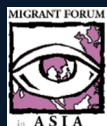


STAND FIRM WITH NEPAL: Zero fees as a first step towards migrant worker empowerment¹

Open Working Group on Labour Migration & Recruitment
Policy Brief #6



This project is funded by the European Union.

Issue

Migrant labour recruitment is dominated by private for-profit recruitment agencies that play an intermediary function, linking employers in countries of destination with potential migrant recruits in countries of origin. In the case of unfair recruitment and hiring practices, migrant workers can be left highly vulnerable to exploitation. When excessive recruitment fees and migration costs² are borne by the worker rather than the employer, migrant workers often incur debts, exacerbating their vulnerability to debt bondage and forced labour. For these reasons, the Open Working Group on Labour Migration & Recruitment has consistently advocated for the **abolition of recruitment fees charged to migrant workers**³.

Governments of origin and destination countries must take a firm zero-fees for workers stance, with appropriate monitoring

mechanisms and harsh sanctions for those who violate this rule.

In July 2015, the Government of Nepal made a historic decision in favour of this campaign, obligating foreign employers to bear visa and flight ticket costs. Thus, migrant workers from Nepal receive a visa and an airline ticket free of charge when they travel for employment to seven destination countries: Oman, Bahrain, Saudi Arabia, the UAE, Kuwait, Qatar, and Malaysia. The aim of this “Free Visa-Free Ticket” policy is to prevent fraudulent activities of recruitment agencies, which charge excessive fees to workers beyond what is stipulated in law.

To ensure that momentum is not lost from this positive development, the Open Working Group calls on its network to show solidarity with Nepal (both its government and civil society), and continue to advocate for the complete zero fees model in other countries. It is important to share how the policy has worked on the ground thus far, especially to pre-empt unintended consequences (i.e., what has gone and can go wrong) and to anticipate potential protection gaps.

Background

Nepal’s “Free Visa-Free Ticket” policy was introduced in response to the excessive and unauthorized recruitment fees being charged to Nepali migrant workers. Prior to this scheme, the maximum fee that recruitment

¹ This policy brief is written based on contributions from members of the Open Working Group on Labour Migration & Recruitment.

² To determine what constitutes “recruitment fees” is to include any and all fees, charges, or costs associated with the recruiting process, whether they are charged legally or illegally, in countries of origin, transit, or destination. Recruitment fees include, but are not limited to, payments in any form for pre-departure and post-arrival skills testing, required medical exams, and personal identity documents (e.g., passports and visas.) (See Open Working Group on Labour Migration & Recruitment. (2016). “Recruitment Reform Campaign Glossary” for further examples).

³ Open Working Group on Labour Migration & Recruitment. (2014). “Recruitment Fees and Migrants’ Rights Violations.”

agents could legally charge a prospective migrant to the Gulf countries was NPR 70,000⁴, and to Malaysia was NPR 80,000⁵. Despite the government's fee ceiling, the average cost of migrating to these countries was actually two to four times the maximum limit – at least NPR 150,000 to NPR 250,000. The ceiling and actual costs were substantial, given that the mean per capita annual income in Nepal is NPR 41,659 and the median is NPR 25,093⁶. Such exorbitant recruitment fees are of great concern for Nepali migrants, as it is imperative that they earn enough once abroad to pay back any debts they may have incurred in the recruitment process. This can result in forced labour and debt bondage.

Nepali civil society organizations and migrant workers escalated years of advocacy and pressure to eliminate such recruitment fees through efforts such as marches, a peaceful demonstration in front of the Prime Minister's gate, and a "human chain" outside the Department of Foreign Employment, to which the government of Nepal finally responded with its "Free Visa-Free Ticket" policy in July 2015. Under the new policy, the Government of Nepal will not issue work permits to migrant workers whose foreign employers do not pay their visa and air ticket fees. This only applies to seven destination countries: Bahrain, Kuwait, UAE, Qatar, Saudi Arabia, and Oman in the Gulf, and Malaysia.

