



Promotion of the Rights of Nepalese Migrant Workers

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Abstract

The research project at hand has been conducted by four students at Hanken School of Economics on behalf of KIOS Foundation and takes an interest in the plight of Nepalese migrant workers in South Asia and the Gulf countries. More specifically, the research project seeks to answer three research questions (i) which are the most prominent rights issues and challenges of relevance to Nepalese migrant workers, (ii) how could the rights of Nepalese migrant workers be protected more effectively, and (iii) what should Finnish companies working in contexts with Nepalese migrant workers be aware of and take into account to promote the rights of Nepalese migrant workers.

The research methods include a literature review and semi-structured interviews to obtain an in-depth view of (i) the challenges faced by Nepalese migrant workers and (ii) possible solutions. Furthermore, the report briefly discusses the participation of migrant workers in processes related to promoting migrant workers' rights, accountability mechanisms that come into play in the protection of migrant workers' rights and the need for further research on the topics of interest.

1. Introduction

It is estimated that over 10% of Nepal's population work abroad, something that has a considerable social and economic impact on the country as a whole (as cited in Malla & Rosenbaum 2017, pp. 411; MOLESS 2020, p. 11). Many of these migrant workers leave their home country in the hope of higher salaries, an improved standard of living and being able to support their families. Oftentimes, however, they end up facing the opposite state of affairs, including underpayment, mistreatment and unsafe working conditions. (As cited in Malla & Rosenbaum 2017, pp. 411-417)

The research project at hand takes an interest in the plight of these Nepalese migrant workers in South Asia and the Gulf countries. More specifically, it seeks to answer three research questions, namely:

1. Which are the most prominent rights issues and challenges of relevance to Nepalese migrant workers?
2. How could the rights of Nepalese migrant workers be protected more effectively?
3. What should Finnish companies working in contexts with Nepalese migrant workers be aware of and take into account to promote the rights of Nepalese migrant workers?

The report defines migrant workers in line with article 2 of the International Convention on the Protection of the Rights of All Migrant Workers (ICRMW), as persons “who [are] to be engaged, [are] engaged or [have] been engaged in a remunerated activity in a State of which [they are] not [...] national[s]” (OHCHR 1996a).

The project was implemented between January and May 2022 as part of a project course on Corporate Social Responsibility and Humanitarian Logistics at Hanken School of Economics in Finland. It has been commissioned by KIOS Foundation, which is a civil society organization established in 1998 (KIOS Foundation 2022a). The Foundation's purpose is to support and advance the “realization of human rights as defined in the human rights treaties and instruments of the United Nations, as well as in regional human rights instruments” (KIOS Foundation 2021).

The activities and geographical focus of KIOS Foundation have varied over time. Today, activities chiefly centre on Kenya, Uganda, Nepal and Sri Lanka, combined with ad hoc initiatives focused on support to Rwandan, Burundian and Tibetan civil society in exile.

Thematically, KIOS Foundation provides support to human rights defenders at risk and promotes:

- LGBTIQ+ rights;
- economic, social and cultural rights;
- the rule of law and democracy;
- women's rights and gender equality;
- children's rights;
- business and human rights;
- the right to physical integrity and freedom from torture;
- the rights of migrants and refugees;
- the rights of ethnic minorities and indigenous people and rights in conflict zones and crises. (KIOS Foundation 2022b)

KIOS also conducts human rights consultancy voucher reports for Finnish companies, whose projects are funded by the business partnership programme, Finnpartnership. The voucher is offered for projects, which are considered to possibly have higher risks related to the social/human rights issues (Finnpartnership 2022).

The report, which will feed into KIOS Foundation's forthcoming programming period and its Finnpartnership recommendations, discusses international perspectives on the rights of migrant workers (including a number of legal instruments as well as regional and business initiatives), and research into (i) the characteristics of Nepalese migrant workers, (ii) the rights violations faced by them and (iii) efforts to promote respect for key rights. The report then moves on to analysing the views of partners to KIOS Foundation on violations of rights and means to protect Nepalese migrant workers. The final part of the report sums up the findings of the project.

2. Research methods

Answers to the research questions were gathered by means of a literature review and interviews.

The literature review was conducted in February 2022 using data (i) produced by organizations active in the field of labour migration and (ii) academic articles retrieved from academic databases (chiefly Hanken/Hanna, Åbo Akademi/Alma PCI and Google Scholar) using keywords such as labour, migration, migrant worker, Asia, Nepal, human rights and violations. Some publications were also received directly from the project partner KIOS Foundation.

The literature review was aimed at providing first insights into the most prominent rights issues and challenges of relevance to Nepalese migrant workers (research question 1), more effective protective measures (research question 2) and potential protective measures by Finnish companies (research question 3).

In-depth insights into challenges and solutions were sought by means of five semi-structured interviews. With a point of departure in the research questions, a set of interview questions were formulated (see appendix 1). The interviews were conducted in March 2022 using Microsoft Teams. Interviewees (listed under references) included organizations and individuals active in the field of labour migration and trafficking globally or in the South-Asia and Arabian Gulf regions. Contacts to interviewees were partly provided by KIOS Foundation and many of the interviewees had first-hand knowledge of the challenges faced by Nepalese migrant workers. Upon agreement with the interviewees, all interviews were recorded and automatically transcribed. The interview data was stored in accordance with the data management guidelines of Hanken School of Economics. After the finalization of the research report, the audio files and transcriptions including identifiers will be destroyed in accordance with Finnish Social Science Data Archive (FSD s.a.) and Hanken guidelines. In the final report, all interviewees have been granted anonymity to ensure their integrity.

3. The international legal and soft law framework related to migrant workers' rights

3.1. International conventions and regional initiatives

3.1.1. International Convention on the Protection of the Rights of All Migrant Workers and other conventions

Cross-border work-related migration is regulated by a variety of international instruments aimed at ensuring the protection of migrant workers. These include the International Convention on the Protection of the Rights of All Migrant Workers, adopted by the UN General Assembly in December 1990. Article 2(1) of the Convention defines a migrant worker as “a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national” (OHCHR 1996a). Article 2(2), furthermore, lists frontier workers, seasonal workers, seafarers, workers on offshore installations, itinerant workers to illustrate different sub-categories of migrant workers. Article 5 of the Convention establishes that migrant workers (and their family members) may be “documented or in a regular situation”, i.e. authorized by the state of employment to enter, stay and work. They may, however, also be “non-documented or in an irregular situation”, i.e. not authorized to enter, stay and work.

The Convention highlights, that migrant workers and their families have specific rights during the “entire migration process [...], which comprises preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or the State of habitual residence” (OHCHR 1996a, art. 1). The Convention also emphasizes that no migrant worker may be discriminated against based on “sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status” (OHCHR 1996a, art. 1).

Part 2 of the Convention lists the rights which state parties to the Convention are expected to accord migrant workers. These include (but are not limited to) the right to leave any State, including their State of origin, to life, not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, not to be held in slavery or servitude, to hold opinions without interference, to equality with nationals of the State concerned before the courts and tribunals, to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment

with nationals of the State concerned, to a cultural identity and cultural links with their State of origin, to transfer their earnings and savings, in particular those funds necessary for the support of their families, from the State of employment to their State of origin or any other State. (OHCHR 1996a)

Implementation of the provisions is monitored through a separate supervisory mechanism, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, to whom complaints also can be made (OHCHR 1996b).

A number of other international and regional instruments approach rights more narrowly, see table 1, which also illustrates the ratification status from the point of view of Nepal as a “departure country” and some key destination countries for Nepalese migrant workers. As can be seen, neither Nepal (as a departure country) nor these “destination countries” for Nepalese migrant workers (India, Malaysia, Saudi Arabia and Qatar) have ratified all of the above-mentioned instruments. As a consequence, the rights accorded to Nepalese migrant workers tend to vary from one country to another depending on the approach to migrant worker rights. (see Sijapati & Limbu 2017, pp. 94-106)

Table 1: Ratification status of key legal instruments related to the rights of migrant workers

Year	Abbreviation	Instrument	Ratifications				
			Nepal	India	Malaysia	Saudi-Arabia	Qatar
2003		International Convention on the Protection of the Rights of All Migrant Workers					
1949	ILO C97	ILO Migration for Employment Convention					
1975	ILO C143	ILO Migrant Workers (Supplementary Provisions) Convention					
1996	ICESCR	International Covenant on Economic, Social and Cultural Rights	X	X			X
1966	ICCPR	International Covenant on Civil and Political Rights	X	X			X
1979	CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women	X	X	X	X	X
1989	CRC	Convention on the Rights of the Child	X	X	X	X	X
1966	ICERD	Convention of the Elimination of All Forms of Racial Discrimination	X	X		X	X
1948	UDHR	Universal Declaration of Human Rights	*)				

Adapted based on data from the United Nations Treaty Collection (no date).

**) Not a treaty and therefore not ratified by states, see Dag Hammarskjöld Library (2022).*

The failure of many countries to ratify the International Convention on the Protection of the Rights of All Migrant Workers has been attributed to e.g. (i) the Convention being perceived as too detailed and (ii) hesitations regarding its usefulness and relevance (de Guchteneire & Pécoud 2009, p. 12). Research also points to low awareness of the Convention,

misunderstandings regarding its provisions, limited resources for implementation and arguments that existing legislation already ensures that migrant workers are protected (de Guchteneire & Pécoud 2009, pp. 13-19). Piper (2009, p. 177), furthermore, highlights that many Asian countries fear that ratification or accession would limit the possibilities of migrant workers to secure employment abroad.

3.1.2. Non-binding mechanisms aimed at promoting migrant workers' rights

Reluctance to ratify international legal instruments has led to an increased interest in non-binding mechanisms. One such mechanism is the regional and member-driven so-called Colombo Process, on the management of overseas employment and contractual labour for countries in Asia. The process, which was established in 2003, is focused on:

- protecting and providing services to migrant workers;
- increasing the benefits of structured and organized labour migration;
- building capacities, collecting data and cooperating around labour migration-related challenges. (Colombo Process 2022)

The Colombo Process, which involves member countries Afghanistan, Bangladesh, Cambodia, China, India, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand and Viet Nam, uses soft tools to reach its objectives. These include experience sharing, consultations, dialogue and recommendations. (Colombo Process 2022)

Nepal is also party to the non-binding Global Compact on Safe, Orderly and Regular Migration (GCM) agreement, a member state of the regional Abu Dhabi Dialogue (ADD) on labour migration and is one of the countries having pledged support for the South Asian Association for Regional Cooperation (SAARC) 2014 commitment to protect the rights of migrant workers (Choudhary & Devkota 2021, pp. 84-85).

