform for migrant workers to share their grievances and seek justice and redressal.²¹⁸ As such, lack of access to trade union associations may result in weakened agency for migrant workers in the CoDs.²¹⁹ Trade unions are integral to promote fair recruitment and ensure protection of migrant workers and their rights, including through social dialogue and tripartite discussions and by influencing policy dialogue

217 United Nations General Assembly, 'Universal Declaration of Human Rights,' United Nations, accessed 21 August 2021, <https://www.un.org/en/universal-declaration-human-rights/>; United Nations General Assembly, 'International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,' United Nations Treaty Collection, accessed 29 August 2021, https://treaties.un.org/doc/source/docs/A_RES_45_158-E.pdf; ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up,' accessed 29 August 2021, https://www.ilo.org/declaration/thedeclaration/textdeclaration/WCMS_716594/lang--en/index.htm.

218 ILO, 'ILO: Access to Justice Often Out of Reach for Migrant Workers in South-East Asia,' *ILO*, 26 July 2017, ilo.org/asia/media-centre/news/WCMS_566072/lang--en/index.htm.

219 ILO, *Reclaiming Space for Workers in the 21st Century: A Literature Review on Workers' Centres* (Geneva: International Labour Organization, 2021). ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new_delhi/documents/publication/wcms_800626.pdf

and formulation of policies on fair recruitment, monitoring recruitment practices and delivering services (such as creating awareness, protecting, informing and organizing workers, as well as identifying and reporting abuses) to workers.²²⁰ However, an overwhelming majority of migrant workers from South Asian countries do not acquire membership of workers' welfare associations and/or trade unions and many are completely unaware about such forums. A recent study on Nepali migrant workers revealed that an overwhelming majority of reviewers (96.2 per cent) did not have access to workers' associations, or they were not aware of workers' association in CoDs.²²¹

In India, legal and practical restrictions limit migrant workers' ability to enjoy this right and there are less efforts, including from trade unions and CSOs, for promoting migrant workers' rights and freedom for collective bargaining through trade unions and dialogue.²²² In Pakistan, the rights of migrant workers or issues like exploitation by employers overseas have received less priority from the government as well as other social partners.²²³

The government of Nepal has not been actively seeking to promote the protection of migrant workers' rights abroad. However, in its BLA with Jordan, the Nepali government has protected Nepali migrant workers' right to obtain membership of trade unions in Jordan.²²⁴ Additionally, the General Federation of Nepalese Trade Unions (GEFONT) has been playing an important role in social dialogue and collective bargaining for decent work for migrant workers. It has been cooperating with trade unions in several destination countries also actively campaigning for the protection of Nepali migrant workers'

220 ILO, Trade Union Action to Promote Fair Recruitment.

221 Jeevan Baniya and Sadikshya Bhattarai, *Analysis of Recruitment Reviews from Migrant Workers* (Kathmandu: GEFONT, Forthcoming).

222 UN, Asia-Pacific Migration Report 2020.

223 ILO, *Review of Law, Policy and Practice of Recruitment*, 9.

224 Government of the Hashemite Kingdom of Jordan and the Government of Nepal, *General Agreement in the Field of Manpower Between the Government of the Hashemite Kingdom of Jordan and the Government of Nepal* (n.p.: Government of the Hashemite Kingdom of Jordan and the Government of Nepal, 2017). https://migrationpolicy.unescwa.org/sites/default/files/policies/2017_Jordan_Nepal_Agreement.pdf

rights before migration, during employment abroad and after return.²²⁵ Further, GEFONT has signed an agreement with partners in Kuwait that has succeeded in getting anti-union clauses removed from model employment contracts.²²⁶

However, only a few other CoDs besides Jordan allow migrant workers to obtain membership of trade unions and associations. In terms of ensuring migrant workers' affiliation with trade unions/associations, there seems to be a visible gap on the part of the governments of CoDs. Governments in the CoDs have not been sufficiently engaging with other governments and with migration stakeholders within the country to ensure that migrant workers are able to exercise their right to associate at least to some degree. Similarly, the agenda of ensuring migrant workers' right to association has received less attention even from civil society representatives.

225 UN, Asia-Pacific Migration Report 2020.

226 'Nepal-Qatar Freedom of Association,' Five-Corridors Project, accessed 3 April 2022, <https://fivecorridorsproject.org/nepal-qatar/nepal-qatar-freedom-of-association>.

5. GENDER RESPONSIVE LABOUR MOBILITY POLICIES

Gender responsiveness is one of the key principles that guide the GCM objectives. In Pakistan, women face a series of economic and social challenges in accessing the labour market, including accessing opportunities to migrate for work in conditions of safety and fairness. At 21.9 per cent, Pakistan has one of the lowest female labour force participation rates in South Asia.²²⁷ In addition, 75 per cent of women in the workforce have no formal education and only about 25 per cent of Pakistani women who have a university degree work outside the home. Cultural resistance against women working contributes to impeding women's economic productivity both within Pakistan and abroad.²²⁸ The Pakistan Government has imposed an age limit of 35 years for women workers in the domestic workers category. This age limit was imposed as an outcome of cases of exploitation of women by their employers, especially in the Gulf region.²²⁹ In order to address such exploitation and take up the issue with destination countries through bilateral talks and agreements, the Government's draft National Emigration and Welfare Policy expresses the Government's commitment to take measures to ensure safe migration for women and provide adequate protection to female emigrants through safe recruitment practices and legal protection.²³⁰ However, concrete steps are yet to be taken in this regard. In Pakistan, aspirant women migrant workers were earlier required to obtain consent from a male guardian (father, brother, husband, son etc.) in order to complete

the employment process. In cases where a male guardian was unavailable, a female elder such as a mother, was permitted to provide such consent. This issue of the need for obtaining 'permission' in order to migrate, highlighted the inherent gender bias in Pakistani society. The Government of Pakistan has now scrapped this requirement.²³¹ In terms of the skills profile of women migrant workers, Sri Lanka is heavily dependent on domestic workers. However, the housemaid category, which accounted for the largest share of annual migration two decades ago (over 50 per cent), has declined drastically to a share of below 30 per cent by 2020. While men are more likely to migrate to the GCC countries for employment as labourers in construction, drivers, unskilled and semi-skilled workers, Sri Lankan women are largely employed as domestic workers and face risk of abuse and physical violence.²³² To restrict mothers with children under five years of age, Sri Lanka continues to follow the Family Background Report (FBR)²³³ policy introduced in 2013 which is found to have a negative causal effect on female departure for foreign employment although it has been successful in restricting mothers from migrating for domestic

