

# Rights of Migrant Workers in the Clutches of COVID-19 Pandemic

## Study Report



**National Human Rights Commission**

Harihar Bhawan, Lalitpur, Nepal



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## Remarks

In the present context when the COVID-19 pandemic has affected the entire world all the Nepalis outside the country including the workers have also been impacted by it in one way other the other. The Nepali migrant workers, who are in a very vulnerable situation in the Countries of Destination, have been stranded due to lack of access to health services, access to information, increased risk at workplace, loss of employment and income, with the pregnant and lactating women, domestic workers and those with underlying health conditions at higher risk. Though the Nepali diplomatic missions, Non-resident Nepalis Association, various organizations of the Nepali community are working to address the problems faced by the affected workers, sufficient results have not been achieved in resolving the problems of the Nepali migrant workers. The Government of Nepal is working to repatriate the Nepali migrant workers who have faced such problems. However, as not all those who need to be repatriated have returned, the exact number of those who have to be rescued needs to be ascertained and repatriated while effective diplomatic measures are essential to creating jobs for those who wish to remain in the Countries of Destination for employment. In case of the workers who have been repatriated and those who were denied their remuneration and benefits, sent home without social security, the Government of Nepal needs to develop a COVID transitional justice mechanism or use the existing mechanism to work through official channel to ensure that the workers get their dues from the employer companies in the Countries of Destination. A joint initiative by the governments and the national human rights institutions of the SAARC member countries would become more effective to that end.

In the present situation of COVID-19 pandemic, the national human rights institutions have been carrying out various efforts as per their mandate and capacity for the protection of human rights. In the context of the protection and promotion of human rights of the migrant workers, who fall into the vulnerable group, the human rights institutions have been carrying out monitoring of the situation of migrant workers, and of the procedures adopted for prevention of

COVID-19 infection, of the labour camps and of the difficulties being faced in crossing the transit points. Likewise, the National Human Rights Commission has been making requests to the government and drawing its attention through direct meetings and press note to repatriate the Nepali migrant workers returning home from India and various other Countries of Destination since the lockdown was imposed in Nepal and in other countries.

The NHRC has developed this report with a focus on the situation of the human rights of Nepali migrant workers amidst the COVID-19 pandemic and subsequent lockdown, pointing out the problems and making recommendations for their solution. I am confident that this report would contribute to the protection of the rights of the migrant workers. I also hope that this report would help the Government of Nepal, non-government organisations working in this sector, trade union, development partners and national human rights institutions in the Countries of Destination to work to protect the human rights of the migrants. In this regard, I would like to thank the NHRIs of Qatar, Malaysia and the Philippines for their efforts in addressing problems and exchanging information.

I would also express my heartfelt gratitude to Honourable member Sudip Pathak for leading the preparation of this report on the situation of the human rights of Nepali migrant workers in the COVID-19 pandemic. Likewise, I would like to thank NHRC director Murari Prasad Kharel for his involvement in this study and to Equidem Nepal Director Rameshwar Nepal, Social Science Baha Assistant Director Dr Jeevan Baniya and Equidem Research Nepal's researcher Deepika Thapaliya for their important contribution to the study and writing of this report. Thanks also goes to Acting Chief of NHRC Collective Rights Division and Migration Focal Point Kamal Thapa Kshetry, Human Rights Officer Kiran Baram and officer Rabi Lal Nepal for their effort in the research and collection of information from various agencies and organisations.

Finally, I am fully confident that the attention of the Government of Nepal would be drawn towards the issues raised in this report and initiatives would be taken to implement the suggestions and recommendations. I also hope that the stakeholder organisations would advocate for the implementation of this report.

11 August 2020

**Anup Raj Sharma**  
**Chairperson**

## Foreword

The world community today is facing a human health crisis resulting from the COVID-19 pandemic which is also gradually heading towards coming under control. In this context, reports are being received of Nepali migrant workers facing various kinds of problems. A large number of Nepali migrant workers currently in foreign employment have lost employment as a result of COVID-19. The risk to their health and life is increasing. They have also faced violation of their labour rights and human rights including social stigmatization and discrimination. In particular, migrant women workers, undocumented workers, the pregnant, those removed from job, those left with no savings and thus stranded and the COVID-19 infected workers are highly vulnerable. In this regard, the NHRC has received requests to take the initiative for rescue and repatriation, and medical treatment of the workers.