The policy lowers migrant worker recruitment costs in two ways: (1) by requiring the foreign employer to pay the cost of the visa and round-trip travel ticket, and (2) by reducing the ceiling of migrant-paid recruitment fees to \$100 USD – a service charge only paid to the recruitment agency if the employer does not pay their commission. It should be noted that migrant

workers still pay for their medical test, pre-departure orientation training, and Migrant Workers' Welfare Fund contributions under this scheme.

The Open Working Group commends the government of Nepal for taking this first and bold step towards a zero-fee recruitment model, and calls on other governments worldwide to follow suit. Meanwhile, recruitment agencies in Nepal have been fiercely unsupportive, and have challenged the decision consistently since it was announced. Their lobbying efforts have suggested that the service fee fixed by the government is too low for their services, and that the employer-pays model has and will reduce the demand for Nepali workers abroad, where the latter claim has yet to be confirmed. Recently (March 2016), the Nepal Association of Foreign Employment Agencies (NAFEA) completely halted their recruitment operations for an indefinite period, demanding a revision of the policy⁷. In the face of this pushback, civil society must take stock of how the new scheme is working thus far and identify key areas for improvement.

ANALYSIS

Nepali partners on the ground agree that the "Free Visa-Free Ticket" scheme is a welcome and creditable initiative on the part of the government, but its implementation was done in haste and without the necessary resources and monitoring mechanisms to ensure recruitment agency compliance. The policy was introduced as a stand-alone agenda rather than part of comprehensive recruitment reform. Outside of implementation considerations, the confusion and lack of awareness among prospective migrants concerning how the policy works is an additional source of concern.

⁴ Except Qatar, at Rs. 20,000.

⁵ GIZ and ILO (2015). "Analysis of Labour Market and Migration Trends in Nepal" p. 52-53.

⁶ *Ibid.*

⁷ Republica. "Nafea demands abolition of free visa, free ticket system." March 25, 2016. Retrieved from: <http://bit.ly/1SA3xQk>

Case study: Irregularity of payment under Free Visa-Free Ticket policy

Asian Human Rights and Culture Development Forum conducted a one-day outreach at Tribhuvan International Airport (Kathmandu) in January, 2016 with migrant workers and their families on January 7, 2016 to identify if the “Free Visa-Free Ticket” policy had been effectively executed. A total of 188 migrant workers leaving Nepal for foreign employment were taken as sample size.

Among the migrant workers interviewed at the airport, all 118 responded that they were flying under the free visa-ticket policy and the recruitment agencies charged either zero cost or NPR 10,000. However, when follow-up calls were made to the families of the migrant workers (only 72 of 188 were able to provide information regarding the recruitment charges via telephone), the variability in fees paid to recruitment agencies were made known.

Of the 72 migrant workers whose family responded over the telephone: 18 reported zero cost; 17 reported NPR 10,000; and 37 reported more than NPR 10,000. Among them, irregularity in fees depending on country of destination is highlighted below.

Country	Migrant Workers	Zero Fees	NPR 10,000	<10,000	Minimum Fee	Maximum Fee
Kuwait	6	0	1	5	10,000	150,000
Malaysia	8	0	2	6	10,000	85,000
UAE	13	7	2	4	0	85,000
KSA	30	7	8	15	0	85,000
Qatar	15	4	4	7	0	90,000

Lack of oversight and monitoring mechanisms

Despite the Government of Nepal fixing a lower limit on the recruitment service fee, there is still no mechanism to oversee financial transactions between recruitment agencies and prospective migrants. Reports that recruitment agents continue to overcharge are widespread, where migrants are provided with receipts reflecting only the legally permissible fee. For example, in the past recruitment agencies would issue a receipt for the legal maximum at that time (NPR 70-80,000 depending on the destination), while overcharging an average

of NPR 120,000. Now, workers are still paying high costs but only receive an invoice for the stipulated maximum limit of NPR 10,000 or 20,000⁸. This kind of proof of payment system is deeply flawed in that it prevents migrants from providing evidence to claim a full refund should they face employment issues. By compelling a receipt for work authorization without oversight on the fee transaction, the policy unintentionally puts migrants’ access to justice at risk.