231 Ibid.

232 A. N. Fernando and A. Lodermeier, 'Understanding Adverse Outcomes in Gulf Migration: Evidence from Administrative Data from Sri Lanka,' *International Migration Review* (2021). K. Jayawardhane, 'Saudi to Repatriate SL Housemaid's Body Following Postmortem Report,' *Daily Mirror*, 23 March 2018, <https://www.dailymirror.lk/article/Saudi-to-repatriate-SL-housemaid-s-body-following-postmortem-report-147667.html>.

233 According to the FBR, females with children under the age of 5 years are restricted from migrating as they are not "recommended" for foreign employment, while females with children above 5 years will only be recommended for migration if satisfactory alternative care arrangements are in place to ensure the protection of children

227 "Labour Force Participation Rate" (ILOSTAT, 2019).

228 Themrise Khan, *Female Labour Migration from Pakistan: A Situation Analysis* (Geneva: ILO, 2020).

229 Ibid.

230 Ibid.

work and safeguarding the rights of children.²³⁴ It restricts the mobility of aspirant female migrant workers on the grounds of ‘negative social cost’ on the children left behind, thus undermining gender equality. This provision was criticised as a violation of the rights of women to travel. Paternalistic state policies and bans that reaffirm traditional gender norms increase domestic workers’ vulnerability to exploitation by pushing them towards irregular pathways for foreign migration.²³⁵ In Bangladesh, the government lifted all forms of bans and restrictions on women migrant workers in 2003, largely due to the demands of CSOs. Subsequently, the government took several positive steps in 2007 to ensure the protection of women migrant workers, including visa attestation by Bangladeshi embassies for women migrant workers; issuance of individual work permit; mandatory pre-departure training for outbound women domestic workers, etc. The government also reduced the minimum age for women seeking to migrate for domestic work from 35 to 25.²³⁶ However, the policy still restricts women below 25 years of age from travelling for domestic work in the Middle East.

Countries in the South Asian region have not been fully able to realize gender parity while formulating their migration policies. Women are negatively affected, since measures aimed at protecting them from abuse effectively restrict or ban them from migrating as evidenced by policies introduced in Pakistan, Nepal and Sri Lanka.²³⁷ For example, in Nepal, women migrant workers

are banned from engaging in the domestic work sector in CoDs. Same is the case in Pakistan (discussed below). While the government of Nepal imposed this ban in 2017 to protect female workers from abuse, violence and trafficking, critics have opined that the ban has rendered prospective women migrant workers all the more vulnerable.²³⁸ Furthermore, more recently, the government proposed that women under the age of 40 should seek approval of local government authorities in order to travel abroad, and also be in possession of insurance worth NPR 1 million (ca USD 12,862), and travel expenses worth USD 1,000.²³⁹ This requirement was directed at Nepali women under 40 years of age travelling to the Middle East for the first time on a ‘visit visa.’ The proposed requirement was met with huge outcry from women rights activists and the public.

For Bangladeshi women migrant workers, the COVID-19 pandemic has resulted in mental illness and trauma in addition to wage theft and forced return.²⁴⁰ Further, reintegration into their families has been challenging for returnee female migrant workers. CSOs have reported instances whereby the repatriated dead bodies of women migrant workers bear marks that indicate potential violence and abuse, but their post-mortem reports mention the cause of death as either natural or other medical reasons.²⁴¹ There is a need to conduct proper post-mortem after repatriation of dead bodies to enable proper identification of the cause of death of migrant workers, especially women migrant workers.²⁴² This will allow the government to engage in discussions with the CoDs to find amicable remedies for the issues faced by women migrant workers. In this regard, a SARTUC representative

234 Fernando and Lodermeier, ‘Understanding Adverse Outcomes in Gulf Migration’; B. Weeraratne, ‘Protecting the Welfare of Children and Its Causal Effect on Limiting Mother’s Labour Migration,’ *International Migration* 54, No. 5 (2016): 59–75. https://www.researchgate.net/publication/303888767_Protecting_the_Welfare_of_Children_and_its_Causal_Effect_on_Limiting_Mother's_Labour_Migration

235 Richa Shivakoti, S. Henderson and M. Withers, ‘The Migration Ban Policy Cycle: A Comparative Analysis of Restrictions on the Emigration of Women Domestic Workers,’ *Comparative Migration Studies* 9, No. 36 (2021). <https://doi.org/10.1186/s40878-021-00250-4>. <https://comparativemigrationstudies.springeropen.com/articles/10.1186/s40878-021-00250-4#citeas>

236 Shakirul Islam, ‘Banning Migration of Female Workers is Not a Solution,’ *The Daily Star*, 23 November 2019, <https://www.thedailystar.net/opinion/news/banning-migration-female-workers-not-the-solution-1830640>.

237 United Nations. 2020.

238 Katie McQue, ‘How Nepal’s Migration Ban Traps Female Modern Day Slaves in the Gulf,’ *Guardian*, 14 February 2020, <https://www.theguardian.com/global-development/2020/feb/14/how-nepals-migration-ban-traps-female-modern-day-slaves-in-the-gulf>.

239 Pallavi Pundir, ‘Nepal Wants Women to Get Permission from Their Families Before Flying Abroad,’ *Vice*, 12 February 2021, <https://www.vice.com/en/article/qjpbm/nepal-new-immigration-proposal-women-permission-parents-travel-international-trafficking>.

240 Discussant from Bangladesh in a forum in Kathmandu, 21 April 2022

241 Ibid.

242 Ibid.

raised a very critical issue about the right to be informed of the actual cause of death of a migrant worker in the CoDs. In most of the cases, he added, the cause of death of migrant workers in the GCC countries are said to be natural and/or unknown. Even the governments, including the Ministry of Foreign Affairs in the origin countries have failed to deal with the governments of CoDs and employers to ascertain the actual medical reasons behind the deaths.