3.2. Business Initiatives

The involvement of companies in the protection and promotion of workers' rights takes several forms from soft law and the following of international principles and guidelines, to the creation of groups gathering companies against unfair work practices, to industry-led initiatives.

3.2.1. UN and OECD guidelines on business and human rights

In 2008, the United Nations endorsed the “Protect, Respect, and Remedy Framework” for business and human rights. This framework recognises the responsibility of the states “to protect everyone within their territory and/or jurisdiction from human rights abuses committed by business enterprise” as well as the responsibility of businesses “to respect human rights wherever they operate and whatever their size or industry” (UN Working Group on Business and Human Rights s.a., p. 2). In 2011, the United Nations Human Rights Council endorsed the United Nations Guiding Principles on Business and Human Rights (UNGPs) based on the previous framework. The UNGPs highlight three components of business enterprises’ responsibilities: “a policy commitment to meet the responsibility to respect human rights”, the undertaking of an ongoing human rights due diligence “to identify, prevent, mitigate, and account” for a business enterprises human rights impacts’, and the set-up of processes to enable remediation “for any adverse human rights impacts they cause or contribute to” (UN Working Group on Business and Human Rights s.a., p. 3).

In 2000, the Organisation for Economic Co-operation and Development (OECD) published the OECD Guidelines for Multinational Enterprises, which were then updated in 2011. They draw upon the United Nations “Protect, Respect, and Remedy Framework” and the UNGPs. The OECD Guidelines are “recommendations addressed by governments to multinational enterprise operating in or from adhering countries” (OECD 2011, p. 3). These recommendations are not binding but provide principles and standards for responsible business conduct that governments have committed to promoting. Besides, the OECD Guidelines state that a state’s failure to protect and promote human rights does not diminish the expectation that enterprises respect human rights.

Both the UNGPs (UN Working Group on Business and Human Rights s.a., pp. 5-6) and the OECD Guidelines recognise migrants as a vulnerable group, encourage enterprises to ensure that they have equal opportunities (OECD 2011, pp. 40-41) and to use appropriate methods to consider effectively their vulnerability and marginalization.

3.2.2. The Dhaka Principles and IOM Migrant Workers Guidelines

The UNGPs were also the basis for the Dhaka Principles developed by the Institute for Human Rights and Business (IHRB) in 2011 and supported by business, government, trade unions and civil society. The Dhaka Principles “provide a roadmap that traces the worker from recruitment, through employment, to the end of contract” and present ten principles

that should be respected to “ensure migration with dignity”. The principles are based on two core principles: (i) all workers are treated equally and without discrimination, and (ii) all workers enjoy the protection of employment law in the country where the work is performed. (IHRB 2011, p.2)

In January 2022, the International Organization for Migration (IOM) and other stakeholders of IOM’s regional Corporate Responsibility in Eliminating Slavery and Trafficking (CREST) initiative published the IOM’s Migrant Workers Guidelines for Employers. The guidelines focused on “how to recruit and employ international migrant workers responsibly” (IOM 2022, p. 5) by: “understanding migrant workers and the labour migration process”, “building an internal labour migration management system”, and by “managing the labour migration process” (p. 6). The IOM’s Migrant Workers Guidelines for Employers combine the OECD and UN guidelines presented above and digs deeper in how to develop them, especially on public policy commitment, human rights due diligence, remediation, and the engagement with migrant workers. The IOM’s guidelines also shed light on the importance of enterprises to act at the different phases of migration from the recruitment to the employment, to the return or onward migration. (IOM 2022)

3.2.3. Industry-led and other private sector initiatives

Moreover, to put an end to recruitment fees charged to migrant workers by recruitment agencies, industry-led initiatives have been developed such as the Code of Conduct of the World Employment Confederation (2015). A consortium of multiple stakeholders and companies have furthermore set up the International Recruitment Integrity System (IRIS) under the IOM (Farbenblum & Nolan 2017, pp. 20-21) and the IHRB initiated Leadership Group for Responsible Recruitment (KnowTheChain 2021, p. 2). These initiatives are committed to a common principle: no recruitment fees must be paid by job seekers, recruitment fees may be charged to employers, but they must not recover recruitment fees from workers, as stated in the “Employer Pays Principle”. Yet among the 10 (out of 15) company members of the Leadership Group for Responsible Recruitment assessed by KnowTheChain, six companies failed to disclose evidence of implementation of this principle in their supply chains (KnowTheChain 2021, p. 2). More broadly, KnowTheChain has conducted research on 180 companies from the electronics, food and apparel sectors, and has revealed that only 13% of those companies disclosed evidence of implementation of policies against worker-paid recruitment fees such as repayment of recruitment fees (KnowTheChain 2021, p. 2).

Standards for the promotion and protection of migrant workers can also be developed individually by private actors as a requirement for project funding. For instance, the Qatar Foundation, a non-profit organization, has developed Mandatory Standards of Migrant Workers' Welfare for Contractors and Subcontractors requiring respect to "recruitment, living and working conditions and general treatment of Workers engaged in construction and other projects" at the Foundation (Qatar Foundation 2013, p. 6). Moreover, standards and codes of conduct can be developed by global companies to promote and protect migrant workers' rights in their supply chain. For instance, Hewlett Packard (HP) has developed its own Supply Chain Foreign Migrant Worker Standard "to set forth the minimum requirements for the appropriate and ethical recruitment and management of foreign migrant workers by or on behalf of suppliers doing business with HP" (HP 2015).

Despite these numerous initiatives and companies understanding that "human rights is crucial for responsible business" (United Nations Global Compact s.a.), there is still a gap between commitment and action. KnowTheChain and the Business & Human Rights Resource Centre (2021, p.4) shed light on "the urgent need for voluntary action to be strengthened with robust regulatory requirements for companies to identify human rights risks and prevent abuse". In 2021, the two organisations conducted research on 129 global companies from the electronics, food and apparel sectors and their efforts to address forced labour. It revealed that 36% of companies "do not show any evidence that they are assessing human rights risk" and that 29% "do not provide evidence a grievance mechanism is made available for suppliers' workers to report labour rights abuses (KnowTheChain and the Business & Human Rights Resource Centre 2021, pp. 2-5).

In 2018, a UN Special Rapporteur reported on the human rights of Nepalese migrants after his visit to Nepal and gave some recommendations for the protection of migrants' workers to private sector organisations doing business with the Nepalese government. The recommendations are the following:

- developing and implementing human rights due diligence;
- prioritizing, and rewarding ethical agencies;
- ensuring that the costs of ethical recruitment are taken into account in the tendering process;
- ensuring independent audits regularly;
- having a zero-tolerance policy on the recruitment fees and abuses of migrant workers' rights. (OHCHR 2018)

4. Previous research related to Nepalese migrant workers and their rights

4.1. Key characteristics of Nepalese migrant workers

Labour migration from Nepal dates back to the 1700s (as cited in Malla & Rosenbaum 2017, p. 414). Migrant workers have since become an integral element of the social and economic situation of the country (MOLESS 2020, p.11). This is echoed by Choudhary and Devkota (2021, p. 75), who refer to labour migration as a “defining feature of Nepali society”. Furthermore, they add that beyond influencing social and economic aspects in Nepal, labour migration’s effects can also be seen culturally and politically in Nepal (Choudhary & Devkota 2021, p. 75).

It is estimated that over 10% of Nepal’s population works abroad (as cited in Malla & Rosenbaum 2017, p. 411). Of the over 4 million labour approvals issued to outgoing Nepalese migrant workers between 2008/2009 and 2018/2019, only 5% of them have been obtained by females (MOLESS 2020, pp. 11-12). This proves that while labour migration from Nepal is very common, it is still an extremely gendered phenomenon (MOLESS 2020, p. 12). The majority of Nepalese migrant workers are employed in low-skilled jobs (MOLESS 2020, p. 33). Surveys aimed at returned migrants show that nearly half were employed in “elementary occupations” abroad (MOLESS 2020, pp. 41-42). The second and third most common industries were those of “sales and service” and “craft and related trades” (MOLESS 2020, p. 41). Military employment may be another career path taken by Nepalese migrants. This has historic significance as Nepalese men have been recruited to the British Indian, and later British and Indian, armies since the Anglo-Gurka war (as cited in Malla & Rosenbaum 2017, p. 416). These men, known as *Gurkhas*, are still heavily employed by the British and Indian armies, as well as by the United Nations in peacekeeping roles (as cited in Malla & Rosenbaum 2017, p. 416).

Nepalese migrants come from various provinces. As of 2018/19, the largest share of migrant workers (nearly half) originated from provinces 1 and 2 in south-eastern Nepal (MOLESS 2020, p. 17). The report highlights that although statistics show low migration rates from the provinces of Karnali and Sudur Paschim, this may not reflect reality. This is because migrants from these provinces tend to migrate to India, in which statistics are often undocumented (MOLESS 2020, p. 19). The shared border between India and Nepal is open and migrant workers from Nepal do not need to obtain labour permits to work in India (Regmi, van Teijlingen, Mahato, Aryal, Jadhav, Simkhada, Zahiruddin & Gaidhane 2019, p.

2). One reason that is provided by the *Nepal Labour Migration Report 2020* for provincial migration trends is the presence of *social networks* (MOLESS 2020, p. 19). Individuals who are connected to migrant workers have better access to information regarding the migration process (MOLESS 2020, p. 19). These networks were referred to by Garip (as cited in Regmi et al. 2019, p. 2) as *social capital* and seen to be a driver of knowledge, trust, and support among migrant workers.

