

THE FIVE CORRIDORS PROJECT - **CORRIDORS 2 AND 3**

Nepal to Kuwait and Qatar: **Fair recruitment in review**

JULY 2021



ABOUT THIS DOCUMENT

The Five Corridors Project is an initiative led by FairSquare Projects, which aims to identify key measures that governments can take to ensure that migrant workers can migrate safely and with dignity. FairSquare Projects is a non-profit human rights organisation that tailors rigorous research with communication and advocacy work to promote systemic change. The Five Corridors Project is supported by Open Society Foundations, Humanity United and Porticus. The organisations that funded this project played no role in the design or execution of the research, and our conclusions and recommendations may not necessarily reflect the viewpoints of Humanity United, OSF or Porticus.

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Cover photograph: Visa applicants at a Migration Resource Center in Kathmandu, Nepal, 2015. © ILO

Overview

An **overview** of fair recruitment in the Nepal to Kuwait and Qatar labour migration corridors

Outward labour migration plays an important role in Nepal's economy and society. Extreme poverty, high unemployment and natural disasters have led to nearly one in ten Nepalis seeking work abroad. With remittances making up almost a third of its GDP, Nepal is one of the largest remittance recipient countries in the world. The Arab Gulf states are a major destination for Nepalis. In 2017/2018, the six GCC countries (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and UAE) hosted 65% of all Nepali workers migrating to countries other than India (where the Nepali government does not issue workers with labour permits, meaning data is not available). Remittances received from GCC countries and Malaysia accounted for more than half of Nepal's total remittances between 2014/2015 and 2017/2018, with 12 percent coming from Qatar alone. The GCC states have among the world's highest GDP per capita, and receive hundreds of thousands of migrant workers each year, mainly from South Asia, to develop and service their economies. In both Qatar and Kuwait, the subjects

of this study, migrants far outnumber nationals in the workforce.

Given its importance to the national economy, foreign employment features centrally in Nepal's economic planning and legislation. Labour migration has featured as a priority in Nepal's periodic development plans since the mid-1980s. Initially, Nepal set targets with a view to increasing the number of Nepalis travelling abroad, but the focus in the past decade has shifted somewhat towards retaining Nepalis, creating jobs in the country and more priority has been given to ensuring that those who migrate do so in a safe and dignified manner. This reflects an increased global focus on human rights in the migration process and a growing sensitivity among the Nepali public to the treatment of their compatriots abroad.

Nevertheless, Nepal's legal and regulatory framework is yet to conform with international standards. Laws remain overly focussed on administrative processes,

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

In recent years, Nepal has sought to conclude new MOUs on labour migration with destination states, investing considerable time and political capital to reach agreements that include specific provisions on worker protections. These efforts caused a backlash with Nepal's powerful recruitment industry. Nepal's faith in MOUs as a protective mechanism contrasts with its Gulf partners, who have generally seen bilateral labour migration instruments as a way to open up recruitment channels rather than as a means of worker protection. Nepal and Qatar agreed two largely insubstantial agreements in 2005 and 2008, while there is no Nepal-Kuwait MOU on labour migration. Nepal has been seeking to conclude a more substantial agreement with Qatar, but as yet there is no indication that these efforts will prevail.

Nepalis choosing to migrate to Qatar and Kuwait usually work in low-paid jobs in construction, hospitality, retail, security and domestic work. Migration policies in both Qatar and Kuwait are driven by the need to balance a long-term reliance on low-paid migrant workers against the perceived threat that demographic imbalance poses to national identity. Foreign nationals outnumber nationals in Qatar by nine to one, while in Kuwait, they make up 72% of the country's total population, and as much as 82% of the total workforce. There is limited precise data broken down by nationality, but there are estimated to be more than 70,000 Nepalis in Kuwait and at least 365,000 Nepalis in Qatar. Migration policies prevent them from settling, bringing their family members with them, or obtaining citizenship. The "kafala" systems deny migrant workers' job mobility

and place them under the control of their employers. The abuse of Nepali and other migrant workers in the Gulf states, in connection with kafala, has been well-documented for many years. The Gulf states have typically presented recruitment abuses as an origin state issue, and employers in Qatar and Kuwait face little pressure to ensure that arriving migrant workers have not been exploited during their migration.

Kuwaiti government policy, responding to public concerns about unemployment and lack of opportunity for young people, is particularly focused on reducing - and ideally reversing - the imbalance between nationals and foreigners in the workforce, whilst at the same time still developing the construction and hospitality sectors which rely on migrant workers. The incoherence of this policy of "Kuwaitisation" is exacerbated by the reluctance of Kuwaiti nationals to take up the lower-paid, often stigmatised, jobs in the private sector. This gap between official migration policy and actual labour market demand has also contributed to irregular migration and visa overstays, as well as "visa trading" - whereby workers in origin countries buy visas, either from recruiters in Kuwait or in the origin country, who have in turn bought them from "employers". The large population of irregular migrants, some of whom become undocumented after fleeing abusive employment conditions, has led the authorities to launch regular mass arrest and deportation campaigns, making migrant workers' lives highly insecure. Internationally, Kuwait has in recent years attracted negative attention for the poor treatment of the country's 660,000 domestic workers, and high profile murders of two women in 2018 and 2019 caused a bilateral rift with the Philippines.