Similarly, expansion of health coverage of women migrant workers is another important aspect. It is important to guarantee migrant workers' access to health services at all times and not just during crisis situations, especially that of women migrant workers who are in vulnerable conditions.²⁴³ In India, many women are found defying the ban on migration of women below 30 years of age.²⁴⁴ Young aspirant women migrants resort to making false documents for traveling abroad, an approach that could have severe consequences, particularly when faced with crisis situations.²⁴⁵

One of the serious hurdles in the implementation of the GCM in countries like Nepal, as reported by many researchers, is the unavailability of accurate statistical information about migrant workers, particularly women migrant workers. While studies indicate that Nepal has experienced increasing feminization of overseas labour migration, empirical data on the extent of the same is available only in the form of conjectures rather than hard evidence. This can be partly associated with the 'irregular' route taken by many women migrant workers.²⁴⁶ Linked to this issue is the blanket ban imposed to curtail the migration of women in the domestic workers category. The unavailability of adequate information and statistics on migrants pose a serious challenge for governments and other stakeholders to devise effective policies. This problem of lack of information is also pertinent in

the case of Bangladesh²⁴⁷ and Pakistan.²⁴⁸ Hence, the lack of information and data, particularly on female labour migration, is one of the major gaps in the South Asian region for implementing the GCM objectives. Efforts need to be put in place in the coming years to address this issue substantively.

Also, in India, undocumented migrant workers who resort to irregular channels for traveling abroad are excluded from government's reintegration benefits. Further, reintegration of women migrant workers from minority communities such as the Dalit, Muslim and Tribal communities in India is still challenging and requires innovative solutions.²⁴⁹

243 Discussant from India in a forum in Kathmandu, 21 April 2022

244 Ibid.

245 Ibid.

246 Yubaraj Sangroula, 'Migration Problem in Nepal: Critical Overview from Jurisprudential Perspective,' SSRN (2013).

247 ILO, *Gender and Migration from Bangladesh: Mainstreaming Migration into the National Development Plans from a Gender Perspective* (Dhaka: ILO, 2014).

248 Themrise Khan, *Female Labour Migration from Pakistan: A Situation Analysis* (Geneva: ILO, 2020).

249 Ibid.

6. STATUS OF THE WHOLE-OF-SOCIETY AND THE WHOLE-OF-GOVERNMENT APPROACH

Bangladesh, India, Nepal, Pakistan and Sri Lanka have all been working to realize the objectives of the GCM through the whole-of-society and the whole-of-government approach. All the countries have established mechanisms for labour migration governance that encompass various government and non-government stakeholders.

In Bangladesh, the GCM process is being implemented through the joint efforts of government agencies, UN agencies as well as CSOs. For example, goal 10.7.1 under the SDGs, of facilitating orderly, safe, regular, and responsible migration, is guided, and monitored by a National Steering Committee headed by the Prime Minister. Likewise, all stakeholders associated with migration are involved in the National Labour Migration Forum²⁵⁰ and they work closely under the whole-of-government and the whole-of-society approach. In addition, a separate ministry—Ministry of Expatriates' Welfare and Overseas Employment—has been established to maintain relations with diaspora communities, including temporary migrant workers and long-term emigrants. As mentioned by a trade unionist from Bangladesh, the Bangladeshi government has been hosting ministry-level meetings whereby the concerned ministries invite trade union representatives to ask for suggestions on decreasing/reducing migration costs. However, these meetings have not been very effective in terms of introducing positive changes in making the migration process safe and orderly.²⁵¹ In Bangladesh,

²⁵⁰ IOM, *Bangladesh Migration Governance Framework* (Dhaka: IOM, 2020)

²⁵¹ A trade union representative from Bangladesh who participated in the Sub-Regional Consultation on the Implementation of the GCM which was held in Kathmandu in April 2022.

the International Trade Union Confederation Bangladesh Council (ITUCBC) has also recently taken an initiative to organise a policy-level consultation meeting on migration and the GCM issues. Following the consultation meeting, the ITUCBC, decided to have a meeting with the Ministry of Labour and the Ministry of Expatriates, and the Ministry of Foreign Affairs to put forth recommendations.²⁵² A civil society representative from Bangladesh mentioned in the consultation that the Bangladeshi government has begun an initiative in 2020 to discuss migration related issues. The ITUCBC has held meetings with journalists to discuss various migration-related issues and journalists are also eager to work with trade unions in the country.

Speaking at the Sub-Regional Consultation on the Implementation of the GCM held in Kathmandu in April 2022, a CSO representative from Bangladesh said that the government of Bangladesh has formed the Labour Migration Forum under the leadership of the Minister of Labour. All the concerned ministries and civil society representatives actively engaged in the migration sector are part of this forum. The Forum held its first meeting in 2020. In the meeting, the civil society representatives proposed that the meeting of the Forum should be held annually. A civil society representative who had participated in the meeting also proposed that the forum have several subcommittees. Following the suggestion, five subcommittees have been formed under the Forum, which can now have several meetings as

²⁵² A trade union representative from Bangladesh who participated in the Sub-Regional Consultation on the Implementation of the GCM which was held in Kathmandu in April 2022.

per the need. Civil society representatives, and representatives of ministries and UN organisations are a part of these subcommittees. Notably, civil society representatives are an integral part of the Forum and are invited to every consultation by the government. SARTUC and NNSM with the support from international organizations have held consultations and discussions on several occasions on the issues related to GCM implementation and localizations.