Nepalese migrant workers can find employment (most often through time-bound contracts) by themselves or by using a recruitment agency (MOLESS 2020, pp. 3, 22). The latter has been a far more common route, as “individual labour approvals account for around 10 per cent of the total labour approvals issued” (MOLESS 2020, p. 22). These numbers make sense as labour approvals completed individually are usually done by high-skilled workers (MOLESS 2020, p. 28). In 2018/19, 59% of new Nepalese migrants were employed into low-skilled opportunities abroad, the type of jobs that recruitment agencies largely focus on (MOLESS 2020, pp. 28, 33).

As mentioned by Malla and Rosenbaum (2017, p. 414), a main reason for Nepalese migration is financial problems at home. Individuals from rural areas of Nepal, where the economy is rather stagnant, are “prime candidates for migration” and may send remittances to support their families financially (as cited in Malla & Rosenbaum 2017, p. 415). As cited in Regmi et al. (2019, p. 2), remittances sent by Nepalese migrants accounted for \$6.1 billion (USD) in 2016/2017. This value has only increased since then with the *Nepal Labour Migration Report 2020* highlighting that in 2018/19, remittances were \$8.79 billion (USD), approximately a quarter of Nepal’s total GDP (MOLESS 2020, p. 3). Malla and Rosenbaum (2017, p. 412) further echo the impact of remittances, citing that more than providing support to migrant’s families, the remittances sent back to Nepal are able to increase consumption, “thereby stimulating the country’s economy”. Interestingly, remittances have continuously increased even though there has been a decrease in Nepalese migration (MOLESS 2020, p. 92). According to the *Nepal Labour Migration Report 2020*, this could be contributed to factors such as currency depreciation and increased transaction monitoring (MOLESS 2020, p. 92). As cited by Malla and Rosenbaum (2017, p. 414), other reasons for Nepalese migration, specific to that of migrant workers in the Gulf region, may include an increase in social status in their home communities and improved safety and stability in the country of their migration. These reasons may cause individuals to ignore the many risks associated with migration and instead, as highlighted by Malla and Rosenbaum (2017, p. 430), be *altruistically motivated* to help their families.

Various factors affect which destinations Nepalese migrants go to, including how the labour approval is obtained (MOLESS 2020, p. 28). Unlike those using recruitment agencies, the small amount of Nepalese migrant workers who secure employment by themselves commonly go to Maldives, Malta, or the Czech Republic (MOLESS 2020, p. 28). This variance in destinations seems to be echoed by Regmi et al. (2019, p. 2) who cite that educated Nepalese migrant workers tend to migrate to different regions than unskilled workers, such as Europe and America. It is important to note that destination countries also vary by Nepalese province of origin and gender (MOLESS 2020, pp. 13-14, 17-19). Although trends in destination countries differ between male and female Nepalese migrant workers, it remains the males, who affect migration trends due to the previously mentioned gender inequality in migration (MOLESS 2020, p. 13).

Through recruitment agencies, Nepal migrant workers can go to 110 government-approved countries (MOLESS 2020, p. 11). Despite this, the destinations for Nepalese migrant workers remain heavily concentrated in the Gulf Countries, comprised of “Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates (UAE)”, and Malaysia (as cited in Malla & Rosenbaum 2017, p. 411). For example, migration to “Malaysia, Qatar, UAE, Saudi Arabia, and Kuwait” accounted for 92% of all Nepalese migration in 2017/18 (MOLESS 2020, p. 13). Due to the popularity of these destination countries, the *Nepal Labour Migration Report 2020* highlights the high vulnerability of Nepalese migrant workers to “macroeconomic shocks” in these regions (MOLESS 2020, p. 13). A reason for the Gulf region being so prominent for Nepalese migrant workers is the abundance of oil creating a need for labour workers (MOLESS 2020, p. 14). Relatedly, the *Nepal Labour Migration Report 2020* claims that a reason for the decrease in migration to the Gulf region since 2015/16 could be contributed to decreasing oil prices and the prioritization of hiring locals (MOLESS 2020, pp. 14-15). As previously mentioned, Nepalese migration to India is often not recorded. Factors drawing Nepalese migrant workers to India may include the cultural similarities between the countries, close proximity and less barriers to migration (MOLESS 2020, p. 19). The proximity between Nepal and India may relate to Wickramasekara’s definition of labour migration as “circular”, as migrants would be easily able to move between their home and migration countries, something that is often done (as cited in Mak, Zimmerman, & Roberts 2021, p. 2).

4.2. Human rights violations faced by Nepalese Migrant Workers

Leaving hometowns and migrating for other countries to support their families, exposes migrant workers to several challenges. Migrant workers are often underpaid and work long

hours in unsafe conditions. As migrant workers and with a low economic status in their country of employment, they often refrain from protesting against mistreatment (as cited in Farbenblum & Nolan 2017, p. 3). Most Nepalese migrant workers work in vulnerable situations without any legal or social protection and access to justice by the Nepalese government or host countries (Kunwar 2015, p. 79; Choudhary & Devkota 2021, p. 84). Particularly low- or semi-skilled migrant workers from Asia to Middle East and other Asian countries face numerous problems compared to skilled workers and professionals who work for the public sector and multinational or reputed companies. Skilled workers and professionals have better working conditions and more bargaining power and migrate under specific schemes or move with foreign direct investments (Wickramasekara 2011, p. 7).

Abuses connected to migration already start in the workers' country of origin by recruitment agencies who facilitate, or even drive migration from villages and towns (Farbenblum & Nolan 2017, p. 3; Wickramasekara 2011, p. 14). Abuses and fraudulent practices of recruitment agencies and agents relate to charging high fees that can lead to significant debt, deceiving workers on the expected salary-level and working conditions, and failure to provide the workers appropriate training and relevant pre-departure information (as cited in Farbenblum & Nolan 2017, p. 3). Although not all abuses of foreign employment are linked to private recruitment agencies, they are, however, responsible for some of the serious malpractices committed against migrant workers (Wickramasekara 2011, p. 12). These abuses pave ways to forced labour and human trafficking.

The trafficking of women and children across borders to Gulf States or Southeast Asia, often for commercial sex work, labour exploitation and other purposes, is particularly linked in the South Asia region to Bangladesh and Nepal. Trafficked persons face severe abuses of their basic human rights in the form of working conditions amounting to slavery, forced labour or debt bondage. Female migrants are considered one of the most vulnerable groups.

(Wickramasekara 2011, pp. 8-9). According to the Ministry of Labour, Employment and Social Security (MOLESS 2020, p. 12), vulnerabilities such as long working hours, physical abuse and economic exploitation are among potential factors behind the low volume of Nepalese female migrant workers. However, official records do not include people leaving the country illegally via India or with the support of intermediaries (Kunwar 2015, pp. 77-78). In 2017, the Nepali government issued a ban to restrict Nepali citizens from travelling to Gulf countries to become domestic workers with the intention to protect domestic workers, particularly the females, from trafficking and violence. Nonetheless, Nepali women, desperate to earn higher incomes, continue to seek work in the Gulf. Travelling there directly from Nepal is no longer an option and many travel through neighbouring countries, leaving

them susceptible to exploitation by groups posing as recruitment agencies, and by employers. Their precarious immigration status also makes them highly vulnerable to further exploitation. (McQue 2020)

According to an ethnographic study in India by Sharma (2013, p. 356), also many young, Nepalese men arriving to India are unaware of the difficult working and living conditions ahead. Workplace exploitation by employers is common and several cases have been reported in the media about the poor situation of Nepalese migrants (Kunwar 2015, p. 79). Confiscation of passports by employers is a common practice in many host countries, which severely restricts the mobility of workers. The most common forms of human rights violations experienced by Nepali migrant workers in destination countries include:

- long working hours;
- absence of holidays;
- no protests allowed;
- forced to return without compensation for the remaining period of work;
- absence of protection for work-related accidents;
- poor working and living conditions;
- no insurance and rescue during accidents and death;
- victimization of labourers without legal recourse;
- sexual exploitation and harassment;
- contract substitution;
- lack of respect for religious and cultural practices of migrant labour. (As cited in Wickramasekara 2011, p. 14)

The higher rates of adverse occupational exposures that lead to poor health outcomes and higher risks of injuries and fatalities, relate to environmental exposures (e.g. temperatures, pesticides, chemicals) and working conditions (e.g. lack of safety standards, work abuse, trafficking and forced labour). In addition, language and cultural barriers, poor access to health care and documentation status lead to health disparities (as cited in MOLESS 2020, p. 84). Specific issues related to Nepali migrant workers also include higher exposure to road related accidents due to, among others, lack of awareness, experience, and information, and incidences of suicide (MOLESS 2020, p. 84).

Adding to existing human and labour rights violations experienced by migrant workers, the Covid-19 pandemic had a major impact on Nepalese migrant workers. Many workers lost their jobs, while others kept working with insufficient safety measures in place (Foley &

Piper 2021, p. 469). Travel restrictions and the closing of borders, for example, between India and Nepal, left migrant workers stranded and unable to return home. This led to the deprivation of basic services and accommodation in unsafe conditions in the workplace, including even exploitation (Bhattarai & Baniya 2020, p. 138). Others were stranded at various Indo-Nepal border checkpoints, forcing some to take dangerous measures such as crossing a river between the countries' border (Dhungana 2020, p. 2). A common challenge faced by migrant workers during the pandemic was the non-payment of wages due to sudden repatriation as the result of retrenchment. According to the ILO, wage theft constitutes a labour rights violation, and is a particularly grave issue for low-wage migrants on temporary, employer-tied contracts with considerable debts to finance their migration, and hence highly dependent on the chance to earn an income (Foley & Piper 2021, p. 469).