Qatar came under intense and prolonged international pressure over the treatment of migrant workers, particularly Nepalis in the construction sector, after 2010 when it won the right to host the 2022 World Cup. Faced with the prospect of an ILO commission of inquiry into forced labour, it agreed a cooperation partnership with the ILO in 2017 and carried out a series of reforms including providing labour rights in law to domestic workers for the first time, overhauling the labour complaints system and establishing a national minimum wage. The most notable change came in September 2020 when workers were given the ability to change employers without the permission of their current employer, challenging a mechanism at the core of the kafala system. By early 2021, the impact of this step was

still being assessed, with question marks around its implementation and a strong push by the private sector to try to overturn it.

The outbreak of Covid-19 in 2020, which left tens of thousands of Nepali and other migrant workers with no jobs and unpaid wages, under strict lockdown in labour accommodation camps in Qatar and Kuwait, exposed their vulnerability even further, and highlighted the different legal regimes applicable to nationals and foreign workers. In Kuwait, in particular, concerns about the demographic imbalance re-emerged with greater intensity, leading the authorities to pursue Kuwaitisation even more aggressively and to clamp down, yet again, on irregular migration. This was accompanied by sharp anti-migrant rhetoric, including by elected politicians, with migrants demonised and stigmatised.

The following addresses the key recruitment-related issues driving positive and negative worker outcomes for Nepali workers migrating to Kuwait and Qatar.

Intermediaries dominate the migration process

The matching of Nepalis to employers in the Gulf is generally complex, with several layers of intermediaries controlling aspects of the process and very often extracting money from workers. There is no government-to-government recruitment in these corridors and private sector recruitment agents in Nepal control access to almost all the available jobs in the Gulf.

Employers could theoretically recruit directly in Nepal, but few do, most either contracting Nepali agencies themselves or using Gulf-based recruitment agencies to link with Nepali recruiters. Gulf recruiters and HR representatives of employers are the first intermediaries: many leverage the fact there is high demand in Nepal for jobs and insist on favourable terms from Nepali recruitment agencies, up to and including kickbacks, to give them business. Nepali agencies who offer their services to employers cheaply or for free, paying kickbacks, pass these costs down to workers in the form of recruitment fees.

Workers can in theory migrate without recruitment agents involved, but in practice most jobs are advertised

through agents, and workers need labour permits issued by the Department of Foreign Employment (DOFE). Nepal's 850 licensed agencies, mostly headquartered in Kathmandu, can navigate this lengthy and complicated application process. Aspiring migrants, mostly from rural areas, rely on the services of local "sub-agents" to find work and to reach the licensed agencies. The vast majority of these sub-agents are unlicensed and operate outside the law. In 2018, the government banned agencies from using sub-agents' services, and required them to establish branch offices instead. The move had little effect, however, and unlicensed sub-agents continue to be fundamental in people's decision-making process about labour migration.

Nepalis seeking jobs in Kuwait or Qatar have little option but to use the services of a recruitment agent and many not only expect to pay, but often do not believe they can access a good job without doing so. Many take out high-interest loans, sell land, or borrow money from relatives to pay the fees. Sub-agents and agencies may use deception to persuade workers to commit to these fees. Either just prior to boarding their flight when it is too late to back out, or once in Qatar and Kuwait, migrants can discover that their job, wages, benefits or contract length have been changed, or that they have been "sold" to a different employer. Others never receive a written contract or are given copies in Arabic or English – languages which most do not understand.

Many low-paid workers may be employed by "labour supply" or "manpower" companies in Kuwait or Qatar, which are effectively unlicensed recruiters, whose business model relies on bringing workers from overseas to distribute them onto construction projects needing to fill short-term labour demands. Being employed by such a company without any long-term contracts can leave workers in highly insecure and vulnerable situations, and many cases of wage theft are associated with financially unstable labour supply companies.

Inconsistent approaches to addressing recruitment abuse

All three governments have taken some steps to address illegal recruitment fees and contract substitution, but there has been a lack of a coordinated approach and

policies across the corridors have been inconsistent. Data collected in World Bank KNOMAD studies found Nepali workers paying on average USD 1,054 for their jobs in Qatar. A Nepali woman who paid NPR140,000 (USD 1,200) for her job in a salon in Kuwait told us that she had sold her golden jewelry to fund her job.

Nepal continues to allow workers to be charged recruitment fees - it has attempted to implement a cap on worker fee payment without banning it outright. Since 2015, the “Free Visa, Free Ticket” policy has limited the amount workers can be charged to NPR10,000 (USD 83) for most workers - what it calls “zero cost” recruitment - and to enforce this through new bilateral agreements. In reality, migrant workers routinely pay far in excess of the legal cap, with sums up to NPR160,000 (USD 1,350) not uncommon. Some workers we spoke to said that when they refused to pay fees above the legal cap, they were told that their jobs did not fall under the policy, or that their employers refused to cover any recruitment-related costs. Others reported not receiving any receipts for the payment of fees, receiving receipts only for NPR10,000 (USD 83), being forced to sign false statements or record video messages saying that they had only paid the maximum legal amount, or being threatened with deportation if they reported how much they had actually paid.