In India, 'eMigration' has been launched as a digital initiative by the Overseas Employment Division. This e-governance system fully automates the operations of all key stakeholders in the emigration lifecycle including Indian Overseas Missions, the Protector General of Emigrants, recruitment agencies and insurance companies and links them together on a common platform. This portal also includes a management system for Indian migrant workers called Consular Services Management System, MADAD (Help), offered by Indian Missions/Posts abroad to users who wish to submit a grievance. Consular services regarding compensation, court cases, domestic help, repatriation, and wage disputes can also be lodged through this portal.²⁵³ Likewise, the Indian Ministry of Labour & Employment has developed a unified Web Portal—the 'Shram Suvidha Portal'—to ensure transparency and accountability in the enforcement of labour laws and increase compliance. It caters to four major organisations under the Ministry of labour, namely i) Office of the Chief Labour Commissioner (Central), ii) Directorate General of Mines Safety, iii) Employees' Provident Fund Organisation; and iv) Employees' State Insurance Corporation.²⁵⁴ The Ministry of Labour and Employment and the State Governments of Andhra Pradesh and Odisha, in India, have signed MoUs to facilitate strengthening of Inter-State Coordination Mechanism for smooth

implementation of the activities in source and destination areas of migrant workers. Similar MoUs have also been signed with the State Governments of Uttar Pradesh, Bihar, Jharkhand and Chhattisgarh.²⁵⁵ In India, various workshops and seminars have been organised at the national level, by both the government as well as other institutes, from time to time to discuss the issue of labour migration.²⁵⁶ Similarly, the Government of India actively collaborates with Central Trade Unions and employers' organisations to discuss issues related to labour migration. For example, on 1 May 2020, a national level webinar was hosted by the government to discuss various issues including the impact of COVID-19 on migrant workers.²⁵⁷ In Nepal, there is active involvement of the government, CSOs and development partners including UN agencies in the labour migration landscape. For instance, the FEB, the apex labour migration governing agency under MoLESS, comprises government officials, private recruitment agencies, the central bank and independent experts.²⁵⁸ Similarly, an Inter-agency National Committee on Combating Human Trafficking (NCCHT) has been established under the Ministry of Women, Children and Senior Citizens (MoWCSC) comprising various stakeholders, including security agencies working to combat trafficking in persons.²⁵⁹ Emergency shelters and community service centres for victims of trafficking including children have been established and Local Committees for Controlling Human Trafficking have been established in the past years.²⁶⁰

In Pakistan, a collaborative approach exists between the government and other stakeholders in order to deal with the issues of labour migration. For example, the Ministry of OP&HRD is enforcing the National Emigration & Welfare Policy for Overseas Pakistanis after detailed deliberations with relevant stakeholders including government departments;

²⁵³ ILO, *Use of Digital Technology in the Recruitment of Migrant Workers* (Geneva: ILO, 2021). https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_831814.pdf

²⁵⁴ Ministry of Labour and Employment, *Annual Report 2020-21* (New Delhi: Ministry of Labour and Employment, 2021), https://labour.gov.in/sites/default/files/Annual_Report_202021_English.pdf.

²⁵⁵ Ibid.

²⁵⁶ Ibid.

²⁵⁷ Ibid.

²⁵⁸ 'Formation of the Board,' Foreign Employment Board, accessed 19 April 2022, <https://www.feb.gov.np/about>.

²⁵⁹ MoLESS, *Voluntary GCM Review Survey Report*.

²⁶⁰ Ibid.

international organisations including ILO, IOM, the International Centre for Migration Policy Development (ICMPD); and academia.²⁶¹

A civil society representative from Bangladesh, speaking at the Sub-Regional Consultation on the Implementation of the GCM held in Kathmandu in April 2022, stated that the civil society together with representatives of trade unions in Bangladesh had met with government officials, including those from the Ministry of Overseas Pakistanis and Human Resource to ask them to start working on the GCM issue. Similarly, a civil society representative from Pakistan added, the ILO too has been constantly lobbying with the Ministry of Labour in Pakistan, asking the government to pay more attention towards implementing GCM goals. Besides this, as stated by the civil society representative, an Australia based NGO had provided funding to the Government of Pakistan to help the latter to draft an immigration policy. However, the Pakistani government did not, unfortunately, engage in any consultations with civil society actors and trade unions in the process of drafting the Immigration Policy.²⁶²

In Sri Lanka, several inter-ministerial coordination bodies have been set up to deal with various migration-related issues. These coordination bodies include the National Border Management Committee, the National Advisory Committee on Labour Migration, the National Steering Committee on Return and Re-integration for Labour Migrants, the National Anti-Human Trafficking Task Force, the National Coordination Committee on Readmission and the Programme Advisory Committee on Safe Labour Migration. To enhance vertical policy coherence, the Ministry of Public Administration and relevant ministries operate with decentralized administrative structures on various migration-related issues. There are multiple government

entities in Sri Lanka responsible for designing and enacting emigration and immigration policies.²⁶³ Sri Lanka collaborates with the civil society in agenda-setting and the implementation of migration-related issues. For example, its national multi-stakeholder consultations on the GCM included partners from non-governmental organisations, civil society, trade unions, academia and the media. The country engages with the private sector on migration-related issues. The Association of Private Recruitment Agents represents the private sector on the board of directors of Sri Lanka's Bureau of Foreign Employment. The National Advisory Committee on Labour Migration and the National Steering Committee on Return and Re-integration for Labour Migration also formally include the private and social sectors. Likewise, civil society stakeholders have been part of the Government-CS Working Committees on amending the National Labour Migration Policy 2008 in line with GCM commitments and engaged with government and UN networks at GCM discussions organized by UN Women earlier this year. Several governments, during the Marrakech Migration Week, have recognised the vital role that civil society can play in the success of the Compact.²⁶⁴ Building on previous national level consultations held in 2017 and 2018 prior to the adoption of the GCM, that saw participation of both government and civil society representatives, the Sri Lankan civil society continues to engage in the implementation, follow up, and recommendation (IFUR) stage of the Compact.²⁶⁵ Following the subregional consultation on GCM, a civil society consultation was organized by the Solidarity Center in collaboration with Helvetas Swiss Interco-operation, Community Development Services, Lawyers Beyond Borders, Women and Media Collective, and the National Trade Union Federation, from 26-27 September 2019, on the GCM IFUR process in Sri Lanka to gain further inputs on from civil society members as well as

²⁶¹ UNESCAP, *Pakistan Voluntary Review of GCM*.