Even in a normal situation, many Nepali migrant workers had been suffering from exploitation and excesses, the vulnerability of which has further increased as a result of COVID-19. As a result, the human rights and labour rights of the migrant workers impacted by the COVID-19 pandemic needs to be respected, protected and fulfilled, including their rescue, repatriation and appropriate compensation. Delay in the rescue and repatriation of the Nepalis stranded in various Countries of Destination has already led to mental distress among the Nepali migrant workers. Though the Government of Nepal has begun chartered flights, the work of repatriating the estimated number of Nepalis to be rescued and repatriated is yet to be completed, while workers have faced financial burden to return home.

Meanwhile, upon their return home, the migrant workers who were rescued in chartered flights by the Government of Nepal faced social stigmatization for bringing the Corona Virus, which has had a psychological impact on some workers. The government has said it has documented their skills and expertise. Based on the documentation, they need to be reintegrated effectively by creating employment opportunities in Nepal and developing entrepreneurship for a long-term solution.

Various efforts are being made across the globe to address the problems created by the pandemic. The Government of Nepal is also making effort to repatriate the workers. However, different questions are being raised in regards to the procedures of repatriation of workers and handling at the airport, holding centre, quarantine, isolation and hospitals. Due to lack of sufficient staffers the Nepali diplomatic missions abroad have not been able to work effectively with excessive workload on the existing human resource, which calls for additional workforce to execute the required task at hand.

Despite some delay, the Government of Nepal has resumed the management of the bodies of the Nepali migrant workers who have died during foreign employment, which needs to be continued effectively.

I would like to extend my heartfelt gratitude to NHRC Director Murari Prasad Kharel for coordinating the development of this report on the situation of the human rights of the Nepali migrants workers in the midst of COVID-19 pandemic, and to Director of Equidem Research Nepal Rameshwar Nepal, Assistant Director of Social Science Baha Dr Jeevan Baniya and Researcher at Equidem Research Nepal Deepika Thapaliya for their voluntary contribution to the report. I would also like to thank NHRC Collective Rights Division Acting Chief and Migration Focal Point Kamal Thapa Kshetry for his involvement in data collection from various agencies and research work in course of the preparation of this report, and to Officer Rabi Lal Nepali and Human Rights Officer Kiran Kumar Baram for compiling information and coordinating meetings with various stakeholders. I am also thankful to the Ministry of Foreign Affairs, Ministry of Labour, Employment and Social Security, Ministry of Home Affairs, Ministry of Culture, Tourism and Civil Aviation, Ministry of Health, Nepal Army, Nepal Police Headquarters, Armed Police Force Headquarters, Department of Foreign Employment, Foreign Employment Board, COVID-19 Crisis Management Centre, Tribhuvan International Airport, Civil Aviation Office, Immigration Office, Department of Consular Services, NGOs working in migration sector, development partners, foreign employment entrepreneurs, workers' associations in the Countries of Destination, and to all those who played their part in the preparation of this report.

Finally, I hope that this report helps the Government of Nepal and stakeholders to develop and implement their plans and programmes.

**Sudip Pathak**  
**Member**

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## **Executive Summary**

The COVID-19 pandemic has impacted the Nepali migrant workers in different ways. A large number of Nepalis working outside the country lost their job and income, while they remain vulnerable to being infected with Corona Virus or losing their life to it. Likewise, their human rights and labour rights have been violated, and they have faced stigmatization, discriminatory behavior and discrimination. In particular, women, domestic and undocumented workers, pregnant and person with disabilities, those removed from their job, COVID-19 infected and with underlying health conditions are more vulnerable.

Hundreds of thousands of Nepalis are compelled to choose the option of foreign employment due to lack of appropriate and decent job in the country. Majority of the Nepalis go to work in India and the gulf countries and Malaysia. The Nepali migrant workers have been making a significant contribution to the economy of the country, by sending home remittance on an average worth 25 per cent of the Gross Domestic Product (GDP) annually.

Though many have uplifted their and family's living standard through foreign employment, not all have been found to have benefitted accordingly. In general, many Nepali migrant workers have faced exploitation and abuse or remain vulnerable to it, which was further exacerbated by COVID-19. There is an urgent need to respect, protect and fulfill the human rights and labour rights of the migrant workers, while protecting them from the impact of COVID-19 pandemic and rescuing, repatriating and compensating them appropriately.