4.3. Protecting the rights of Nepalese migrant workers

A number of national legal instruments contribute towards decreasing vulnerabilities among Nepalese migrant workers and ensuring that their rights are protected. These include the Foreign Employment Act, which lays an emphasis on not just regulating foreign employment but also protecting the rights of migrant workers (Sijapati & Limbu 2017, p. 37). Among other things, the Act stresses protection against gender discrimination, special facilities for e.g. women, Dalits, indigenous nationalities and oppressed groups, powers to specify remuneration, service charges and promotional costs, trainings and minimal wages for migrant workers, the establishment of labour desks at airports and other border crossings, the appointment of labour attachés and the establishment of a Foreign Employment Promotion Board (see Sijapati & Limbu 2017, pp. 37-45). Other legal instruments include the Foreign Employment Rules 2008, which goes into e.g. the selection, registration, insuring of workers, and the Labour Act of 1992, dealing with “the rights, interests, facilities and safety of workers and other employees in various sectors”, see Sijapati & Limbu (2017, p. 61).

Nepal has also sought to protect migrant workers by entering into bilateral agreements on the rights of migrant workers (Sijapati & Limbu 2017, p. 71). Such bilateral agreements, which vary in terms of approach to rights and obligations, include (but are not limited to):

- A treaty with India, which grants “the nationals of one country in the territories of the other the same privileges in the matter of residence, ownership of property, participation in trade and commerce, movement and other privileges of a similar nature”.
- A labour agreement with Qatar, focusing on e.g. fair recruitments, contracts and remittances.

- A Memorandum of Understanding (MoU) with the United Arab Emirates, focusing on e.g. fair recruitments, contracts and remittances.
- An MoU with Bahrain, focusing on recruitment, contracts, remittances and accommodation. (Sijapati & Limbu 2017, pp. 73-88)

Policy-related documents include e.g. the Foreign Employment Policy of 2012, aimed at making “foreign employment safe, organised, respectable and reliable; and to utilise the economic and non-economic benefits to alleviate poverty and maximise the contribution of foreign employment for the country’s sustainable economic and social development” (Sijapati & Limbu 2017, pp. 53-54).

The above notwithstanding, Choudhary & Devkota (2021, p. 85) underscore the fact that the ratification of international legal instruments, the passing of national legislation, the existence of a governance structure related to labour migration, and the signing of bilateral agreements are not enough if effective implementation and adequate coverage of labour rights and social protection are lacking. In particular, Choudhary & Devkota (2021) call for attention being shifted from management and procedures, on the one hand, to the rights of workers, on the other.

5. Findings and discussion

As outlined in section 2 on research methods, in-depth insights into (i) the challenges faced by migrant workers and (ii) potential solutions to these challenges, were sought by means of semi-structured interviews. Due to the modest number of interviews conducted, the report at hand does not allow for far-reaching conclusions on the topics. That being said, the interviews conducted do provide interesting pointers regarding problems at hand and actions needed. The findings from the interviews are described below.

5.1. Underlying causes of labour migration from Nepal

The interviews show that for many Nepalese workers, migrating for work has become a “rite of passage” (Interviewee 1, interview 11.3.2022; Interviewee 4, interview 18.3.2022). Because of this, migrating has become an expected activity and a way to support family in Nepal (Interviewee 1, interview 11.3.2022; Interviewee 4, interview 18.3.2022). Furthermore, the Government of Nepal actively promotes employment migration. This may be partly due to Nepal, especially in the rural areas of the country, being highly dependent on remittances sent by labour migrants’ (Malla & Rosenbaum 2017, p. 421). Interviewee 1 (interview 11.3.2022) highlighted that over a quarter of Nepal’s GDP comes from remittances, echoing the previously mentioned statistic highlighted in the *Nepal Labour Migration Report 2020* (MOLESS 2020, p. 3). As a result, Government is perceived to promote migration instead of creating jobs and retaining workers in Nepal (Interviewee 4, interview 18.3.2022).

Even if the challenges of migration are known, e.g. through family members who had migrated before, there is often no choice but to become a migrant worker (Interviewee 4, interview 18.3.2022). There is a lack of employment opportunities in Nepal as businesses and investors may be hesitant to operate in a country with instabilities (Interviewee 1, interview 11.3.2022). As such, individuals may feel as though they are only able to find suitable work by migrating outside of Nepal (Interviewee 1, interview 11.3.2022; Interviewee 4, interview 18.3.2022). Even if individuals are able to secure a job in their home community in Nepal, it may not pay enough to meet daily living expenses, driving these individuals to seek opportunities abroad (Interviewee 4, interview 18.3.2022).

5.2. Challenges faced by Nepalese migrant workers

For many Nepalese migrant workers, challenges related to their migration begin even before heading abroad, early in the process. Recruitment fees may be charged to the migrant worker

to secure their employment abroad, going against the aforementioned *Employer Pays Model*. As Interviewee 1 (interview 11.3.2022) highlighted that the presence of recruitment fees can lead migrant workers to take out large loans, some of which may not be paid off for well over a year. The loans may have very poor terms, with yearly interest rates of up to 36% (Interviewee 2, interview 17.3.2022). The debt accumulated by migrant workers, and the desire to pay it off, may make the migrant worker increasingly vulnerable to being taken advantage of while working abroad (Interviewee 1, interview 11.3.2022). The low financial literacy of many Nepalese migrant workers may make them more susceptible to the financial problems posed by loans (Interviewee 1, interview 11.3.2022). The challenges presented by recruitment fees are discussed widely in literature and human rights initiatives. Interviewee 5 (interview 21.3.2022) touched upon the challenges presented by recruitment fees as well, highlighting that workers often have to pay fees related to securing their job, in addition to any travel related expenses, such as visas. Other issues besides the hefty fees that can be present in the recruitment phase of migration include being cheated by the recruitment agency and given minimal information on the nature and conditions of the job they will be working in (Interviewee 3, interview 18.3.2022). Overall, there is often a lack of information held by the migrant worker surrounding their new job, destination country, and their rights prior to arrival in the destination country (Interviewee 3, interview 18.3.2022).

While abroad, Nepalese migrant workers are often employed in poor and precarious conditions. Even if a migrant worker has received higher education in Nepal, the employment he/she holds abroad is often low-skilled (Interviewee 4, interview 18.3.2022). The nature of the job itself may be very dangerous, putting workplace safety into question (Interviewee 5, interview 21.3.2022). Employers may restrict the employee's right to take breaks, have days off for holidays, or even to receive payment for their work altogether (Interviewee 3, interview 18.3.2022; Interviewee 4, interview 18.3.2022; Interviewee 5, interview 21.3.2022). Even when Nepalese migrant workers are paid regularly, their salary is often very low, resulting in underpayment (Interviewee 2, interview 17.3.2022; Interviewee 4, interview 18.3.2022; Interviewee 5, interview 21.3.2022). This did not come as a surprise, as several pieces of literature highlighted this as an issue faced by migrant workers. Furthermore, migrant workers' identity documents may be confiscated by the employer once abroad, restricting their movement (Interviewee 2, interview 17.3.2022; Interviewee 4, interview 18.3.2022). In fact, employers may even restrict the movement of their migrant worker employees so much, that they cannot even visit public places, such as shopping malls (Interviewee 2, interview 17.3.2022). This was touched upon by interviewee 4 (interview 18.3.2022) as well, who highlighted that migrant workers are often separated from the rest of society in their destination country. While abroad, migrant workers may experience physical

harm, such as sexual assault and harassment, or even death in which cases are often unreported (Interviewee 3, interview 18.3.2022). Unfortunately, the government of Nepal may not be in the position to provide the same level of support to their migrant workers as other governments around the world (Interviewee 1, interview 11.3.2022). This has meant that the situation of Nepalese migrant workers abroad is often left up to their employers (Interviewee 4, interview 18.3.2022).

The accommodation that Nepalese migrant workers have is also often in very poor condition (Interviewee 2, interview 17.3.2022; Interviewee 5, interview 21.3.2022). Many migrant workers may live in the same place, resulting in a lack of privacy and space (Interviewee 4, interview 18.3.2022). There often exists a large power distance between employee and employer, which may make employees fearful to speak out against injustices (Interviewee 2, interview 17.3.2022). Further, there is a lack of grievance mechanisms, which is perceived to make Nepalese migrant workers stay quiet about the challenges they are faced with (Interviewee 2, interview 17.3.2022; Interviewee 5, interview 21.3.2022). Overall, many Nepalese migrant workers experience a lack of freedom of expression while in their destination country (Interviewee 2, interview 17.3.2022).

Female migrant workers are considered a vulnerable group among the migrant population (Interviewee 1, interview 11.3.2022; Interviewee 3, interview 18.3.2022; Interviewee 4, interview 18.3.2022; Interviewee 5, interview 21.3.2022). Unlike for the male population in Nepal, female migration is not expected, nor is it widely accepted, as females may need to receive the permission of their male family members to go abroad (Interviewee 4, interview 18.3.2022). Female migrant workers tend to be employed in domestic work, a type of employment that may not be recognized as *real* employment in some destination countries (Interviewee 3, interview 18.3.2022; Interviewee 5, interview 21.3.2022). As such, domestic workers may be treated extremely poorly (Interviewee 3, interview 18.3.2022). Additionally, female migrant workers may find that their only option is to go abroad undocumented, which can put the individual in a very vulnerable state where conditions are especially poor (Interviewee 1, interview 11.3.2022). Once a female migrant worker returns from abroad, she may also face heightened challenges related to reintegration (Interviewee 1, interview 11.3.2022). Another vulnerable group that came up during the interview process was that of construction workers (Interviewee 1, interview 11.3.2022).

5.3. Key actors in solving the problems faced by Nepalese migrant workers

The interviews illustrate (i) the plethora of actors needed to ensure that the rights of migrant workers are respected but also (ii) a number of challenges related to their engagement in the process. Key findings related to these are illustrated in table 2 below.