²⁶² The Immigration Policy was then submitted to Imran Khan, former Prime Minister of Pakistan, who refused to receive the draft saying that the draft was too long to be read. The PM had suggested the team prepare a concise draft of the policy. Thenceforth, civil society leaders along with trade unionists have written rounds of letters to the concerned ministries asking them to forward the policy draft to the Prime Minister's office but to no avail.

²⁶³ IOM, *Migration Governance Snapshot*.

²⁶⁴ 'Marrakech...What for and What Next?' *Helvetas*, 12 December 2018, <https://www.helvetas.org/en/switzerland/how-you-can-help/follow-us/blog/Other/Marrakech-what-for-and-what-next>.

²⁶⁵ *Ibid.*

engage government and UN agencies to exchange updated information. At this consultation, national and grassroots level civil society members including trade unions, (international) non-government organisations, lawyers' networks, media and other stakeholders engaged in discussions on the post-adoption situation of the GCM in Sri Lanka, updated recommendations on the GCM outcome document/ matrix, identified gaps in the IFUR process and received updates and information from government institutions and the UN Network to understand the current situation of GCM implementation in the country. A CSO representative from Sri Lanka highlighted in the consultation that CSOs working at three levels—grassroots, provincial and national—came together in December 2021 to discuss various issues related to migrant workers. The CSOs had also invited government officers to take part in the meeting. Immediately following deliberations from CSOs in the meeting, the Sri Lankan government appointed an officer to investigate issues pertaining to migrant workers at the Sri Lankan Bureau of Foreign Employment.

Since the implementation of the GCM, governments in South Asian countries, together with civil society organisations, trade unions and UN agencies have taken several initiatives to ensure migrant workers' safety and access to justice. However, South Asian countries do not seem to be on the same page in that regard. While countries like Bangladesh and Nepal seem to be taking several initiatives, Sri Lanka and Pakistan have taken fewer initiatives on that front. However, within the government agencies also, there is a lack of coordination. For example, representatives who participated in an event organized in April 2022 right before the IMRF expressed their dissatisfactions that they were not consulted adequately in preparation of GCM implementation strategy although their roles are very important in implementing the strategy. Similarly, a government representative stated in a programme organized on 10 May 2022 that there was no coordination between the delegate of MOLESS and the delegate of Permanent Mission of Nepal to the United Nations in New York, both of whom are scheduled to speak in

the IMRF. The trade union and civil society representatives from Sri Lanka and Pakistan attributed this to political instability in their countries. Although the GCM, under the whole-of-society approach, identifies several key stakeholders who together can contribute towards safe, orderly and regular migration processes, there has not been sufficient cooperation between and among these key stakeholders. A SARTUC representative argued that most of the attempts so far have been only ritualistic and have not generated substantive results in the lives of the primary beneficiaries, i.e., migrant workers. As such, the SARTUC representative further highlighted that the stakeholders²⁶⁶ do not meet each other at regular intervals to discuss how each of these stakeholders can together contribute to making migration safe, orderly and regular.

Lately, the governments in these countries have started to involve non-government actors such as CSOs, trade unions, international organisations, academia, and the media in various campaigns/ programmes on migrant workers. However, such engagements are not sustained and there is no regular follow up on the issues. Similarly, a report claims that in Nepal, the government processes for data collection, formal reintegration and repatriation are outdated, making collaboration between CSOs and the government very complicated; the data available is not good enough for identifying trends in labour migration and informing policy.²⁶⁷

6.1 THE ROLE OF UN ORGANISATION

The UN Network on Migration (Network) has the responsibility of forging UN system-wide coordination to lend support to Member States in their implementation, follow-up and review of the GCM for the rights and wellbeing of all migrants and their communities in countries of

²⁶⁶ Stakeholder, as mentioned in the GCM document, include migrants, civil society, migrant and diaspora organizations, faith-based organizations, local authorities and communities, the private sector, trade unions, parliamentarians, National Human Rights Institutions, the International Red Cross and Red Crescent Movement, academia and the media among others.

²⁶⁷ Freedom Collaborative, 'Data Gathered by Nepali CSOs.'

origin, destination and transit.²⁶⁸ The Network includes Working Groups such as IOM, ILO, UN Women, UNICEF etc. with IOM serving as their Secretariat. For the implementation of the GCM and the protection of the human rights of migrants, the Network is mandated to support coherent actions at country, regional and global levels; provide technical support and guidance to the states and stakeholders; help apply relevant norms and standards; provide leadership to mobilise coordinated and collaborative action; create synergies and avoid duplication; support capacity building mechanisms; and ensure implementation of the whole-of-government and the whole-of-society approach.

UN specialized agencies have been playing an important role to support the activities of all the countries in the South Asian region. For example, the ILO is working with the government of Bangladesh to improve the overall management of labour migration and to ensure protection and decent employment conditions to the Bangladeshi migrant workers.²⁶⁹ The ILO also works in Bangladesh to reduce the incidence of trafficking of women and girls from Bangladesh through economic, social, and legal empowerment. In addition, the ILO supports the efforts of the government and the social partners to reform the technical and vocational education and training (TVET) system, thereby allowing (aspirant) migrant workers to increase their skills and employability, particularly youths, women and migrant workers from vulnerable groups. In Bangladesh, in addition to ILO, the IOM engages with the Government of Bangladesh across four thematic areas, viz. Migration Governance, Migration and Development, Migrant Protection and Assistance, and Emergencies and Stabilisation.²⁷⁰ The IOM has provided technical assistance to the Government of Bangladesh to develop a Standard Operating Procedure on recruitment monitoring. Likewise,

²⁶⁸ 'Home', 'About Us', <https://migrationnetwork.un.org/about>

²⁶⁹ 'Labour Migration in Bangladesh', International Labour Organization (ILO), accessed March 27, 2022, ilo.org/dhaka/Areasofwork/labour-migration/lang--en/index.htm