The National Human Rights Commission (NHRC) has been prioritizing the protection of the rights of the Nepali migrant workers, and has drawn the attention of the Government of Nepal towards the impact and possible impact of the crisis resulting from COVID-19 on the workers. To this end, the NHRC commissioned this study with the objective of contributing to the protection, rehabilitation and reintegration of the migrant workers.

The study has been carried out on the basis of the assessment and analysis of primary and secondary sources. In this connection, the policies, action plans,

decisions, guidelines, directives, reports, data of the various agencies of the State as well as international human rights law, and labour laws, and resources published/disseminated in various media were assessed and analysed. In course of this study, interaction/interviews were held with migrant workers in and returning from the major labour destination countries for Nepal, interaction was held with representatives of various agencies of the Government of Nepal (GoN), and with the stakeholders working in the labour and migration sectors while onsite observation was carried out at the Tribhuvan International Airport, holding centres and quarantines.

The major conclusions of the study are as follows:

- A large number of Nepalis have been infected and have died of COVID-19 in the major labour destinations, especially the gulf countries. Lack of information about the measures to remain safe from Corona Virus infection, essential services and support in case of infection, crowded work place and residential camps without sufficient sanitation facilities, and the compulsion of having to live together with the infected in same room/accommodation have pushed the Nepali workers to the risk of infection. Likewise, in many countries, the COVID-19 infected have been deprived of proper health care, testing and treatment.
- Lack of official and updated information with the GoN about the number of Nepalis who are infected and who have died of Corona Virus in some countries of destination is leading to a neglect in the protection of the Nepali workers while their families are deprived of the right to know about the status of health and life of their loved ones.
- As international flights remain shut, the bodies of the Nepali workers who have died abroad remain stuck in the countries of destination. But failure of the government to seek an alternative to bringing back the bodies home to respect and protect the right of the families to cremate the body of their loved ones as per their tradition and culture and with many buried in the destination country itself, the families have been deprived of carrying out the death rituals as per their tradition. In some cases, as the family members were not informed by the government authorities soon after the death or cremation of the bodies abroad, it led to increased uncertainty among the families on when to begin the rituals.
- Work as well as companies closed along with the spread in COVID-19 infection and employers unilaterally expelled or annulled the contract. As a result, a large number of Nepali migrant workers have lost their employment

and remuneration completely or partially. Some employers were found to have not paid at all or not paid full wages to the workers, while a large number of workers have not been paid for food and accommodation. Likewise, loss of employment and income has made it difficult for them to meet essential expenses including for food, accommodation and medicines. These problems have been experienced especially by those whose term of contract has expired but have not been able to return home, who have been expelled from job, who have not received remuneration and allowances, and the undocumented workers.

- The COVID-19 crisis has affected all the workers in one way or the other. But of them, the undocumented, domestic workers, pregnant, those who have lost employment and income, who have no access to information and with disabilities and underlying health conditions are more vulnerable. The workers who were already facing exploitation and abuse in the migration cycle before the COVID-19 pandemic face increased risk at present.
- The workers who have gone for foreign employment by paying a large sum taken on loan with exorbitant rates of interest are facing specific problems after losing employment in few months of arrival. Such workers and their families have been trapped in the vicious circle of debt. Likewise, a large number of workers who had already purchased return ticket to Nepal after facing problems including the expiry of the labour permit are suffering a huge burden of expenses including for food, accommodation and other essentials after being stuck abroad due to the closure of air flights as a result of COVID-19.
- Many women who are in foreign employment and who have returned to Nepal are facing challenges including socio-economic, psychosocial and health problems, discrimination, abuse and stigmatization while some are also facing challenges to reunite with the family and community.
- Many returnee workers and their families have been abused and stigmatized by the community as those 'who spread Corona'.
- The rescue and return of the Nepalis who were stranded abroad remained uncertain due to lack of essential preparations even during the months of lockdown, and as the number of those who had to return home increased facilitating their return to Nepal has become a big challenge. Even though the delayed repatriation of those stranded abroad began through chartered flights, only a few number of Nepalis workers have been able to return home while the workers who have returned came with a huge economic

burden as the employer did not provide them with the return ticket.