The failure to ban recruitment fees outright creates a grey zone that enables agencies to charge far in excess of the legal limit and in effect the business model of recruitment agencies remains much the same as prior to the “Free Visa Free Ticket” policy. The vast majority still rely on charging workers extremely high fees, partly in order to be able to generate demand from employers in destination states, who are seeking the cheapest recruitment costs available and may have better offers from other origin states. The capacity of the government to enforce the fee limit is wholly inadequate in the face of the scale of abuse in the recruitment industry, and the role of DOFE has been undermined by a series of corruption cases involving senior officials. “Almost everyone who works in the division is corrupt”, one civil society organisation said. A 2020 agreement between DOFE and the police, which finally allows workers to bring recruitment cases to the police, may help increase the number of investigations. Additionally, the fact the Nepali government itself charges recruitment fees up to NPR90,000 (USD 760) through the government-

to-government migration schemes with some other destination countries acts as a major disincentive for private agencies to adopt fair recruitment. The fact that a group of agencies committed to “zero-cost recruitment” has so far been unable to mobilise any workers serves as an illustrative example. Agencies can lose their licence if they do not recruit at least 100 workers a year, sharply reducing the chances of them focusing on ethical employers prepared to pay for the full costs of recruitment.

Kuwaiti law only explicitly prohibits the charging of recruitment fees to domestic workers. The law does not prohibit other migrant workers from paying fees. Kuwait’s attempts to regulate recruitment fees are limited to domestic workers, but there is no indication that the government plans to take steps to ensure that workers do not pay fees in origin states. The recently established state-affiliated Al-Durra domestic worker recruitment agency is primarily charged with reducing fees for Kuwaiti employers rather than workers. Representatives of Al-Durra and the Kuwaiti Chamber of Commerce told us that origin countries need to drastically improve their oversight of recruitment agencies and that Kuwait has done its part in fighting human trafficking and protecting migrant workers. Kuwait has increased its capacities to inspect recruitment agencies that bring domestic workers into the country, although private residences – where abuses are rife – remain largely off-limits due to the country’s privacy laws. Generally, Kuwaiti authorities treat labour violations as administrative infractions, rather than criminal investigations and procedures, and rely on arbitration, fines, and blacklisting rather than criminal sanctions.

Qatar has also largely seen recruitment and fee payment as an origin state concern, and recruiters have generally been subject to relatively limited regulation. Although Qatari law prohibits the payment of fees by migrant workers to entities in Qatar, there has in practice been very limited scrutiny of employers’ and Qatari agencies’ interactions with origin state recruiters. Qatar’s labour inspectorate, which it has sought to upgrade with the ILO’s assistance, focuses mainly on payment of wages and working conditions, rather than issues that can drive forced labour and exploitation such as recruitment fees. Meanwhile the Ministry of Interior rarely uses its powers to investigate labour trafficking. Recently, high

profile initiatives have sought to address employers' non-payment of recruitment fees with guidance and contractual requirements, notably the Qatar 2022 Supreme Committee for Delivery and Legacy, which has a scheme for the repayment of fees to workers, and preliminary pilot projects in the hospitality and security sectors. Outside such flagship projects, many employers consider worker payment of recruitment fees to be the norm.

Qatar has made some recent efforts to address contract substitution by establishing Qatar Visa Centers (QVCs) in six origin states, including Nepal, which allow workers to review contracts in their mother tongue before signing them. As a result some workers appear to be challenging or rejecting contracts because they discover discrepancies at the QVC. However, Nepali agencies and sub-agents still retain overall control of the migration process. As a result, the risk of deception over terms and conditions remains, and for many, it may be too late in the migration process to reject contracts, because of the debt that they have accrued. A Qatari employer told us that it was not uncommon to find that workers were expecting different terms and conditions when the company had induction conversations with new staff, though such meetings rarely happened for low-paid workers.

Domestic workers and informal recruitment

Nepal issued a ban on migration for domestic work to GCC countries in 2017, but since recruitment agencies in Kuwait and Qatar can still legally recruit Nepalese domestic workers, Nepali domestic workers in Qatar and Kuwait are classified as “informal” or “undocumented” by Nepal but not by these destination countries. According to a Nepali community activist, “the Kuwaiti [authorities] don’t mind how people come to Kuwait as long as they have an entry visa”. Agencies in the Gulf rely on informal networks of agents in Nepal. These informal agents flout the Nepali ban and arrange for workers to leave the country legally, often via India, without certified contracts or Nepalese labour permits. In some cases, Kuwait and Qatari employers organise the recruitment by themselves relying on their former or existing employees or other Nepali contacts in the country. Women we spoke to were contacted by agents

via Facebook, through local contacts in their villages, or relatives and friends. The fact that women must navigate these informal migration routes places them at additional risk during the recruitment and employment phase. As a result of the ban, consular officials provide only limited assistance to domestic workers in the Gulf, with one suggesting to us that they could not be prioritised as they had “cheated the system”. In February 2021 the government proposed a new measure to replace the ban, under which women under 40 travelling for high-risk roles including domestic work in the Gulf had to obtain consent of their families before migrating. Women’s rights activists slammed the proposal as revealing a “deeply rooted patriarchal mindset”.

Shortcomings of safe migration awareness initiatives

Public campaigns, supported by international development agencies and NGOs, and other outreach efforts across the two corridors aiming to alert aspiring Nepali migrants to recruitment-related fraud and general labour migration risks have not been successful in stopping abuses. Access to information alone does not, it seems, create better outcomes for workers: many migrants told us that they feel compelled to pay more for their recruitment even despite being aware of the “Free Visa, Free Ticket policy”, because of social and family pressures or the need to repay their debts. In addition to this central problem, the Supreme Court has ruled that the curriculum of the mandatory orientation training did not adequately address the problems faced by Nepalese workers abroad. And although considerable resources have been allocated to assisting migrants preparing for departure, these outreach and information campaigns often fail to reach those most vulnerable to abuse, including women, illiterate people and non-Nepali speakers.