²⁷⁰ 'Our Work', IOM Bangladesh (IOM), accessed March 27, 2022, bangladesh.iom.int/our-work

it has also supported the capacity development of government professionals in handling labour migration issues. Most notably, Bangladesh finalised a draft national strategy on migration governance in consultation with all stakeholders and with assistance from IOM in 2018.²⁷¹ Likewise, in Bangladesh, the ILO, UNWomen, IOM and UNFPA are jointly implementing programmes related to migration worth USD 2,500,000 for two years that are focused on addressing the medium to long-term reintegration needs of migrant workers and strengthening social protection support mechanisms for the social inclusion of Bangladeshi migrants. This programme is expected to contribute to the recovery and social inclusion of returning Bangladeshi migrants affected by the COVID-19 pandemic and will address the needs and vulnerabilities of returning migrant workers, migrant workers stranded abroad, and migrants set to commence employment at the onset of the COVID-19 crisis. The programme is expected to take a strong whole-of-government and society approach, establishing partnerships across the full spectrum of relevant government ministries, as well as with clearly identified stakeholders that represent trade unions, (I) NGOs, cottage industries, municipal authorities, the private sector and academia. The programme also has a strong gender empowerment component, with specific focus on the sustainable reintegration of vulnerable women migrant workers.²⁷²

UN organisations in India have also been providing technical support to governments at the national and state levels to leverage and adapt verified and viable international practices.²⁷³ For example, the ILO organized a consultation with the Ministry of External Affairs, and Protector

²⁷¹ UN, *Bangladesh Statement in the Plenary of the High-Level Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration* (Marrakesh: UN, 2018). un.org/en/conf/migration/assets/pdf/GCM-Statements/bangladesh.pdf

²⁷² Migration Multi-Partner Trust Fund, *Pipeline of Joint Programmes* (Geneva: Migration Multi-Partner Trust Fund, 2021). migrationnetwork.un.org/sites/g/files/tmzbd1416/files/docs/pipeline-programmes_2021_updated.pdf

²⁷³ ILO, *Road Map for Developing a Policy Framework for the Inclusion of Internal Migrant Workers in India* (New Delhi: ILO, 2020). ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new_delhi/documents/publication/wcms_763352.pdf

of Emigrants (POEs) and registered recruitment agencies on the ‘Impact of COVID-19 on Indian Overseas Migrant Workers: Challenges to Safe Repatriation and the Way Forward’ during the early onset of COVID-19 in April 2020.²⁷⁴ Likewise, the ILO has also been supporting the development of handbooks targeted at migrant workers to provide them with information about CoDs.²⁷⁵ The organisation also provides capacity development opportunities to the government professionals. Certain NGOs conduct activities related to the enforcement of fair recruitment, proposing multi-stakeholder initiatives seeking to improve recruitment and employment conditions, identify practices that enable exploitation, and advocate for improved practices and risk mitigation. A number of organisations have also published ethical recruitment and hiring frameworks or codes of conduct.²⁷⁶ In Nepal, UN specialised agencies, especially the ILO, UNWomen, IoM, and the United Nations Office on Drugs and Crime (UNODC) are cooperating under a joint programme to strengthen government capacity to ensure safe, orderly and regular migration. The efforts of the UN specialised agencies are aimed at ensuring collaboration among government ministries and departments; CSOs; and migration and foreign employment networks and associations. The UN specialised agencies working in the migration sector in Nepal have programmes worth USD 200,000 in the pipeline for 36 months. These programs are linked with the SDGs related to decent work and economic growth (8), gender equality (5) and reduced inequalities (10). The joint programme being implemented in Nepal builds on the ongoing initiatives of key stakeholders that focus on internal employment, fair and ethical labour migration including gender-responsive recruitment principles, sustained reintegration of migrants including women and children, and the

strengthening of the existing multi-stakeholder National Working Group on migration (Migration Group of Nepal). Its overall object is to provide UN-wide support to the GoN, developing its capacity at the federal and provincial levels to enhance migration governance. It was informed by a consultative process with UN agencies and other stakeholders—including CSOs, academics, research institutes and private sector recruitment agencies—and supports the GCM’s overarching principles of gender-responsive, people-centred and child-sensitive approaches.²⁷⁷ In Pakistan, the government works with various international organisations such as the ILO, IOM, ICMPD, and UNODC to improve labour migration governance in the country.²⁷⁸ In Sri-Lanka, UN agencies are undertaking a joint programme worth USD 160,000 for 30 months to support socio economic recovery and strengthen the resilience of migrant communities. The programme aims to address the impact of the COVID-19 pandemic on migrants and affected communities. It is aligned with the National COVID-19 Response Plan for Sri Lankan migrant workers (July 2020) focusing on the repatriation of affected migrant workers, reintegration and re-migration. Sri Lanka could not fully utilise its membership and position in the Bali Process to address issues of trafficking of migrant workers. The linkage between the Colombo Process and the Abu Dhabi Dialogue is weak at present and needs further strengthening in order to promote the realization of the GCM.²⁷⁹ Sri Lanka is currently in the process of reviewing its National Labour Migration Policy of 2008.²⁸⁰ Sri Lanka ratified the 2014 Protocol to the ILO Forced Labour Convention in 2019.²⁸¹

The role of UN organisations is also crucial in promoting the whole-of-society approach to GCM implementation. However, this role has not been fully realised in all South Asian

274 ILO, *India Decent Work Country Programme: Results Report 2020* (New Delhi: ILO, n.d.). [ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new-delhi/documents/publication/wcms_776401.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new-delhi/documents/publication/wcms_776401.pdf)

275 Ibid.

276 ILO, *Monitoring and Enforcement of Recruitment Regulations - Module 4* (Geneva: ILO, 2018).

277 Migration Multi-Partner Trust Fund, Pipeline of Joint Programmes (Grand-Saconnex: Migration Multi-Partner Trust Fund, 2020).

278 UNESCAP, *Pakistan Voluntary Review of GCM*.

279 ‘The 2nd Senior Officials’ Meeting of the Colombo Process,’ https://www.iom.int/sites/g/files/tmzbdl486/files/our_work/ICP/RCP/CP_2nd_SOM_Final_Report.pdf

280 UN, *Asia-Pacific Migration Report 2020*.

281 Ibid.

countries. For example, a discussant from India, in a forum in Kathmandu, noted that she had not heard of any programmes that encouraged the participation of civil society members and trade unions during the consultations organised by the government. Hence, she emphasised on the need to clearly delineate the role of UN agencies in promoting the whole-of-society approach in the implementation of the GCM.²⁸²

²⁸² Discussant from India in a forum in Kathmandu, 21 April 2022

7. RECOMMENDATIONS

Based on the findings of the assessment as well as for moving ahead, following recommendations have been made to the stakeholders concerned, for their serious attention.