- As the number of those who had to return home was very high than that planned by the government, a large number of Nepali workers still remained stranded abroad. And as a provision was made for the workers to bear the cost of return ticket, of quarantine facility and transportation to their respective homes even for those facilitated repatriation by the government, the workers who were not able to meet the expenses remain stranded abroad.
- The planning related to rescue and repatriation and its implementation could not become effective as the data and details of Nepali migrant workers affected by COVID-19 prepared by the Nepali diplomatic mission and other government agencies were not realistic.
- As the government's plan did not include the specific details about the people suffering from different types of problems in different countries, confusion and complexities were seen the process of their rescue and repatriation.
- The requirement in the order issued by the government to facilitate the return of the Nepali citizens for 'a certificate of health examination showing absence of Corona Virus infection prior to boarding the aircraft to return home' added more hassles and financial burden on the worker without easy provision for such health examination. But as many were returned home without COVID-19 testing from the countries of destination and required physical distancing was not maintained during their travel from abroad to the quarantine in the local level, it did not bear any significance, with a notable number of them becoming infected following their return to Nepal.
- The right to return was violated with the denial to enter Nepal to those who had returned home from employment in India after the COVID-19 crisis. They were not provided with sufficient basic facilities during their travel towards Nepal and in the quarantine in the border transit points and instead the concerned authorities used force and mistreated them. The provision in the government order and action plan related to repatriation was discriminatory against those who had to be repatriated and wished to return home via air from India.
- As the people returning home from India were denied entry to Nepal and due to lack of appropriate health check-up and quarantine facilities, many reached straight to their home and communities using the porous border between the two countries. However, the work of identifying them,

ensuring they going through the isolation or quarantine as required and carry out health check-up was not effectively carried out, as a result of which their family members and those in the frontline in the COVID-19 response had to face with increased risk and infection. Likewise, some of the people returning from India could not get a polymerase chain reaction (PCR) test even when their life was at stake and many were confirmed positive to Corona Virus only after their death.

- The returnees and those who came in contact with them were returned home only after the PCR test showed negative. But lately, they were returned home only on the basis of a Rapid Diagnostic Test (RDT) or if they did not shown any symptoms. As a result, they were found infected with Corona Virus after some day, leading to transmission of the infection in the community and their families. Likewise, incidents of death also took place for lack of general care or timely treatment of those residing in the quarantine or isolation.
- As the required physical distancing was not followed in course of the air travel from abroad to Nepal, at Nepal's airport and the travel from the airport to the holding centre and to the local quarantine, the risk of infection increased during the travel on people who were free of infection.
- As people were returned without Corona Virus test from India and other countries and upon arrival in Nepal were sent to the quarantine centres without testing at the holding centres, the risk of infection from one person to another increased during this period. Such risk also increased as those who returned to Nepal from abroad were transferred to the holding centers and sent directly to home quarantine after noting down the necessary details.
- Upon arrival in Nepal, the citizens from outside Kathmandu had to wait for a long time to reach to the quarantine from the holding centres, as a result of which they faced problems of food, accommodation, drinking water etc. This created more problems of the pregnant, people with disabilities and those with underlying health conditions. Some also faced abuse in the travel from the holding centre to the local level.
- Majority of the quarantines lacks basic provisions like drinking water, bedding, mosquito nets, toilet and bathing facilities, there were no appropriate arrangement for the people with special conditions including pregnant and lactating women, senior citizens or people with disabilities, were crowded and lacked security provision. The newly arrived were mixed

together who had been staying at the quarantine for some days, women and men were put together in some quarantine, the food was unhygienic and sanitation was lacking. Hence, the quarantine standards prescribed by the government were not fulfilled. As a result, incidents of healthy persons getting infected, women facing violence and abuse, violation of the quarantine rules and people hesitating to stay in the quarantine increased.