In this context, the Nepali government’s move to establish an integrated migration management software, the Foreign Employment Integrated Management System (FEIMS), has potential to reduce the prevalence of contract substitution and increase transparency - although again, it requires migrants to be internet literate. Since its launch in 2018, the Nepali authorities have required their embassies in destination countries

to carry out thorough checks on employers as part of the “demand letter” attestation process, and to upload them onto the FEIMS system. The system also allows both migrant workers and returnees to access all migration departments and services, and to verify the status of their visa approvals as well as details of their employers and recruitment agency used.

The kafala system in Kuwait and Qatar

The inability of workers to move jobs without the permission of their employers - a cornerstone of kafala - has long been associated with driving poor outcomes for Nepali migrant workers in the Gulf and locking them into abusive employment conditions. This is particularly the case when workers arrive having paid recruitment fees, since they often need to pay off loans and are left with little option other than to stay with their employers, even if the working conditions are abusive.

Migrant workers in Kuwait are subject to a 1959 residency law that ties them to a sponsor who controls their entry to the country, the renewal of residence permits and the termination of employment. The only circumstance in which a worker can transfer jobs without the permission of their employer is if three years have passed since their work permit was issued, and they give 90 days’ notice to their current employer. If a domestic worker cannot secure transfer approval from their original sponsor, they are only able to change employers after they have completed their contract. Those who do leave without their employers’ permission are at risk of being detained and deported for “absconding”. The ILO Committee of Experts has observed that this system exposes many workers to “abuse and undermines their ability to have recourse to means of redress.” Civil society groups note that abusive employers rarely release workers without charging them exorbitant fees for the privilege. A 2019 BBC Arabic investigation exposed sponsors using mobile applications to “sell” women domestic workers to other employers.

The kafala system in Qatar has been the subject of intense focus. In 2018 the government partially abolished its exit permit requirement, allowing most workers to leave the country without needing their employers’ permission. Domestic workers were

subsequently given this right in 2020, albeit with a requirement to notify their employer. Most significantly, a new law adopted in 2020 permitted all migrant workers to change jobs after six months employment without obtaining permission from their current employer, and within the first six months provided the new employer repay some recruitment fees to the original employer. The reform was widely welcomed and according to the government 78,000 workers moved jobs under the new scheme in the last quarter of 2020. However, in early 2021, NGO and media reporting suggested that workers were facing substantial barriers to moving jobs, seemingly in response to a pushback from the private sector. In February 2021, Qatar’s Shura Council, a government appointed legislative body, proposed regressive amendments which would effectively reverse the reforms only six months after their introduction.

Flawed grievance processes

When Nepali workers are subjected to abuse in the recruitment and employment cycle, they can seek assistance from their embassies, file labour complaints in the destination states, and make complaints against recruitment agencies in Nepal. At each stage, they encounter a potent mix of barriers that deter many from seeking justice.

Abroad, the FEA mandates the Nepali diplomatic missions to support citizens in vulnerable situations. However, workers in Qatar and Kuwait told us that the embassies are unresponsive and do not help them navigate the complex grievance mechanisms in the destination states. The government has acknowledged that the resources available to embassies are “inadequate”, while civil society groups say the embassies only take on the most serious “humanitarian” cases.

Kuwait’s laws provide for free access to a grievance mechanism for all categories of workers, which aims to settle most labour disputes within one month through a process of mediation with employers, with any unsettled disputes being then referred to the courts. In reality, disputes that are not resolved at the mediation stage can take up to three years to be addressed by the courts, during which time workers are unable to work and risk retaliation from employers. Many accept what they can get in mediation or abandon their cases.

Qatar has placed significant emphasis on upgrading its labour complaints process recently, establishing Labour Dispute Resolution Committees, which hear cases from all categories of migrant workers, regardless of nationality, job or status. The committees do not levy court fees. However, despite the intention that the committees would provide “fast track” remedy, it can still take many months for workers to recover unpaid wages, leaving many workers unpaid during that time. A government fund set up to repay wages to migrants, if their employer did not or could not pay up, became operational in August 2020 - it was too early to assess its efficacy at the time of writing. Most victims of exploitation and abuse only bring claims for lost wages, since the labour law does not provide for other damages, and there is a lack of clarity as to how the committees link up with other investigatory authorities.

DOFE is legally obliged to investigate complaints brought by workers against recruiters upon their return to Nepal, but most victims are unaware of their rights, and pursuing a claim is often a lengthy, complicated and expensive process which is beyond the means of all but a few. Filing a complaint generally means workers travelling to Kathmandu, although the authorities have taken steps to enable the filing of complaints remotely or at district level. These financial, geographical and personal obstacles force most victims either to abandon complaints against recruiters, or to accept mediation processes resulting in lower compensation. For undocumented workers, access to complaint mechanisms and state assistance is particularly limited.

Lack of freedom of association

The very limited ability for workers to organise in Qatar or Kuwait contributes directly to the many difficulties that Nepali migrants face in these countries.