Table 2: Key actors and their challenges in the promotion of the rights of migrant workers

Key actors and their challenges
Governments (from departure as well as recipient countries)
Governments are key actors when it comes to promoting the rights of Nepalese migrant workers. Governments differ, however, in their interest in and commitment to protecting the rights of migrant workers, resulting in (oftentimes) weak support structures and outreach. In the Nepali case, there is a perception of “disinterest” on the part of the Nepali Government in the plight of labour migrants. Interviewee 4 (interview 18.3.2022) attributed this to the differences in economic status and caste between migrant workers (lower castes) and senior officials (higher castes). In Nepal, the government was also considered to monitor recruitment agencies poorly (Interviewee 3, interview 18.3.2022). In countries like Nepal, the remittances sent by migrant workers are a vital part of the economy. Other countries, furthermore, are dependent on the use of Nepali migrant workers (e.g. in the Gulf). Thus, governments may overlook human rights issues in the name of the economy (Interviewee 1, interview 11.3.2022). Amongst interviewees, there is a perception of issues related to labour migration being outsourced to NGOs and international organizations such as the IOM or the ILO (Interviewee 4, interview 18.3.2022). One can also detect a perception that governments give priority to their own citizens and businesses rather than migrant workers (Interviewee 5, interview 21.3.2022). The interviews also point to bilateral agreements leaving much to be desired, as well as poor enforcement of these agreements (Interviewee 1, interview 11.3.2022).
Embassies in recipient countries
Embassies do not always have the staff and the structures to support labour migrants (Interviewee 3, interview 18.3.2022).
The police
The mandate of the police to investigate violations of labour migrants’ rights varies from one country to another. Furthermore, labour migrants may be hesitant to contact the police (Interviewee 5, interview 21.3.2022).
Labour inspectors
Labour inspectors do not exist in all countries and do not have the same mandate (Interviewee 5, interview 21.3.2022).
Recruitment agencies
Primarily, recruitment agencies appear to be concerned with making a profit. Some cheat on migrant workers and give them minimal information on the nature and conditions of their future job (Interviewee 3, interview 18.3.2022). In countries like Nepal, ministers may be owners of recruitment agencies. As such, they profit greatly economically, and thus have an interest in keeping the status quo relating to migrant workers’ terms and conditions (Interviewee 1, interview 11.3.2022).
Informal social networks
Such networks can be helpful and may provide valuable information (Interviewee 4, interview 18.3.2022) but cannot replace formal support structures.
Non-governmental organisations (NGOs)
NGOs play a key role in the promotion of migrant workers’ rights in Nepal. They are perceived as knowledgeable but remain under-resourced and understaffed (Interviewee 4, interview 18.3.2022). NGOs seek funding from companies, foundations and the Government and cannot therefore always speak completely freely (Interviewee 4, interview 18.3.2022). This means that they oftentimes cannot vigorously criticize the situation of migrant workers. However, indirectly, through the international organizations they cooperate with, they can speak truth to power (Interviewee 4, interview 18.3.2022).
Employers
Employers benefit from the cheap labour that migrant workers provide (Interviewee 5, interview 21.3.2022). Yet, most employers are unaware of the challenges faced by migrant workers (Interviewee 3, interview 18.3.2022) or are reluctant to act (Interviewee 2, interview 17.3.2022). As a first step, employers should seek to understand the circumstances and background of migrant workers, approaching them as a heterogeneous group (Interviewee 4, interview 18.3.2022). As a second step, employers should implement protective measures involving migrant workers (Interviewee 2, interview 17.3.2022). Moreover, in some cases, employers are not able to operate freely due to the country set-up (Interviewee 1, interview 11.3.2022). In South Asia and Middle East, Western companies have to compete with Chinese, Indian, Syrian companies leading to an uneven playing field (Interviewee 1, interview 11.3.2022). Hence, the importance of cooperating with governments (Interviewee 1, interview 11.3.2022) and other key actors (Interviewee 5, interview 21.3.2022).

<p>Employees</p> <p>Because of the lack of jobs available in their own country, many Nepalese are forced to leave their country for employment elsewhere, regardless of the conditions. This creates a “buyers’ market” to the detriment of migrant workers (Interviewee 1, interview 11.3.2022). Employees face many challenges even before departure, including paying recruitment fees to secure their job, taking loans to pay back these fees (Interviewee 1, interview 11.3.2022), leaving for abroad without proper information regarding the destination country or their job (Interviewee 3, interview 18.3.2022) and being financially poorly educated (Interviewee 1, interview 11.3.2022). Employees also face many challenges in the destination country such as living in poor and crowded accommodation (Interviewees 2,4,5), being restricted in breaks (Interviewees 3, 4, 5) and movements (Interviewees 2,4), working in a potentially unsafe workplace (Interviewee 5, interview 21.3.2022), suffering physical harm (e.g. sexual assault and harassment), or even death (Interviewee 3, interview 18.3.2022). In addition, salaries may not be received on time/at all (Interviewee 3, interview 18.3.2022).</p> <p>There is also a power distance between employers and employees, leading to employees not being in a position to voice their concerns and needs (Interviewee 2, interview 17.3.2022). Migrant workers often get most of their information from the employers, which is “never a good situation” (Interviewee 1, interview 11.3.2022). Last but not least, trade unions cannot operate freely e.g. in the Gulf region, which hinders the protection of workers’ rights (Interviewee 1, interview 11.3.2022).</p>
<p>Trade unions</p> <p>Migrant workers and their challenges may not be the primary interest of trade unions. Furthermore, the number of migrant workers involved in trade unions is still quite low. Migrant workers who work temporarily in a country may not want to join trade unions. Moreover, trade unions have a poor image in many countries. This does not encourage migrant workers to join them. Language barriers may also keep migrant workers from joining trade unions. (Interviewee 5, interview 21.3.2022)</p>
<p>World Employment Confederation (WEC) and national associations</p> <p>According to the World Employment Confederation’s (WEC) Code of Conduct, its member organisations should commit to not charging recruitments fees (WEC s.a.). In countries where it is the norm, national associations are not allowed to join the WEC. The interviews pointed to a disappointment with the WEC for “washing their hands” of those agencies that are not a member. The Nepal Association of Foreign Employment Agencies (NAFEA), which is the umbrella organization of recruiting agencies in Nepal and not a member of the WEC, was considered to be corrupt and block any legislation or enforcement that the Nepalese government would like to implement, e.g., regarding recruitment fees. (Interviewee 1, interview 11.3.2022)</p>
<p>Victim support groups</p> <p>Such groups do not exist in all countries and do not always provide support in the relevant languages (Interviewee 5, interview 21.3.2022).</p>
<p>Consumers</p> <p>Consumers can put pressure on companies and governments but may not pay that much attention to the rights of migrant workers. Transparency regarding migrant workers’ rights on the part of companies would be an important step forward. (Interviewee 5, interview 21.3.2022)</p>
<p>Academia</p> <p>Research into migrant workers’ rights is needed to formulate facts-based based measures. (Interviewee 2, interview 17.3.2022)</p>

5.4. Measures to protect the rights of Nepalese migrant workers more effectively

A number of actions should be undertaken to ensure that the rights of migrant workers are protected more effectively. Some of these actions relate to the overall framework within which labour migration occurs whereas others relate to specific stages of the process of labour migration.

5.4.1. The overall framework of labour migration

One of the interviewees highlighted the importance of the international legal framework. The interviewee underscored that non-ratification of key instruments such as the International Convention on the Protection of the Rights of All Migrant Workers or the Palermo Protocol (UNODC s.a.) has resulted in major gaps in national legislation on the protection of migrant workers. Ratification and subsequent inclusion of key provisions into national legislation would be an important step forward (Interviewee 3, interview 18.3.2022). Another interviewee stressed the need to put pressure on the government to (i) pass legislation on the protection of labour migrants and (ii) enforce existing legislation (Interviewee 2, interview 17.3.2022).

Thought-through and comprehensive bilateral agreements focused on migrant workers' rights were brought to the fore. During one interview, it became apparent that bilateral agreements on migrant workers' rights vary greatly in terms of coverage, some being very general and/or non-binding in nature (Interviewee 3, interview 18.3.2022). The agreements entered into between Nepal, on the one hand, and Malaysia and Mauritius, on the other, were described as best practices with the appropriate provisions on protection. As such, they could be replicated elsewhere. An interviewee also highlighted that Nepal has not entered into bilateral agreements with all countries where Nepalese labour migrants work and that this should be a priority (Interviewee 3, interview 18.3.2022). Engaging in such "labour diplomacy" would require political will and commitment on the part of the Nepalese Government, however (Interviewee 2, interview 17.3.2022). One interviewee questioned whether such commitment can be mobilized given the weakness of the Nepalese government, which mostly "focuses on its own survival" (Interviewee 4, interview 18.3.2022) rather than the plight of Nepalese migrant workers and protective measures needed.

A number of interviewees stressed the importance of cooperation, participatory processes and accountability. Increased cooperation between government and businesses was seen as

an urgent priority (Interviewee 1, interview 11.3.2022), as was the involvement of immigration officers, legislators, trade unions, victim support groups and informal networks (Interviewee 5, interview 21.3.2022). The genuine involvement of migrant workers in the planning and implementation of protective measures was regarded as a *sine qua non* (Interviewee 2, interview 17.3.2022).

The Nepalese government should also commit to holding wrongdoers to account (Interviewee 2, interview 17.3.2022) and investigating abuses (Interviewee 3, interview 18.3.2022). Equally, Nepalese migrant workers could and should hold their own government and decision-makers to account for failing to protect them. At present, distance voting is not an option for migrant workers. If voting from abroad was possible, migrant voters would be given a voice and an opportunity to force decision-makers to address their concerns (Interviewee 2, interview 17.3.2022).

The centralization of migration governance was also brought to the fore. Decentralizing migration governance structures and services to the provincial or even local level could, according to one interviewee, make protection more effective (Interviewee 3, interview 18.3.2022).

Finally, one interviewee highlighted the importance of not approaching migrant workers as a homogenous group and keeping in mind that depending on their regional origins, education, caste etc. they face different challenges and have different “starting points” (Interviewee 4, interview 18.3.2022). When planning and implementing protective measures, the characteristics, origins and needs of these workers should be understood in order to provide workable solutions. The interviews illustrated how a plethora of actors should gain a better understanding of the (social, educational, geographic etc.) background of Nepalese (and other) migrant workers. Interviewee 4 (interview 18.3.2022) went as far as speaking of a migration pyramid, with wealthy and cared-for migrant workers heading for Europe or North America at the top. At the bottom of the pyramid, however, one finds unskilled migrant workers going to e.g. India, where migration often is not recorded or to the Gulf countries (e.g. Oman, Qatar and the UAE).