- The human rights of the workers faced more challenges as they were removed from their jobs without any prior information following the spread of COVID-19, they were denied payment and deprived of basic goods and services, faced various kinds of exploitation and violence including forced labour and use of force, deprived of the right to return home, and compensation and legal remedy were not ensured in case of violation of human rights and labour rights before or upon return to Nepal.
- The Prime Minister and the Minister for Foreign Affairs made an effort to protect the Nepali workers through bilateral talks with counterparts and concerned authorities of the countries of destination. The GoN has been facilitating the protection of the Nepali migrant workers affected by COVID-19 and their return home through the COVID-19 Crisis Management Center (CCMC). The government has been providing holding centre, transportation, quarantine and essential health services to the workers returning from various countries including India. The diplomatic missions in the countries of destination are working in coordination with various organisations and agencies to provide relief, essential information and facilitating the return of the Nepali workers. The Foreign Employment Board released funds to some diplomatic missions for arrangement of food and accommodation for the workers stranded in the foreign land. The various parliamentary committees issued directives to the government to protect the Nepali migrant workers as well as their right to return home. Likewise, the Supreme Court issued various orders in the name of the government calling for protection of the health, life and repatriation of the Nepali workers affected by COVID-19. Though the GoN was focused on the rescue and repatriation of the Nepalis stranded abroad due to the outbreak of COVID-19, it failed to take necessary measures to protect the rights of the Nepali migrant workers who lost employment and income, who were infected and vulnerable to infection, who were deprived of basic needs like food and accommodation, forcibly removed from job, involved in forced labour, and those who faced abuse and other kinds of exploitation and excesses. Likewise, no significant effort was made to hold the

destination country governments and employers and recruiting agencies accountable to ensure justice and compensation to those whose rights were violated and to protect their labour rights and human rights.

- The GoN failed to carry out sufficient coordination, collaboration and consultation with inter-governmental agencies and stakeholders in the development and implementation of the policy and plans to respond to the impact of COVID-19 on Nepali migrant workers. Likewise, sufficient coordination was not carried out with the stakeholders during the study or discussion carried out in the course of preparing guidelines and action plan on the repatriation of the Nepalis and their rehabilitation and reintegration.
- No efforts were made and advocacy done to make the countries of destination and employers accountable to the protection of the rights of migrant workers through regional and international forums and processes like the Nepal-affiliated Colombo process, Abu Dhabi dialogue and South Asian Association for Regional Cooperation.



## Chapter-One

# Introduction

*"Neither I have work and nor income. The little savings I had has been spent longtime ago, no way out even to buy food supplies. Friends living together in the camp have been infected. If this goes on, then we will die of disease or of hunger. If we are able to return home, we may survive!"*

- Parbati Limbu (name changed) from Eastern Nepal in Qatar<sup>1</sup>

Like Parbati (more details in Page 17 box), hundreds of thousands of Nepalis are currently abroad for employment. Since being first seen in Wuhan of China in November 2019<sup>2</sup> and identification as Nobel Corona Virus (COVID-19) in December<sup>3</sup>, soon after this pandemic<sup>4</sup> spread across the globe in an accelerated manner, a significant number of Nepali migrant workers have lost their job and income, putting their health and life at risk. As of mid-July 2020, at least 13.37 million people in 213 countries have been infected with Corona Virus, leading to the death of 580,045 persons.<sup>5</sup> Though clinical trial of some vaccines has begun against this virus that is transmitted due to contact with an infected person,<sup>6</sup> there is no vaccine and/or drug has been found so far. Many countries

- 1 Interview with four Nepali women workers including Parbati (name changed) of Eastern Nepal, who had lost their jobs in Qatar, on 14 May 2020.
- 2 Josephine Ma, "Coronavirus: China's first confirmed Covid-19 case traced back to November 17," *South China Morning Post*, March 13, 2020, <https://www.scmp.com/news/china/society/article/3074991/coronavirus-chinas-first-confirmed-covid-19-case-traced-back>.
- 3 "Home: Newsroom: Detail: Archived: WHO Timeline - COVID-19" World Health Organization, 27 April 2020, <https://www.who.int/news-room/detail/27-04-2020-who-timeline---covid-19>.
- 4 In a media briefing dated 11 March 2020, the World Health Organization had announced this disease as a pandemic, <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>
- 5 "Coronavirus disease (COVID-19), Situation Report – 178", World Health Organization, 16 July 2020, [https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200716-covid-19-sitrep-178.pdf?sfvrsn=28ee165b\\_2](https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200716-covid-19-sitrep-178.pdf?sfvrsn=28ee165b_2).
- 6 James Gallagher, "Coronavirus Vaccine: First Evidence Jab Can Train Immune System" *BBC*

around the world adopted the lockdown<sup>7</sup> and other measures to stem the spread of the virus. Those essential services are partially open in these countries, the major sectors of employment including industries, factories, construction and service sectors remained shut for a long time except for some few.