Under Kuwaiti law, the right to establish trade unions is limited to Kuwaiti nationals working in certain specific sectors. Migrants are not explicitly prohibited from joining unions and, in comparison to other GCC countries, workers of all types in Kuwait enjoy a greater degree of freedom of association. With the support of a small number of NGOs, migrants have even actively campaigned to protect and advance their rights, including through public calls to abolish the kafala system. Nevertheless, unions still shy away from public reporting of labour rights violations, or any criticism of the state itself, as they are subject to tight government control and require official permission to strike. The International Trade Union Confederation regards Kuwait a country with “no guarantee of [trade union] rights”.

Freedom of association is highly restricted in Qatar, and there is no established trade union in the country. Qatari law allows only Qatari nationals to form or join tightly controlled associations. The technical cooperation programme with the ILO has had positive effects, with the labour ministry supporting the establishment of joint worker-employer committees in 20 companies, and engaging international trade unions, who report positively on their work with the government. These positive steps, which still do not give workers the full right to form or join trade unions, have however been limited to public bodies or major companies delivering Qatar’s large-scale infrastructure projects. Smaller companies, where abuse is known to be widespread and protections are weaker, lack worker representation. Meanwhile the May 2021 arrest of Malcolm Bidali, a Kenyan migrant worker who had blogged about his experiences highlighted the risks to workers who express their perspectives publicly.

Priority recommendations to strengthen efforts to ensure fair recruitment.

The **Nepal** authorities should:

- **Fully prohibit** the payment of fees and related costs, in line with the ILO definition, by migrant workers to recruitment agencies.
- **Pending the adoption of a zero-cost migration model, fully enforce** penalties against recruitment agencies charging fees above the legal limit, in accordance with relevant provisions of the FEA.
- **Increase** resources devoted to investigating and prosecuting corruption in the Department of Foreign Employment
- **Ensure** that all migrant workers, regardless of their job, gender, or whether they migrated through regular channels, have full access to consular assistance in destination countries and grievance mechanisms in Nepal.
- **Strengthen** the capacity of diplomatic missions in Qatar and Kuwait to support migrant workers facing exploitation and other abuses in seeking redress including by providing legal advice and representation; ensure that missions are adequately resourced to carry out thorough checks on prospective employers as part of the “demand letter” attestation process.
- **Provide** specialized pre-departure training for domestic workers and institute regular phone check-in procedures for domestic workers with Nepali consulates in Gulf states

The **Kuwait** authorities should:

- **Conduct** a formal, independent, public review of Kuwait’s national migration policy. The review should solicit views from a wide range of stakeholders and should specifically examine the relationship between Kuwaitisation and the human rights of migrant workers, and measures to address xenophobia and discrimination against migrant workers.
- **Introduce** legislation that enables migrant workers to transfer employers without the permission of their employers, and complement this with mechanisms that enable them to exercise this right in practice. Remove the criminal charge of “absconding”.
- **Amend** legislation to explicitly ban the payment of recruitment fees for all categories of migrant workers. Undertake proactive investigations (and where there is sufficient evidence, criminal prosecutions) into corrupt recruitment practices on the part of employers and recruiters, including the payment of “kickbacks”, and human trafficking.
- **Strengthen** the capacity of the labour inspectorate and ensure that it has the necessary resources as well as linguistic and investigatory skills to conduct private interviews with workers during visits and identify cases of serious abuses beyond the non-payment of wages. Institute labour inspections of private residences hiring domestic workers - including unannounced visits.
- **Significantly reduce** the time period migrant workers have to wait for court processes to proceed and ease the process of sponsorship transfer during this period.
- **Protect** migrant trade union members and civil society groups from retaliation for carrying out activities protecting migrants’ human rights.

The **Qatar** authorities should:

- **Significantly increase** the pressure on employers to ensure the safety and dignity of migrant workers during the recruitment process, including by:
 - Amending the Labour Law to hold employers responsible for the actions of third party intermediaries, including outside Qatar;
 - Strengthening the capacity of the labour inspectorate to identify cases of recruitment-related abuse, and requiring that employers provide evidence that they have paid for the costs of workers' recruitment;
 - Undertaking proactive investigations (and where there is sufficient evidence, criminal prosecutions) into corrupt recruitment practices on the part of employers and recruiters, including the payment of “kickbacks”, and human trafficking.
 - Incentivising ethical recruitment by requiring companies to budget transparently for recruitment costs, including in their contracting chains, in public procurement bidding processes.
 - Using the QVCs to identify and log cases of illegal recruitment fees and share information with Qatari investigatory bodies; work closely with the Nepali authorities to prevent contract substitution through the QVCs and sanction agencies charging illegal recruitments fees.
- Consider the introduction of special licensing requirements for “labour supply companies”, given the high risk workers employed by such firms can be exposed to, and their close involvement in the recruitment process.
- Institute labour inspections of private residences hiring domestic workers - including unannounced visits.
- Ensure that the 2020 reform allowing workers to move jobs without the permission of their employers is implemented effectively, that workers have simple procedures to change jobs, and that they are fully protected from retaliation. Remove the criminal charge of “absconding”
- Significantly reduce the average time taken to issue rulings at Labour Dispute Resolution Committees. Consider legislative changes to allow for collective complaints, when large number of workers make complaints. Where employers cannot or will not comply with court judgements, ensure that the Workers' Support and Insurance Fund (WSIF) disburses money owed to workers in a timely manner.