Neither should destination countries be regarded as a uniform group since they differ in terms of interest in the well-being of migrant workers (Interviewee 3, interview 18.3.2022; Interviewee 4, interview 18.3.2022).

At an overall level, it should also be mentioned that state actors still tend to prioritize their own citizens and businesses, which have invested in the country (Interviewee 5, interview 21.3.2022). As a result, they risk turning a blind eye to the exploitation of migrant workers and the fact that companies, for instance, save money by reducing labour costs.

5.4.2. Actions related to the specific stages of labour migration

Protective measures before departure

The interviews shed light on a number of measures needed pre-departure in order to protect labour migrants or reduce the risk of future exploitation. These included organizing orientation sessions or trainings focused on the cultural norms, language, political system, religion and labour legislation etc. of the destination country (Interviewee 3, interview 18.3.2022; Interviewee 4, interview 18.3.2022; Interviewee 5, interview 21.3.2022). Such country-specific sessions should be comprehensive enough, free of charge and they should also provide information about in-country contact points in cases of health problems, injuries and labour disputes (Interviewee 3, interview 18.3.2022; Interviewee 4, interview 18.3.2022).

Before departure, sessions on financial matters should be organized to increase the financial literacy of labour migrants and decrease the risk of being cheated (Interviewee 1, interview 11.3.2022). Labour migrants should also be exempted from recruitment fees. Oftentimes, migrant workers cannot manage these fees without taking a loan with high interest rates. As a result, they end up in considerable and long-lasting debt (Interviewee 2, interview 17.3.2022).

Protective measures during the working relationship and upon returning to Nepal

Several interviewees highlighted that Nepalese (or other) migrant workers must not be left to their fate upon arrival in the destination country. According to the interviews, “sending countries” vary with regard to support structures for migrant workers. Indonesia and the Philippines have, according to one interviewee, made the protection of migrant workers a priority, establishing support structures and offices abroad to ensure outreach to the diaspora (Interviewee 4, interview 18.3.2022).

Nepalese diplomatic missions should provide consular support, legal advice and other assistance to the migrant workers (Interviewee 3, interview 18.3.2022). In countries with a high density of labour migrants, in-country contact points should be established to provide advice in cases of health problems, injuries or disputes (Interviewee 3, interview 18.3.2022; Interviewee 4, interview 18.3.2022). Ideally, it should be possible for Nepalese migrant workers to receive such support and advice in their own language (Interviewee 4, interview 18.3.2022).

Several interviewees stressed the importance of access to grievance mechanisms (Interviewee 1, interview 11.3.2022; Interviewee 4, interview 18.3.2022; Interviewee 5, interview 21.3.2022). Such mechanisms could be provided in-company or by authorities (Interviewee 1, interview 11.3.2022). Regardless, they should enable safe reporting as well as protection from retaliation (Interviewee 5, interview 21.3.2022).

Efforts should also be made to lessen the isolation of migrant workers from the rest of society within the destination country (Interviewee 4, interview 18.3.2022). This would increase contacts between groups and allow locals to see migrant workers as the human beings they are.

Finally, the Government of Nepal should develop sustainable re-integration programs to facilitate the return of migrant workers to their home country and to provide them with an incentive not to leave again immediately (Interviewee 3, interview 18.3.2022).

5.5. The role of businesses in promoting the rights of migrant workers

5.5.1. Awareness of companies and issues hindering progress

Companies are not necessarily aware of and/or take an interest in the challenges faced by migrant workers. One interviewee claimed that companies are only interested in acquiring labour and not in the affected lives of migrant workers. As a result, some companies subcontract their responsibility to protect migrant workers to third parties such as non-governmental organizations (NGOs) in host countries. Companies may pay NGOs to arrange lunches, dinners or social programme for migrant workers, thereby building trust with and working with them. (Interviewee 4, interview 18.3.2022). On the other hand, another interviewee stated that companies are aware of the conditions and rights violations Nepalese migrant workers face, but ignore them, highlighting the reluctance to act (Interviewee 2, interview 17.3.2022). Interviewee 1 (interview 11.3.2022) added that companies do have

awareness or at least there is easily accessible information on the topic. Interviewee 3 (interview 18.3.2022) summed that some companies are aware of the challenges, but largely they are not. As an example, in the UAE and Malaysia, employers should bear the recruitment costs, but nevertheless workers are paying them. Either companies are not aware of this, or then they are, but ignore the fact. (Interviewee 3, interview 18.3.2022)

Companies were considered to be particularly unaware of challenges related to migrant workers in their supply chains, especially concerning tier 2 and 3 suppliers and if they use several different suppliers on a short-term basis. It was considered crucial to build long-term partnerships with suppliers, so that companies get to know them, visit the suppliers' sites and from that perspective become more aware of the situation of the workers. (Interviewee 1, interview 11.3.2022; Interviewee 5, interview 21.3.2022)

Only a small number of companies were considered to master topics like these. Global companies were considered to have better resources and people working on sustainability and human rights in their operations and supply chains. Thus, they are more likely to pay attention to the rights of migrant workers than smaller companies. (Interviewee 5, interview 21.3.2022). Interviewee 2 (interview 17.3.2022) highlighted that even if global companies are active on human rights issues, they should focus on implementing their global policies also on a local level to better address the needs of migrant workers.

In the Gulf context, even if companies want to make changes to current practices, they cannot operate freely due to the country set-up. In Qatar, there must be a 51% ownership of the company by a local partner. The owner may not necessarily be interested in human rights, which can be "very low in the pecking order". Nevertheless, companies have made improvements in, for example, accommodation and food. Companies have realised that workers do a better job when they are given better accommodation and food. On the other hand, if there is no risk to the company's brand, they may not act. (Interviewee 1, interview 11.3.2022)

In South Asia and Middle East, Western companies also have to compete against Chinese, Indian, Syrian, or other companies, who do not prioritize the rights of migrant workers and do not face the same financial and reputational risks of non-action as Western companies. Therefore, it creates a very uneven playing field when trying to do the right thing. Some companies may disadvantage themselves in the market by doing so. The lack of regulation and law enforcement, and even the actions of national employment agencies by objecting

improvements to the rights of migrant workers, also contribute to an uneven playing field, allowing other companies to act unethically. (Interviewee 1, interview 11.3.2022)

5.5.2. Corporate actions to better protect migrant workers

As a concrete means to support the situation of migrant workers, companies should find out if migrant workers have had to pay high recruitment fees, faced abuses while coming to the host country and find out their documentation status. Many workers have faced human rights abuses on their way to host countries. (Interviewee 4, interview 18.3.2022). Paying all recruitments fees by the employer was considered one of the most important issues companies could do to improve the situation of migrant workers (Interviewee 1, interview 11.3.2022; Interviewee 3, interview 18.3.2022). Some of the more advanced companies have addressed the issue of recruitment fees, by working together with recruitment agencies and making sure workers are not charged. Additionally, HP was mentioned as an example company that is transitioning from the use of recruitment agencies to direct employment. (Interviewee 1, interview 11.3.2022; HP 2015). Currently, Nepalese migrant workers can pay recruitment fees of USD 1000-4000, which is far from the actual costs of documents, visas, flights etc. (Interviewee 1, interview 11.3.2022; Interviewee 3, interview 18.3.2022). Recruitment agencies take a significant share of the total costs. If companies repay this sum, multiplied by the number of workers, it is a substantial sum. However, if companies take a more active role in paying the fees in advance, it would result in lower overall costs, when companies pay the true costs of expenses and a small commission to the recruitment agencies. (Interviewee 1, interview 11.3.2022). Companies would also need government backup through decent legislation and effective enforcement for the Employer Pay model to realise on a large scale (Interviewee 1, interview 11.3.2022; Interviewee 3, interview 18.3.2022).

Interviewees highlighted the importance of the upcoming European Union (EU) proposal for a Directive on Corporate Sustainability Due Diligence, which will make it mandatory for companies to identify adverse human rights aspects, establish processes to prevent and mitigate them, and establish and maintain a complaints procedure (Interviewee 1 2022, interview 11.3.2022; Interviewee 5, interview 21.3.2022; European Commission 2022). This can potentially help to raise concerns linked to the protection of the rights of migrant workers and echoes calls made by KnowTheChain and the Business & Human Rights Resource Centre (2021, p.4) to strengthen voluntary action with regulatory requirements for identifying human rights risks and preventing abuse. In addition, if the payment of recruitment fees became a part of the directive, it would have a significant impact

(Interviewee 1, interview 11.3.2022). However, the directive, as stated in the proposal, will only apply to large companies and only companies operating in the EU (Interviewee 1, interview 11.3.2022; Interviewee 5, interview 21.3.2022; European Commission 2022). Nevertheless, it can have a major impact on growing demands by investors and actions of big brands (Interviewee 1, interview 11.3.2022).

In addition to paying recruitment fees, companies should develop fair recruitment and labour practices overall and pay attention to the specific needs of migrant workers. For example, work contracts and relevant other documents and information should be in a language migrant workers understand, and they should be provided with reliable information about the host country. (Interviewee 3, interview 18.3.2022; Interviewee 4, interview 18.3.2022). Companies should also hire people, such as anthropologists and stakeholder engagement specialists, who understand the local context, language and cultures of the countries the migrant workers come from (Interviewee 4, interview 18.3.2022). Companies should also support the integration and social coherence of migrant workers within countries (Interview 2, interview 17.3.2022). In addition, supervisors should be trained in managing global workforces with multiple nationalities. Educating and providing workers with training about their rights is also a key action, and some companies have, for example, trained their workers in financial literacy. (Interviewee 1, interview 11.3.2022). Companies should take extra care if migrant workers are refugees, as they may have fled, for example, a country facing civil war or other violent situations. Hence, they may need mental health support to deal with the traumatic experiences. (Interviewee 4, interview 18.3.2022).