Majority of the people around the world have been impacted by the COVID-19 crisis. But among them, in compared to people who were in their countries with their family members, the people outside their countries were affected more and seriously. The workers working in a foreign countries lost their employment and income on one hand while they were in more risk of COVID-19 infection and subsequent death on the other. The Nepalis outside Nepal were more affected by Corona Virus that those inside the country, as a result of which they were more vulnerable in terms of their health and life. For example, when 1,572 people were infected and 8 people had died of COVID-19 in Nepal,<sup>8</sup> 14,425 Nepalis were infected and 121 had died in different countries during the same period.<sup>9</sup>

Every year around 500,000 Nepalis enter the Nepali labour market.<sup>10</sup> But due to lack of proper and dignified jobs inside the country, hundreds of thousands of Nepalis are forced to choose the option of foreign employment. According to the Department of Foreign Employment under the Ministry of Labour, Employment and Social Security, a total of 5,568,496 people have acquired labour permit to go for foreign employment from 2050/51 to 2077 Ashar (1994/95 to mid-July 2020).<sup>11</sup> In the fiscal year 2018/19 and 2019/20, the number of people acquiring such labour permit was 1,121,513, of which 10,56,426 (i.e. 94.20 per cent) were male and 65,087 (i.e. 5.80 per cent) were female.

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*News*, May 18,2020, <https://www.bbc.com/news/health-52677203>.

- 7 The request by the government urging people not to leave their homes except for essential work, not crowd or come in contact with other persons.
- 8 Ministry of Health and Population, "COVID-19 health sector response", SitRep 112, 25 May 2020, [https://drive.google.com/drive/folders/1TxYcBvNY6Ieos4RfGOTS6\\_A7NHfseyza](https://drive.google.com/drive/folders/1TxYcBvNY6Ieos4RfGOTS6_A7NHfseyza)
- 9 "Media: News: Covid-19 data update 7 and discussion with National Coordination Council," , Non-resident Nepalis Association, May 31, 2020, <https://www.nrna.org/News/newsid/1650>
- 10 Ministry of Finance, Economic Survey 2019/20 (Kathmandu, Minsitry of Finance, 2020), [https://mof.gov.np/uploads/document/file/Economic\\_Survey\\_2076-77.pdf](https://mof.gov.np/uploads/document/file/Economic_Survey_2076-77.pdf)
- 11 The number included in Nepal Labour Migration Report, 2020 from F/Y 1994/95 to 2019/20 is 5312,198, plus 189,519 new labour permits issued until mid-February this year and the total number of 65,845 going to Korea from 2008 to 2019 through the EPS system.

**Table 1.1**

**No of labour permit issued nationwide in fiscal year 2018/19 and 2019/20<sup>12</sup>**

S. No.	Country	No. of F/Y 2018/19			No. of 2019/20			Total of two fiscal years		
		Men	Women	Total	Men	Women	Total	Men	Women	Total
1.=	Qatar	178,649	4,893	183,542	156,328	4,887	161,215	334,977	9,780	344,757
2.=	UAE	1,02,815	12,126	1,14,941	1,06,383	13,472	1,19,855	2,09,198	25,598	2,34,796
3.	Saudi Arabia	1,07,073	1,341	1,08,414	1,15,871	2,033	1,17,904	2,22,944	3,374	2,26,318
4.	Malaysia	1,33,278	4,033	1,37,311	40,897	1,249	42,146	1,74,175	5,282	1,79,457
5.	Kuwait	24,615	2,534	27,149	23,729	2,267	25,996	48,344	4,801	53,145
6.	Bahrain	7,832	622	8,454	7,927	747	8,674	15,759	1,369	17,128
7.	Oman	5,186	527	5,713	4,972	465	5,437	10,158	992	11,150
Total of seven countries		5,59,448	26,076	5,85,524	4,56,107	25,120	4,81,227	10,15,555	51,196	10,66,751
*=	Other countries	20,273	6,888	27,161	20,598	7,003	27,601	40,871	13,891	54,762
<b>Sum Total</b>		<b>5,79,721</b>	<b>32,964</b>	<b>6,12,685</b>	<b>4,76,705</b>	<b>32,123</b>	<b>5,08,828</b>	<b>10,56,426</b>	<b>65,087</b>	<b>11,21,513</b>