Nepalese migrant workers in Kathmandu queue to receive official documents in order to leave Nepal, 2014. © Prakash Mathema / Stringer / Getty

Recruitment pathways: How employers in Kuwait and Qatar hire Nepali workers

This is an examination of how Nepali nationals are recruited into low-paid work in Qatar and Kuwait. It primarily examines how Qatari or Kuwaiti companies, sometimes with the assistance of Qatari or Kuwaiti recruitment agents, bring Nepali workers into the Gulf, but it also examines the processes by which domestic workers are hired in Qatar or Kuwait.

Who facilitates recruitment from Nepal?

Private recruitment agencies in Nepal facilitated the issuance of 94% of all new labour approvals for workers migrating to Kuwait in 2017-2018, and 91% for Qatar. In 2018-2019, 747 recruitment agencies sent Nepali migrants to Qatar, and 178 agencies to Kuwait.¹ These agencies are responsible for finding the most suitable candidates for the specific job abroad, based on a “demand letter” issued by the authorities in the destination state, and for preparing the selected

candidate for foreign employment. Whilst Nepali nationals are allowed to migrate through official channels without using agents, the number of workers doing this has been decreasing steadily over the past decade and is currently very small, estimated at around 9,000 every year.² Nepalis who migrate to GCC countries for domestic work in defiance of an official ban imposed in 2017 generally bypass the official migration channels in Nepal.

Do employers also use recruitment agents based in Kuwait and Qatar?

Qatari and Kuwaiti laws enable companies to bring migrant workers into the country under their direct sponsorship. Companies in many cases liaise directly with recruitment agencies in Nepal to select workers and complete the necessary procedures there, while some others use intermediary agents based in Kuwait or Qatar.

1. MOLESS, “[Nepal Labour Migration Report 2020](#)”, (2020): 26, 129, 130

2. Jones, K., Morin, S., Dobree, P., & Irimu, W., “[The Migrant Recruitment Industry: Profitability and unethical business practices in Nepal, Paraguay and Kenya](#)”, (2015): 27

What is the recruitment process?

The **process in Qatar** is as follows. To hire non-Qataris for any jobs in the private sector (with the exception of domestic work), companies in Qatar must apply to ADLSA for a “block visa” specifying the country from which they would like to recruit workers, detailing also the particular skills, gender and numbers required, as well as the salary and overtime, and the provision of food and accommodation. The Ministry of Interior decides on the nationality and number of persons to be allowed under each group visa. Once the nationality quota has been approved, ADLSA issues “block visas” and a demand letter.³

The **process in Kuwait** is similar. Employers seeking to recruit non-Kuwaiti nationals for work in the private (non-domestic) sector must first secure an annual approval on the number of staff they require from the General Manpower Authority (GMA), which falls under the supervision of the Public Authority for Manpower (PAM).⁴ Non-Kuwaiti workers can only be employed as long as there are no Kuwaiti nationals available to perform the job, the employer’s plan is consistent with their business needs, and a match between the worker and employer has been identified.⁵ Their recruitment is facilitated under what is commonly known as “visa 18”, referring to Article 18 of Ministerial Decision 957 of 2019, concerning the implementation of the 1959 Residence of Aliens Act, which also outlines the scope of their labour mobility.

In both Kuwait and Qatar, once the approval is obtained, the company must send the demand letter, along with any relevant documents, to the Nepali embassies in Kuwait and Qatar for attestation. Consular staff examine the employer’s records, their legal and financial status, and the terms and conditions of the demand letter. Upon embassy approval, Nepal’s Department of Foreign Employment (DOFE) issues a pre-approval for the recruitment of workers at which point the demand letter can be sent to a recruitment agency in Nepal for them to publish the vacancy, or use their own databases of applicants to contact potential candidates. In some cases, workers respond directly

to the job advertisements by sending or bringing their CVs in person; in others, they rely on agents to do so on their behalf.⁶ In others still, they may receive a job offer or information about the demand letter directly from friends and relatives in the destination countries, but still choose to rely on agencies or individual agents to assist them with the lengthy and complex labour permit and visa application process.

The worker selection process varies according to the resources and internal policies of the employer. Most in-person interviews and skill assessments are held in Kathmandu. Successful candidates go through pre-departure orientation course and medical tests. For anyone migrating to Kuwait, these tests must be done at a clinic offering the GCC Approved Medical Centers Association (GAMCA) examination, usually in Kathmandu. In Qatar’s case, as of August 2019, medical check-ups are done at the QVC, also in Kathmandu, where workers receive a copy of their contracts which they can reject if the terms do not correspond to their agreement with the recruitment agency, and where they have their biometric data taken as part of the process. Successful candidates must also provide proof of payment of their life insurance and contribution to the Welfare Fund. Once all of this has been completed, the employer in the destination country processes the worker’s visa on the worker’s behalf, and when issued, sends it back to the recruitment agency. After the visa is received, recruitment agencies can finalize all other administrative processes required to obtain the final labour approval permit from DOFE, which includes a submission of a copy of the worker’s contract with the employer, a copy of the worker’s contract with the recruitment agency, and a receipt showing the amount paid by workers as recruitment fees as well as health, training and insurance certificates. Once the labour permit (also known as a labour permission sticker) is issued, recruitment agencies can start organizing the worker’s travel.

The last stage of the recruitment process takes place in the destination countries where employers are required to finalize work permit procedures on the worker’s behalf within 90 days of his or her arrival. In the case of Kuwait, this also includes ensuring that workers complete mandatory medical examinations.