In the Gulf countries, companies should distance themselves from the Kafala system, a legal system, which requires migrant workers to have a sponsor (Malla & Rosenbaum 2017, p. 412). As highlighted by Malla and Rosenbaum (2017, p. 430), the system “absolves the Gulf nations from legally providing Nepalese, or any foreign laborer, any kind of labor protection”. As such, without distancing themselves from the system, companies will continue to allow the exploitation of migrant workers (Interviewee 2, interview 17.3.2022; Malla & Rosenbaum 2017, p. 430). Companies should respect migrant workers’ freedom of association and movement (Interviewee 2, interview 17.3.2022). In countries where there are no trade unions, companies should set up worker’s representatives. In the Gulf, trade unions do not have a big role and thus the biggest changes come from employers. In addition, providing workers grievance mechanisms was considered important, but not just a complaints hotline alone, but by also having solid processes in place to handle complaints and take further actions. (Interviewee 1, interview 11.3.2022).

There are also improvements needed for companies to act on basic workers' rights such as being paid. As mentioned also in section 4.2 and highlighted by Interviewee 3 (interview 18.3.2022), especially during the Covid-19 pandemic, non-payment of wages was a common problem. Companies should take care of their legal responsibilities to pay their workers. In addition, companies should practice non-discrimination on the basis of issues such as gender, nationality and ethnicity, compensation if migrant workers face injuries at work, provide equal opportunities at the workplace, provide health support and vaccinations (especially during the pandemic), decent and hygienic accommodation, overtime pay, and provide workers juridical support in cases of non-payment or other rights issues. In addition, companies should take some responsibility in the reintegration phase of workers in their home countries: skilling and/or some financial assistance, at the minimum, to those who have been injured at work. There should also be support to families, in the case of death of the migrant worker. (Interviewee 3, interview 18.3.2022)

As another way of supporting migrant workers, one interviewee also highlighted the importance of responsible companies using their leverage power to influence government agencies and ministries through discussions. This can lead to several, long-term improvements to the situation of migrant workers and extend their good global practices to national levels. (Interviewee 4, interview 18.3.2022)

There are several international guidelines and recommendations that companies can utilise. As an example of useful guidelines, Interviewee 4 (interview 18.3.2022) mentioned the *Remedy Project* and the *Employers Pay Principle*. Working together with other companies can also help to make their stance stronger and find joint solutions. For example, in the UK, there is a multi-stakeholder initiative *Stronger Together*, which aims to support UK consumer goods and construction companies to tackle modern slavery in their supply chains. (Interviewee 1, interview 11.3.2022). In addition, for example, the UAE and the business community have developed guidelines for businesses, and the World Employment Confederation (WEC) has a *Code of Conduct*, which it expects its members to adhere to, but also provides businesses with a good example of issues to consider (Interviewee 3, interview 18.3.2022).

6. Conclusion and remarks

The project at hand set out to answer three research questions focused on (i) the most prominent rights issues and challenges of relevance to Nepalese migrant workers, (ii) how the rights of Nepalese migrant workers could be protected more effectively and (iii) what Finnish companies working in contexts with Nepalese migrant workers should be aware of and take into account to promote the rights of Nepalese migrant workers. Answers to the research questions were sought by means of a literature analysis as well as interviews. The findings of the project have been discussed in section 5 and are also summarized in tables 3 – 5 below.

Table 3: Answers to research question 1

1- Which are the most prominent rights issues and challenges of relevance to Nepalese migrant workers?	
Challenges at home/prior to departure	<ul style="list-style-type: none"> #Expected activity, even if the challenges are known by the migrant workers. Migrating for work is a way to support family #Government is perceived to promote migration rather than improve employment opportunities at home. Lack of employment opportunities in Nepal #Recruitment fees charged by recruitment agencies: can lead the migrant worker, often with low financial literacy, to take out large loans #Recruitment agencies can "cheat" the migrant worker, provide inaccurate or very minimal information on destination job and country #Lack of information on destination job and country held by migrant worker prior to departure.
Challenges while abroad	<ul style="list-style-type: none"> #Working conditions can be precarious #Employers may restrict migrant workers' breaks and holidays #Salaries are very low, migrant workers are often underpaid #Migrant workers' salaries may not be paid on time or at all #Identity documents may be confiscated by employer #Movement may be restricted by employer (cannot even visit public places) #Migrant workers may face sexual assault and harassment, physical abuse, or death abroad #Accommodation in poor condition, may be many migrant workers living in the same place resulting in crowding and lack of privacy #Large power distance between employer and migrant workers – leads to a fear of speaking out against injustices #Lack of grievance mechanisms #Lack of freedom of expression.
Challenges for vulnerable groups	<ul style="list-style-type: none"> #Migrant workers employed in the construction industry are often employed in very dangerous conditions #Female migrant workers #Migration is not expected for female migrant workers, instead they may need to ask the approval of male family members #Often employed in domestic work which may not be recognized as "real work", resulting in dangerous and poor conditions #May go abroad undocumented, again resulting in dangerous and poor conditions #Reintegration can be especially difficult for females.

Table 4: Answers to research question 2

How could the rights of Nepalese migrant workers be protected more effectively?		
Key actors		<ul style="list-style-type: none"> #Governments (from departure and recipient countries) #Embassies in recipient countries #Recruitment agencies #The police and labour inspectors #Informal social networks #NGOs #Employers & employees #Trade unions #World Employment Confederation (WEC) and national associations #Victim support groups #Consumers #Academia
Overall framework	International legal framework and national legislations	<ul style="list-style-type: none"> #Need to mobilize political will to improve protection of labour migrants. #Nepalese government should include key provisions of the international legal framework into national legislation and policies. #Nepalese government should pass legislation on the protection of labour migrants. #Nepalese government should enforce existing legislation.
	Bilateral agreements vary greatly in terms of coverage and binding force	<ul style="list-style-type: none"> #Need to include provisions on protection in bilateral agreements on labour migration. #Nepalese government should replicate the agreements between Nepal and Malaysia/Mauritius and enter in bilateral agreements with all countries where Nepalese labour migrant workers work. It should be a priority.
	Cooperation, participatory processes and accountability	<ul style="list-style-type: none"> #Need to improve cooperation between and cooperation amongst key actors (incl. authorities). #Need to involve immigration officers, legislators, trade unions, victim support groups and informal networks, migrant workers in the planning and implementation of protective measures and policy processes. #Nepalese government should commit to holding wrongdoers to account & investigating abuses. # Distance-voting from abroad should be made possible in order for migrant workers to be able to voice their concerns and hold decision-makers to account.
	Decentralisation of migration governance	<ul style="list-style-type: none"> #Nepalese government should decentralise the migration governance to the provincial or even local level to make the protection of migrant workers more effective.

	Non-homogenous group	<p>#“Migration Pyramid”: when planning and implementing protective measures, the characteristics (education), origins (caste, mother tongue, geographical background) and needs of these workers should be understood in order to provide workable solutions.</p> <p>#Need to better understand the circumstances and plan protective measures in destination countries (not a uniform group neither, they have different interests in the well-being of migrant workers).</p>
Protective measures at specific stages of migration	Before departure	<p>#Nepalese government should offer free of charge orientation sessions or trainings focused on the cultural norms, language, political system, religion and labour legislation etc. of the destination country and offer sessions on financial matters to increase the financial literacy of labour migrants.</p> <p>#Nepalese government should provide information about in-country contact points in cases of health problems, injuries and labour disputes.</p> <p>#Migrant workers should be exempted from recruitment fees (Employers Pay Principle).</p>
	During the working relationship	<p>#Nepalese diplomatic missions should provide consular support, legal advice and other assistance to the migrant workers.</p> <p>#Destinations governments should establish in-country contact points (advices in migrant workers’ own language).</p> <p>#Companies and/or destinations governments should give access to grievance mechanisms to migrant workers (safe reporting & protection from retaliation).</p> <p>#Companies and/or should lessen the isolation of migrant workers from the rest of society within the destination country (increase contacts between groups and allow locals to see migrant workers as the human beings they are).</p>
	Upon returning to Nepal	<p>#Nepalese Government should develop sustainable re-integration programs to facilitate the return of migrant workers to their home country and to provide them with an incentive not to leave again immediately.</p>

Table 5: Answers to research question 3

What should Finnish companies working in contexts with Nepalese migrant workers be aware of and take into account to promote the rights of Nepalese migrant workers?*		
Corporate actions to better protect migrant workers	Complying with the international framework	<p>#As expected in the upcoming EU Directive on Corporate Sustainability Due Diligence, companies should conduct due diligence and identify what kind of potential adverse impacts they may have on migrant workers in their operations and/or supply chain and establish a process to mitigate and reduce any potential negative impacts.</p> <p>#To follow the international guidelines and recommendations (UN, OECD, IHRB, IOM, Remedy project, Employers Pay Principle).</p> <p>#In the Gulf countries, companies should distance themselves from the Kafala system, which legally requires migrant workers to have a sponsor. Need to respect migrant workers' freedom of association and movement.</p>
	Understanding migrant workers	<p>#To increase awareness of the challenges faced by migrant workers and particularly in the supply chain</p> <p>#To find out if migrant workers have had to pay high recruitment fees, faced abuses while coming to the host country and find out their documentation status.</p> <p>#To hire people (e.g. anthropologists, stakeholder engagement specialists) who understand the local context, language and cultures of the countries the migrant workers come from.</p> <p>#To train supervisors in managing global workforces with multiple nationalities.</p> <p>#To support the integration and social coherence of migrant workers.</p> <p>#Global companies: need to implement their global policies also on a local level to better address the needs of migrant workers</p>
	Cooperating	<p>#To work together with other companies to make their stance stronger and find joint solutions but also to use their leverage power to influence government agencies and ministries.</p> <p>#To build long-term partnerships with suppliers to be more aware of the situation of the workers.</p>
	Taking care of its employees' responsibilities	<p>#To take responsibility to promote rights of Nepalese migrant workers instead of subcontracting responsibility to NGOs in host countries</p> <p>#To conduct fair recruitment practices (to pay all recruitment fees in advance to pay the true costs of expenses, transition to direct employment rather than using recruitment agencies, to provide work contracts and other relevant information in a language migrant workers understand).</p> <p>#To take care of their responsibilities to pay their workers (e.g. during COVID-19 pandemic)</p> <p>#To practice non-discrimination and provide equal opportunities at the workplace.</p> <p>#To provide grievance mechanisms.</p> <p>#To set up worker's representatives in countries where there are no trade unions.</p>

	Providing support to migrant workers	<p>#To provide health support and vaccinations decent and hygienic accommodation, overtime pay, and provide workers juridical support in cases of non-payment or other rights issues. And to provide mental health support for migrant workers who are refugees from civil wars or other violent situations.</p> <p>#To educate and provide workers with training about their rights and train them in financial literacy.</p> <p>#To take some responsibility in the reintegration phase of workers in their home countries: skilling, financial assistance to those who have been injured at work, support to families in the case of the death of the migrant worker.</p>
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**More detailed recommendations are presented in Appendix 2.*

In addition to the conclusions included in table 3 – 5, a number of crosscutting issues deserve to be highlighted. These include (i) the issue of participation on the part of migrant workers, (ii) vulnerable migrant workers and their needs and (iii) accountability mechanisms.