In the fiscal year 2019/20, a total of 368,433 people acquired labour permit from the Department<sup>13</sup>, of which 340,000 are men and 28,433 are women. In addition to this, 15,647 including 14,779 men and 868 women received labour permit in 2018 and 2019 from the South Korea Employment Permit System (EPS) unit under the Department.<sup>14</sup>

The government of Nepal has been using labour permits to go for foreign employment institutionally in 110 countries<sup>15</sup> and individually in any country except that has been banned by the government. Institutionally and individually labour permits were issued for 132 and 128 countries for the fiscal year 2018/19 and 2019/20 respectively<sup>16</sup>, and the number is 127 in the fiscal year 2019/20.<sup>17</sup> Even though Nepali are going for foreign employment in so many countries, 95 per cent of the labour permits have been issued to for work in only

12 Department of Foreign Employment, "Annual labour permit details 2018/19" and "Annual labour permit details, 2019/20", <http://dofe.gov.np/yearly.aspx>.

13 Department of Foreign Employment, "Labour Approval Record Dated 2076/04/01 to 2077/03/31," <http://dofe.gov.np/yearly.aspx>

14 Department of Foreign Employment, annual report, (fiscal year 2019/20) (Kathmandu, Department of Foreign Employment, 2075), <http://dofe.gov.np/report.aspx>

15 Department of Foreign Employment, "recognized countries", <http://dofe.gov.np/recognized.aspx>, Iraq, Afghanistan's red zone and Libya are presented prohibited for labour permit.

16 Ministry of Labour, Employment and Social Security, Nepal Labour Migratio Report, 2020 (Kathmandu, MoLESS, 2020)

17 Department of Foreign Employment, "Labour Approval Record Dated 2076/04/01 to 2077/03/31," <http://dofe.gov.np/yearly.aspx>

seven countries including Qatar, United Arab Emirates, Saudi Arabia, Kuwait, Bahrain, Oman and Malaysia.<sup>18</sup>

In addition to those going formally by acquiring a labour permit, many people have gone/been taken to the third world countries<sup>19</sup> informally and on a visit or tourist VISA with the purpose of employment and the number of this is not ascertained. With those going informally and with a labour permit, it is estimated that more than 3 million Nepalis are working in different countries, excluding India. As calculated based on the Labour Force Survey 2018/19 data, 3.2 million Nepalis are outside the country presently for employment, education and for other reasons.<sup>20</sup> Of them, 2 million have left the country for work or employment, more than 700,000 in search for job, 200,000 for education or training and 170,000 dependent family members. Among those who have gone abroad for employment, 5 per cent i.e. around 100,000 are women.

India is one of the major labour destination countries for Nepal. According to Nepal Labour Force Survey, more than 500,000 Nepalis went to India for work in the fiscal year 2018/19, which is comparatively very high than those going to Qatar and Malaysia, and it constitutes around 29 per cent of the total labour permits issued for other countries in the same period.<sup>21</sup> The people who go for employment in India are not required to take a labour permit<sup>22</sup> and their records are also not maintained, as result of which a real data of those going to India is not available. However, the number of Nepalis working there is estimated to be around 1.5 to 2 million.<sup>23</sup>

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18 Labour permit was issued to a total of 1121,153 in the previous past two fiscal years 2017/2018 and 2019/20, of which 1066,751 i.e. 95.12 per cent had gone to the seven countries (see table 1.1.).

19 Countries except India

20 Jeevan Baniya, Sadikshya Bhattarai, Binay Jung Thapa, Vibhav Pradhan with Manju Gurung, Dogendra Tumsa, Ratna Kambang, Bhimkala Limbu and Binod Dulal, *COVID-19 and Nepali Labour Migrants: Impact and Responses*, (Kathmandu: Center for the Study of Labour and Mobility, 2020). The number that comes from the estimate of the latest period from the average of absentees mentioned in Nepal Labour Force Survey 2017/18.