3. Verité, “An Exploratory Study on the Role of Corruption in International Labor Migration”, (January 2016): 9

4. Articles 9 and 10 of the [Private Sector Labour Law](#)

5. Article 26, [The Public Authority for Manpower, Administrative Order 552 of 2018 Regulating the Rules and Procedures for Granting a Work Permit](#)

6. Professor Ray Jureidini, “[Migrant labour recruitment to Qatar, Report for Qatar Foundation Migrant Worker Welfare Initiative](#)”, (2014): 86

Who pays whom, in theory?

The **fee structure** for this model is supposed to work as follows.

- Migrant workers in Nepal pay recruitment agencies in Nepal a maximum of NPR 10,000 NPR (USD 83) for facilitating the process, and an additional NPR 600 (USD 5) for the mandatory orientation training.
 - Employers in Kuwait and Qatar pay Nepali recruitment agencies a fee for their services and meet all the other costs of the migrant workers' recruitment into Qatar or Kuwait, including flight, visa and medical costs.
-

How much do workers actually pay?

In reality, most Kuwaiti and Qatari employers do not pay the full cost of recruitment and in some cases they charge kickback payments from the Nepalese recruitment agencies that compete for their business. As a result, these costs are passed on to migrant workers. If private recruitment agents are involved in Kuwait and Qatar, their administrative costs should be borne by the employer (the service they provide is the removal of the administrative burden associated with the recruitment process) but are often also passed on to the migrant worker. Despite the implementation of Nepal's "Free Visa, Free Ticket" policy in 2015, the majority of workers pay fees significantly in excess of the legal cap with sums up to NPR 160,000 (USD 1,350) documented in this report.

Do workers always work for the company that recruited them?

Once Nepali workers arrive in Qatar or Kuwait, they may not end up working for the employer with whom they signed a contract, either because they have actually been recruited by a "labour supply company" or because they were recruited on what is known as a "free visa".

Many private companies rely on "labour supply companies" to fill gaps in their workforce and save on

recruitment costs particularly when seeking to employ low-wage workers for jobs requiring less skills. These labour supply companies recruit migrant workers and sponsor their visas as employers through the process described above - often through a licensed recruitment agency that they operate as a recruitment arm - but then subcontract them onto construction and other worksites temporarily to help other companies with short-term labour shortages or seasonal work. This recruitment model may increase recruitment costs for migrant workers and can mean that workers perform work and earn salaries different to those originally agreed in Nepal.⁷

Kuwaiti and Qatari nationals, as well as foreign residents, continue to be involved in so-called "visa trading", or the sale of "free visas" through informal networks in the countries of origin, either to recruiters or directly to migrant workers. Sponsors effectively 'sell' the work visas that have been issued to them to migrant workers, allowing them to work on an open "black market" in return for a monthly fee for their residence permits. Nepali community activists told us some workers decide to migrate to the Gulf on a "free visa" because they prefer to have the option of changing employers more easily and believe that they can earn more money by finding a job on their own, but first time migrants may be more vulnerable to abuse, particularly contract substitution, when travelling on a free visa. Some workers believe they are migrating to begin a genuine job, but are informed by their employers on arrival that there is no job and they must find casual work, making them undocumented, and at risk of arrest and deportation, from the point of their arrival in the country.

What about domestic workers?

Private recruitment agencies are particularly widely used for the recruitment of live-in domestic workers in Kuwait and Qatar. Where Nepali domestic workers are concerned, there is no formal process in place for this model of recruitment, since Nepal issued a ban on migration for domestic work to GCC countries in 2017. Recruitment agencies in Kuwait and Qatar can still legally recruit Nepalese domestic workers, but to

7. Professor Ray Jureidini, "Migrant labour recruitment to Qatar, Report for Qatar Foundation Migrant Worker Welfare Initiative", (2014): 62

do so they have to rely on informal networks of agents in Nepal. These informal agents in Nepal flout the ban and arrange for workers to leave the country legally, but without certified contracts or Nepalese labour permits. In some cases, Kuwait and Qatari employers organise the recruitment by themselves relying on their former or existing employees or other Nepali contacts in the country. Women interviewed for this report were contacted by agents via Facebook, through local contacts in their villages, or relatives and friends in Kuwait who put them in touch with people who organized their irregular migration to Kuwait. This is often via India or southeast Asia, as Nepali immigration officers in Kathmandu airport are not supposed to allow women to travel to the Gulf for domestic work. They only had to pay minimal fees for the issuance of their passports, health check-ups or criminal record certificate in Nepal as their travel and other recruitment fees were covered by their employers.

Upon arrival in Kuwait, domestic workers are issued a temporary three-month visa by Kuwait's state-run recruitment agency Al-Durra. According to a Nepali community activist, "the Kuwaiti [authorities] don't mind how people come to Kuwait as long as they have an entry visa". During this three-month period, their employers are required to apply for the workers' permanent visas and residence permits and ensure that they complete medical tests. Nepali domestic workers in Qatar can regularise their employment and immigration status once they arrive in the country on tourist visas. In September 2019, the Qatari Ministry of Commerce