⁸ Migrant-Rights.org. “Nepal Free Visa, Free Ticket Policy doesn’t deter demand for workers” February 2, 2016. Retrieved from: <http://bit.ly/1UIGjt6>.

Inadequate public information

While the policy has been in place for several months, the level of awareness among prospective migrant workers is mixed, and confusion and mistrust is pervasive. Given that the Government did not abolish all fees, partners on the ground have reported a great deal of misinformation on what is covered under the remaining fee structure. Unscrupulous recruitment agencies and agents deceive migrant workers by convincing them that the policy is only a provision and not yet implemented policy; that the decision is only short-term; and that the “good” jobs are the ones that workers must pay more to secure.

For those who are aware of the policy, negotiating to pay the minimum amount has been met with limited success. That can partly be explained by reported coercive practices where agents threaten to give jobs away to individuals willing to pay more, or that prospective migrants will not be authorized to work if they report the real amount paid to airport or other government officials. The Tribhuvan International Airport case study above demonstrates the existing irregularity of payment for foreign employment under the new scheme.

Lack of coordination between Nepal and countries of destinations

It is not clear what level of formal engagement was held between the government of Nepal and the seven destination countries’ governments prior to crafting the new policy. In order to ensure effective implementation of this policy, thorough consultation and coordination between origin and destination governments is critical to its success. For example, there appears to be no mechanism in place in the countries of destination to ensure that employers who previously paid the visa and ticket costs as per the policy will not then

deduct those costs from the worker’s wages upon arrival.

RECOMMENDATIONS

The Open Working Group on Labour Migration and Recruitment welcomes the Government of Nepal’s forward decision to implement the “Free Visa-Free Ticket” policy, and recommends to strengthen and improve it.

We urge global civil society to show solidarity by advocating for their respective governments to take parallel action on zero recruitment fee models.

To ensure effective implementation, the Government of Nepal should:

- Invest in a robust oversight monitoring mechanism and a compliance regime as part of comprehensive recruitment reform in consultation with all key stakeholders.
- Promote wider social awareness by developing effective communication tools to ensure accurate flow of information regarding foreign employment, and the particularities of the “Free Visa-Free Ticket” policy.
 - This includes public information campaigns, use of community radio programs to disseminate accurate information, and parliamentary hearings.
- Formally consult with countries of destinations implied in the policy to ensure coherence and effective implementation between Nepal and other governments.
 - Regional consultative processes such as the Colombo Process should be used as an arena to formally discuss and negotiate

related policy decisions.

- Negotiate transparent and legally-binding bilateral agreements with each destination country on the particularities of the policy.
- Abolish all recruitment fees to reduce confusion among migrants and opportunity for coercion by

recruitment agents.

- Should any fees be charged, make payments directly payable through an authorized financial institution to make process more transparent and minimize corruption.
- Expand policy to all destination countries for greater consistency.

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NO WORKER SHOULD HAVE TO PAY RECRUITMENT FEES TO SECURE DECENT WORK!

Unscrupulous recruiters charge workers **high fees** to connect them with foreign employers. These fees result in **large debts** at **high interest rates**.

To pay their debts, workers accept substandard working and living conditions and are routinely subject to **rights violations**.

Debt bondage and **forced labour** must not be tolerated!

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This project was funded
by the European Union.

With members from civil society organizations across the world, the Open Working Group is committed to knowledge sharing and collective advocacy to reform migrant labour recruitment practices globally. Building upon years of civil society advocacy on labour migration, human rights, and recruitment reform, the Open Working Group was initiated in May 2014 by Migrant Forum in Asia and the Global Coalition on Migration (GCM) together with other civil society organizations. The Working Group is coordinated by Migrant Forum in Asia and forms part of the Migration and Development Civil Society Network (MADE).

To learn more about the Open Working Group on Labour Migration & Recruitment and its Recruitment Reform Campaign, visit our website: RecruitmentReform.org.