Skill Development and Skill Certification

- National migration information systems should systematically manage records of the skill related data about the migrants and returnees so that it can help inform decisions about plans and policies and advocate for the same.
- Access of (aspirant) migrants as well as of general people, especially low skilled workers, to information about the importance and availability of the skill trainings should be ensured.
- Skills should be linked to the current and future needs of employers and the national and international labour markets.
- It is crucial to establish bilateral or multilateral recognition frameworks to certify and recognise skills acquired by youths in countries of origin. A system for online certificate accreditation and recognition of migrant workers' skills can be set up both in the CoOs and the CoDs. Such provision should also be included in the BLAs.
- Governments of destination countries and development partners should extend assistance/grants to the countries of origin to set up and effectively operate skill training centres as well as skill certification and recognition systems. The countries and institutions should also ensure quality of the skills.

Social Protection

- It is crucial to extend social protection to South Asian migrant workers across borders. Governments of countries of origin and destination should collaboratively work to extend social protection coverage to the migrant workers, particularly low-income remittance-recipient households or vulnerable migrant households.
- The governments of South Asian countries should negotiate with the CoDs and enter into bilateral social security agreements including through BLAs. In the agreement, provisions of portability of social protection entitlements and benefits which migrants are entitled to should be agreed.
- Governments of South Asian countries should move towards ensuring universal social protection so that it also provides a security blanket for migrant workers and their families.
- There should be 24-hour life insurance for migrant workers both in destination countries and origin countries.

Fair and Ethical Recruitment

- To curb deception and unscrupulous recruitment practices by recruitment agencies and agents, governments should strengthen investigation and oversight.
- The government agencies and officials should effectively enforce existing laws and punish those involved in unscrupulous recruitment practices in a timely manner. This can help reduce the high migration cost borne by the migrants.
- For fair and transparent recruitment, it is crucial to enhance and utilize digital systems of recruitment and service provision for

- aspirant migrants, migrants, and returnees.
- GCM champion countries like Nepal should develop and implement clear plans of action to achieve the objective they have committed to as champion countries. The countries also should also ensure that their policies are in line with the GCM.
- It is important to enhance migrant information systems to provide up-to-date information to the migrants and their families including about policy decisions of the authorities with regard to repatriation and return during periods of crises and conflicts and ensure access to information for migrants and their families.

Protection of Migrant Workers and Their Rights

- There should be public health and safety emergency preparedness and response measures in the CoOs and CoDs and the safety of migrants must be prioritised during crises and emergencies.
- CoDs should ensure access to adequate housing, food and accommodation services and other basic services with special consideration accorded to the needs of vulnerable migrant workers such as those in irregular situations, those in domestic work and those employed in the informal sector.
- Governments of countries of origin and destination should cooperate more closely to ensure voluntary, safe and dignified return and re-admission. Forced return should be suspended during times of crises and during pandemics. To this end, there is a need for formulating new bilateral frameworks and agreements.
- Access to justice for migrant workers must be safeguarded. Governments of both CoDs and CoOs should facilitate collection and record keeping of migrant workers' grievances related to wage theft and exploitation and the related evidence.
- The CoDs should ensure that employers keep all employment records, including payrolls, employee lists, and records of the hours worked safe. The workers also should

be provided with the copies of the same.

- The governments of South Asia countries and the CoDs should set up a transitional justice mechanism to provide migrant workers and their families with access to remedies against exploitation, wage theft and discrimination, irrespective of their current residence, at the earliest. Judicial processes, including submission of evidence, can be facilitated through technology.

Migrant Workers' Rights of Freedom of Association

- Freedom of association and workers' agency is fundamental to furthering fair and ethical migration, decent work and protection of rights of migrant workers through collective bargaining and social dialogue. Hence, CoDs should allow migrant workers to exercise agency and engage in negotiations with employers for the enforcement of labour standards, dispute resolution and for defending the rights and welfare of migrant workers.
- Workers' organisations in CoOs should collaborate with trade unions and partners in CoDs should accord priority to safeguarding the work, rights, and interests of migrant workers. They should be advocating for effective migration governance, skill development, and recognition and certification of skills and pressurize states to eliminate violation of migrant workers' rights including their right to non-discrimination.
- Trade unions and their networks should make the governments and the international community accountable for their failure to protect migrant workers and their rights.

Participation and Engagement: Adherence to the Whole-of-Government and the Whole-of-Society Approach

- The outbreak of the COVID-19 pandemic and the ensuing responses have further vindicated the need for and the importance of all actors in the protection and support of migrant workers as well as their meaningful

participation in decision making about policies and plans including those related to rehabilitation, recovery, and integration.

- It is essential to develop proper mechanisms and modality for consultations and discussions on issues related to migrants and migration. A conducive environment should be created for open discussions and all stakeholders must be receptive to critical opinions and feedback.
- Trade unions, CSOs, migrant workers and UN agencies should encourage and make the governments accountable to their commitments to adhere to the whole-of-society and whole-of-government approach.
- The governments of South Asian countries, especially the core ministries with responsibilities with regard to migration and migrants, should foster meaningful multi-stakeholder engagement and meaningful participation of relevant government agencies at central and subnational levels of governance in all steps of decision making about policies, plans, implementation, review and follow up. Review and reporting on the implementation of GCM, including the drafting of national voluntary reports, should be done with proper, adequate and meaningful participation of all relevant stakeholders including migrant workers and their networks.
- There should be sufficient coordination within and between governments, and with relevant stakeholders at the central and local levels of governments.
- The UN Network on Migration needs to make concerted efforts to ensure synergy among UN agencies in the South Asian countries and to ensure that governments also follow the whole-of-government and whole-of-society approaches while key decisions are made regarding migration and migrant workers.
- As highlighted by the COVID-19 pandemic, there should be close and effective collaboration between diplomatic missions, trade unions, human rights organisations, CSOs, academia and journalists for better

protection and support of migrant workers.