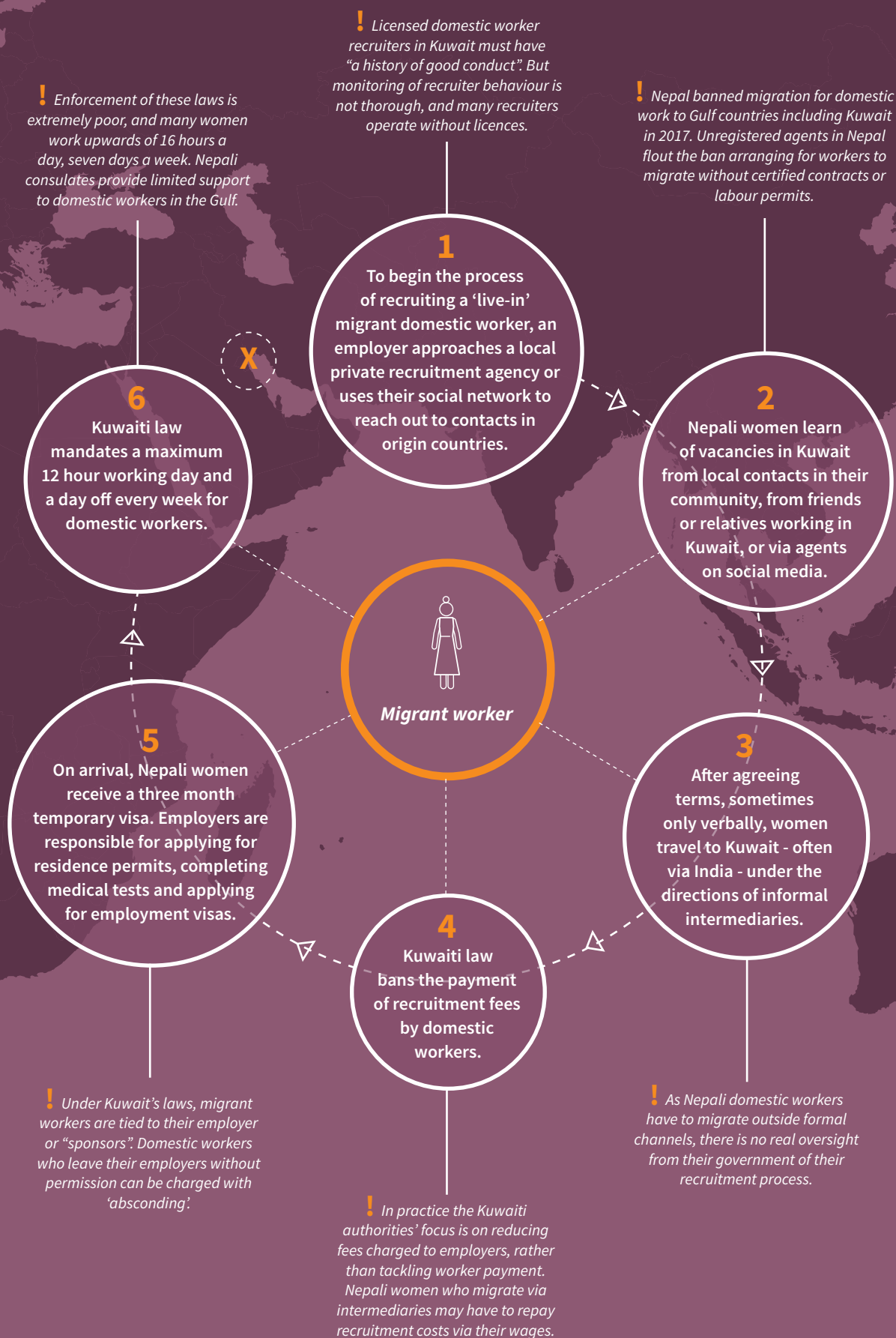
and Industry set up WISA, a public company, which is responsible for the recruitment and placement of domestic workers in private households on a live-out and part-time basis, as part of an ILO supported initiative aimed at broadening recruitment models for domestic workers. Under the new scheme, workers' accommodation and transportation are meant to be provided by WISA, and workers are expected to receive a prepaid mobile phone card to be able to report any abuse. It is too early to assess the impact of the initiative. However, according to Amnesty International, the WISA model "could offer a viable alternative to the live-in model, and allow proper monitoring of domestic workers' working conditions, if fully and properly implemented."⁸

In 2017, Kuwait established a state-owned recruitment agency, Al-Durra, to facilitate the recruitment of foreign domestic workers and to bring costs down for employers. Even though Al-Durra initially received larger visa quotas than any other Kuwaiti recruitment agency, and had the ability to recruit domestic workers from a wide range of origin countries, it very quickly ended up relying on Kuwaiti agencies to facilitate the recruitment process as it did not have the required networks in countries of origin.⁹ Given that it could not compete with private recruitment agencies, it became another layer in the final stages of the recruitment, usually to facilitate the issuance of a residence permit, although it is meant to retain oversight of the entire process. As a result, the recruitment of domestic workers to Kuwait continues to be largely facilitated by private recruitment agencies.

8. Amnesty International, "Why do you want to rest? Ongoing abuse of domestic workers in Qatar", (2020): 30

9. Vani Saraswathi, Director of Projects, Migrant-Rights.Org, remote interview, 23 July 2020

A simplified impression of a typical recruitment process for a Nepali domestic worker employed in Kuwait



A simplified impression of a typical recruitment process for a Nepali migrant worker* employed in Qatar

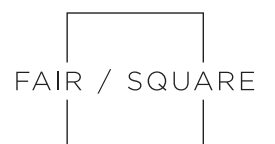


*This describes a typical recruitment process for a worker who is not employed a domestic worker.

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