6.1. Participation on the part of migrant workers

The project concludes that migrant workers should have a place in the discussion of migrant worker rights. As identified during the interviews, the majority of discussions related to migrant workers' rights are led by individuals far removed from migration themselves, such as academics and businesses. Although the rights of migrant workers are addressed in these circumstances, migrant workers themselves are often not involved and left without an opportunity to participate in such work. It was highlighted that although Nepalese migrant workers likely do not have the same academic background as those currently involved in the discussions, their involvement should not lack. As mentioned, one way of having the concerns of migrant workers voiced is to allow migrant workers in their destination countries an opportunity to vote in Nepalese elections at a distance. This is also important from the point of view of accountability (see section 6.2).

The migrant community and local community in the destination country may be separated, with minimal or even no interaction with one another. It has been highlighted that even though migrant workers may have a different cultural or religious background to locals in the destination country, every person deserves to be treated with respect. It is important to foster a shared understanding between the two societies as it would help migrant workers become integrated in their destination countries, something that is currently lacking. As one interviewee suggested, perhaps this could be accomplished through mutual events or community exchanges with one another. Furthermore, if migrant workers could freely interact with other migrant workers while in their destination countries, they would have an opportunity to share their migration experiences with one another in the absence of grievance mechanism.

6.2. Accountability mechanisms

According to Schedler (1999, p. 14, see also Groop 2013, pp. 98-102), accountability refers to (i) the right of e.g. a superior to get adequate information about the actions of e.g. a subordinate as well as (ii) the possibility of the superior to punish a subordinate, who doesn't play by the "agreed rules".

In the report at hand, such “non-compliant” actors come in many shapes and forms. These include (but are not limited to):

- Employers who violate the rights of their migrant employees;
- Political actors, who fail to protect their citizens;
- Public officials, who appear not to focus on the public good, who collude with those exploiting migrant workers and who do not engage in issues of concern to castes and/or ethnic groups other than their own;
- Recruitment agencies, which exploit vulnerable individuals for their own benefit.

Who could and should hold these actors to account?

The project points to a number of accountability-holders and (potential) accountability mechanisms. These include e.g.:

- Law enforcement and the judicial system, which should be engaged in holding employers/companies, which violate the rights of migrant workers to account. In addition, customers and partners could hold companies at fault to account.
- Migrant workers (as well as other citizens living abroad) should be able to vote from abroad. This would enable migrant workers to (i) voice their concerns (potentially even making the challenges of migrant workers an electoral affair) and (ii) hold decision-makers to account when casting their ballot;
- Superiors within the public service as well as the general public could and should hold public officials to account;
- Recruitment agencies engaging in unethical or illegal activities should be held to account by law enforcement officials and – if needed – the judiciary.

The project points to these accountability-holders having the information needed to be engaged. Many of them, however, have vested interests, which means that speaking up could entail “sawing off the branch on which they are sitting”. Some, however, also lack voice altogether. In particular, this appears to be the case for the migrant workers themselves.

6.3. Further research needs

Given its broad scope, the project has not been able to delve into all issues related to human rights violations on the part of Nepalese migrant workers. In order to gain a fuller picture of challenges and potential remedies, in-depth studies on the following topics could be considered:

- Identification of particularly vulnerable groups of migrant workers, challenges faced by these and actions needed. All interviewees singled out women as a particularly vulnerable group of migrant workers but interviewees appeared not to have reflected upon other vulnerable groups such as sexual minorities or the disabled. This points to little attention being paid to (i) the charting of the needs of these groups or (ii) the implementation of protective measures;
- Challenges faced by Nepalese migrant workers in particular country contexts and sectors;
- Challenges faced by particular Nepalese language, regional, ethnic or social groups or castes;
- Corruption and its effects on protecting labour migrants;
- Challenges related to the reintegration of Nepalese migrant workers.

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Interviews

Interviewee 1 – Director, International think tank on business and human rights, Teams interview 11.3.2022.

Interviewee 2 – Leading member, Migrant workers' network, Teams interview 17.3.2022.

Interviewee 3 - Founder, NGO promoting human rights, Teams interview 18.3.2022.

Interviewee 4 – PhD scholar/freelance consultant specialised in migrant workers' issues, Teams interview 18.3.2022.

Interviewee 5 – Two mid-level officials, Regional institute active in the field of labour migration and trafficking, Teams interview 21.3.2022.

Appendix 1: Interview questions used within the framework of the semi-structured interviews

A. General questions

1. Tell us about your activities related to migrant worker rights - what do you do and who do you work with?
2. Which regional areas do you focus on?

B. Rights issues and challenges related to Nepalese migrant workers

3. What kind of challenges do Nepalese migrant workers face (especially in Middle East & South Asia)? What are the main human rights aspects?
4. In your opinion, why do so many Nepalese migrant workers face challenges abroad? Do these challenges differ among vulnerable groups (gender, ethnicity, disabilities, etc.)?

C. Promotion of the rights of Nepalese migrant workers

5. Who are the key actors when it comes to promoting the rights of Nepalese migrant workers? What is their role?
6. What are the main challenges for actors trying to promote the rights of migrant workers?
7. How could the protection of migrant workers be made more effective during the different phases of migration?
8. What do you see are the key issues in better promoting the rights of migrant workers and what measures would be necessary to do so?

D. The role of businesses in promoting the rights of migrant workers

9. Do western companies have enough information and awareness about the challenges of migrant workers in the region?
10. What should western companies operating in South Asia & Middle East do / take into account to better protect migrant workers?
11. What best practices / good examples are there of businesses promoting the rights of migrant workers in the South Asia & Middle East region? What lessons could be learned from these examples?

Appendix 2: Recommendations for companies for KIOS's Finnpartnership consultations

Due diligence and policy commitment

- Conduct due diligence and identify what kind of potential adverse impacts you may have on migrant workers in your operations and/or supply chain. Establish a process to mitigate and reduce any potential negative impacts. (Reference: EU due diligence directive)
- Include aspects relating to ethical recruiting of migrant workers in your company and supplier policies.

Engagement with migrant workers / local context

- Find out if migrant workers have faced abuses while coming to the host country and find out their documentation status. Provide support, where needed.
- Support migrant workers to be able to learn the local language. Better language skills help them integrate into society more efficiently.
- Keep in mind that migrant workers with a local economic status can have a different social protection situation. For example, the Philippines provides substantial support to its migrant workers abroad whereas Nepalese migrant workers have low support from embassies and state actors. Therefore, find out the risks related to the countries your migrant workers are from and what their most significant needs are.
- Provide migrant workers sources of reliable information about the host country and its customs and culture in the workers' native language.
- Educate and offer training for workers about their rights and financial literacy
- Provide work contracts and other relevant documents in a language migrant workers understand.
- Train supervisors in managing global workforces with multiple nationalities.
- Educate and provide workers with training about their rights and financial literacy
- Establish a grievance mechanism and a procedure to deal with complaints
- Hire people (e.g., anthropologists, stakeholder engagement specialists) who understand the local context, language and cultures of the countries the migrant workers come from.
- Provide mental health support for migrant workers who are refugees from civil wars or other violent situations to cope with trauma.

Managing the labour migration process

- Find out from migrant workers if they have had to pay high recruitment fees. Work with recruitment agencies and cover recruitment costs according to the *Employers Pay Principle*. Reimburse fees if workers have had to pay them.
- Avoid complex recruitment channels involving multiple actors and agents. This increases the risk of exploitation. Transition to direct employment rather than using recruitment agencies (see *Hewlett Packard* example).
- Uphold standards relating to
 - o general safety
 - o equality opportunities and non-discrimination
 - o health care
 - o wage payment including overtime pay

- o social protection including juridical support on rights issues
- o hygienic accommodation
- In the Gulf: distance your company's activities from the Kafala system which requires all migrant workers to have an in-country sponsor responsible for their visa and legal status (often being the employer).
- Respect the right of freedom of movement, by not obtaining employee's passports or other documents.
- Respect the right freedom of association. Set up worker's representatives in countries where there are no trade unions.
- Take responsibility in the reintegration phase of workers in their home countries: e.g., skilling and financial assistance at the minimum to those who have been injured at work
- Provide financial support to families in the case of death of the migrant worker.

Support and resources

- Work together with other companies to make your stance stronger to find joint solutions.
- Build long-term partnerships with suppliers to be more aware of the situation of the workers.
- Use leverage power to influence government agencies and ministries to improve the protection of migrant workers.
- Seek guidance from organisations working in the area of migrant workers and their rights in Asia such as the [Remedy Project](#).
- Utilise publicly available resources (UN, OEDD, IHRB, IOM) to support you in enhancing the protection of migrant workers.
- For example, the International Organization for Migration's (IOM) [Migrant Worker Guidelines for Employers](#) (2022) and its supporting tools (found under the same link):
 - o Summary - Common challenges and Risks Experienced by Migrant Workers at All Stages of Labour Migration
 - o Checklist - Labour Recruiter Service Agreements
 - o Guidance Note - Recruitment Fees and Related Costs
 - o Checklist - Employment Contracts
 - o Checklist - Migrant Workers' Accommodations
 - o Institute for Human Rights and Business: [Dhaka Principles for migration with dignity](#).