- In addition to the fund available from the United Nation's Migration Multi-Partner Trust Fund, more resources are needed from the destination countries or development partners for improving skills, recruitment practices and governance, and safer migration in South Asian countries including for capacity enhancement of government agencies and migrant workers' networks and trade unions.
- In the platforms like ADD and GCM, there should be serious and open discussions and reviews about the failure or inaction on the part of governments and employers as well as the failure of the existing migration frameworks to protect migrants and their rights during the COVID-19 situation.

Policies

- It is essential to develop inclusive disaster, pandemic and crises preparedness, prevention, response and recovery measures that protect migrant workers and their rights irrespective of their migratory status.
- During crises, disasters and pandemic situations, CoDs should have flexible policies for regularisation of some migrant workers particularly those in vulnerable situations, providing amnesty to migrant workers without visas or documents to return home, or providing resident permit extensions etc.
- As per the commitments expressed regarding the ratification and implementation of relevant instruments on labour migration, labour rights, decent work and forced labour, there should be proactive and strong advocacy and pressure on the countries of origin and destination to ratify important ILO conventions namely C189, ILO Freedom of Association and Protection of the Right to Organise Convention No. 87, ILO Right to Organise and Collective Bargaining Convention No. 98, Occupational Safety and Health Convention, 1981 (No. 155), and the Violence and Harassment Convention, 2019 (No. 190). Governments of South Asian countries should work at regional and

international levels to make sure that CoDs ratify these conventions.

- Policies and plans about employment and migration should be grounded in empirical evidence, and there should be gender-sensitive provisions that facilitate safe and dignified migration as well as sustainable reintegration of migrants.
- Policies and practices should ensure equal treatment of migrants regardless of their migration status, gender and whether they work in the informal or the formal economy.
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ANNEX1

LIST OF PARTICIPANTS FROM SOUTH ASIAN COUNTRIES IN THE SUB-REGIONAL CONSULTATION ON THE IMPLEMENTATION OF THE GLOBAL COMPACT FOR SAFE, ORDERLY AND REGULAR MIGRATION (GCM)

SN	Name of participant	Organization	Country
1	Jahangir Alom Chowdhury	Bangladesh Sanjukta Sramik Federation (BSSF)	Bangladesh
2	Md. Shaidualh Badal	Bangladesh Mukta Sramik Federation (BMSF)	Bangladesh
3	Nargis Jahan	Bangladesh Jatyabadi Sramik Dal (BJSD)	Bangladesh
4	Salim Ahsan Khan	Solidarity Center	Bangladesh
5	Sumaiya Islam	Bangladesh Nari Sramik Kendra-BNSK	Bangladesh
6	Jasiya Khaton	WARBE Development Foundation	Bangladesh
7	Shakirul Islam	Ovibashi Karmi Unnayan Program	Bangladesh
8	Joseph Jude	Hind Mazdoor Sabha (HMS)	India
9	Rafeek Azeez	Center for Indian Migrant Studies	India
10	Rejimon Kuttapan	MFA/ Independent Journalists	India
11	Sonia George	Self-Employed Women's Association (SEWA)	India
12	Rajgopal Dashrath Chandrashekar	Indian National Trade Union Council (INTUC)	India
13	Sr. Lissy Joseph	National Workers Welfare Trust	India
14	Vaishyanavi Natarajan	National Domestic Workers Movement	India
15	Mariam Inaasha	The Public Interest Law Centre (PILC)	Maldives
16	Fathimath Zimna	Maldives Trade Union Congress (MTUC)	Maldives
17	Som Prasad Lamichhane	Pravasi Nepali Coordination Committee (PNCC)	Nepal
18	Manju Gurung	Pourakhi Nepal	Nepal
19	Bijaya Rai Shrestha	Aprabasi Mahila Kamdar Samuha (AMKAS)	Nepal
20	Lubharaj Neupane	Women's Rehabilitation Center (WOREC)	Nepal
21	Yubraj Nepal	Center for Migration and International Relations (CMIR)	Nepal
22	Shom Luitel	People Forum	Nepal
23	Hari Bahadur Thapa, Chairperson	National Network for Safe Migration (NNSM)	Nepal
24	Krishna Prasad Neupane, General Secretary	National Network for Safe Migration (NNSM)	Nepal
25	Prajwal Sharma	IOM Nepal	Nepal
26	Mr. Kamal Thapa Chhetri	NHRC-Nepal	Nepal
27	Sunil Neupane	Labor Employment Journalists Group	Nepal
28	Udwab Bhattarai	Foreign Employment Journalist Society	Nepal
29	Jeevan Baniya	CESLAM, Social Science Baha	Nepal
30	Chiranjivi Baral	Nepal Institute of Development Studies (NIDS)	Nepal
31	Chandani Rana	ABC Nepal	Nepal
32	Nilambar Badal	Asian Forum	Nepal

33	Rameshwar Nepal	Equidem Research & Consulting	Nepal
34	Bishnu Khatri	Migration Expert	Nepal
35	Barun Ghimire	Law and Policy Forum for Social Justice (LAPSOJ)	Nepal
36	W.M.D.Kumari	National Trade Union Federation (NTUF)	Sri Lanka
37	Leslie Devendra	Sri Lanka Nidahas Sevaka Sangamaya (SLNSS)	Sri Lanka
38	Fr Anton Sriyan	CARITAS	Sri Lanka
39	Micheal Joachim	Plantation Rural Education Development Organization	Sri Lanka
40	Sellathamby Uthayendran	Eastern Self Reliant Organization	Sri Lanka
41	Sujeewa Lal Dahanayake	Layers Beyond Borders	Sri Lanka
42	Dilshani Nugawela	Voice of Migrants	Sri Lanka
43	Ajith Kaluarachchi	Helvetas	Sri Lanka
44	Ch Saad Muhammad	Pakistan Workers Federation	Pakistan
45	Sabir Farhat	Pakistan Rural Workers Social Welfare Organization (PRWSWO)	Pakistan
46	Muhammad Umar Hamdi	Pakistan Rural Workers Social Welfare Organization (PRWSWO)	Pakistan