21 Baniya et al, 2020.

22 "Home: Media Center: Bilateral/Multilateral Documents: Treaty of Peace and Friendship Between the Government of India and the Government of Nepal," Article 7, Ministry of External Affairs, Government of India, <https://mea.gov.in/bilateral-documents.htm?dtl/6295/Treaty+of+Peace+and+Friendship>

23 Janak Nepal, "how many Nepalis will lose their jobs in India?" Nepal magazine, 21 May 2020, [://nepalmag.com.np/contemporary/2020/05/21/1590080559](http://nepalmag.com.np/contemporary/2020/05/21/1590080559)

**Table 1.2**

Estimated number of people who have gone for employment/work and in search for job in countries of destination in 2018/19<sup>24</sup>

Countries of Destination	Total		Men		Women	
	No	Per cent	No.	Per cent	No.	Per cent
India	969,113	34.46	922,149	34.64	46,964	31.18
Malaysia	468,556	16.66	461,468	17.34	7,088	4.71
Qatar	436,387	15.52	432,142	16.24	4,244	2.82
Saudi Arabia	352,135	12.52	345,243	12.97	6,892	4.57
United Arab Emirates	227,292	8.02	207,936	7.81	19,356	12.85
Kuwait	82,630	2.94	62,248	2.34	20,381	13.53
South Korea	50,483	1.81	46,548	1.75	3,935	2.61
Japan	34,055	1.21	23,436	0.88	10,619	7.05
Bahrain	27,873	0.99	26,443	0.99	1,430	0.95
Australia	15,579	0.55	10,903	0.41	4,676	3.10
Oman	8,520	0.30	6,128	0.23	2,391	1.59
Israel	3,665	0.13	2,483	0.09	1,182	0.78
Lebanon	861	0.03	413	0.02	448	0.30
Other countries	135,140	4.80	114,103	4.29	21,038	13.96
<b>Total</b>	<b>212,289</b>	<b>100</b>	<b>2,661,645</b>	<b>100</b>	<b>150,645</b>	<b>100</b>

The people going for foreign employment have been making a significant contribution to the economy of Nepal. Of the total households of Nepal, 55.8 per cent received remittance.<sup>25</sup> In the past 10 years, the contribution of remittance to Nepal's economy is equivalent to an average of 25 percent of gross domestic production (GDP) of the country.<sup>26</sup> In the fiscal year 2019/20 alone, Nepal received remittance worth Rs. 879 billion 270 million<sup>27</sup>, which was an equivalent to 25.4 per cent of the GDP. In additional remittance also enters the

24 Baniya et al, 2020. Counting based on the facts from Nepal Labour Force Survey, 2017/18.

25 Central Bureau of Statistics, *Nepal Living Standards Survey 2010/11, Statistical Report Volume Two* (Kathmandu: Central Bureau of Statistics, 2011), 78. <http://cbs.gov.np/nada/index.php/catalog/37>

26 Ministry of Finance, *Economic Survey 2019/20* (Kathmandu, Ministry of Finance, 2019), 70, [https://mof.gov.np/uploads/document/file/Economic\\_Survey\\_2076-77.pdf](https://mof.gov.np/uploads/document/file/Economic_Survey_2076-77.pdf)

27 Based on data from Nepal Rastra Bank, "Current economic and financial situation of Nepal (fiscal year 2018/19)," [https://archive.nrb.org.np/ofg/current\\_macro-economic/1.%20CMEs%20Annual\\_%20Nepali%20Final%20Compilation%202075-76-Updated.pdf](https://archive.nrb.org.np/ofg/current_macro-economic/1.%20CMEs%20Annual_%20Nepali%20Final%20Compilation%202075-76-Updated.pdf)

country through informal channel, the exact data of which is unknown.

Of the numerous people who have gone for foreign employment, some are found to have been able to improve their living standard. But it is not the same in the case of many others. The Constitution of Nepal has said that foreign employment shall be made free from exploitation, safe and systematic<sup>28</sup> but studies have not that a notable number of migrant workers are facing minor problems to serious forms of exploitation and abuse in one or the other point of the migrant cycle.<sup>29</sup> The workers continue to face such abuses as government mechanisms have failed to stop it and take legal action against those involved in such offenses.<sup>30</sup> The Nepali migrant workers who were already vulnerable to exploitation and abuse have been pushed to further crisis due to the COVID-19. The migrant workers' employment, human rights and health are at risk due to the COVID-19 pandemic while incidents of stigmatization, discrimination and mistreatment against them have increased. In the context, this study has been carried out as it was strongly felt that their human rights and labour rights should be protected based on a factual analysis.

## 1. Objective

1. To identify the impact of the COVID-19 crisis on the right to employment, health and life of Nepali migrant workers,
2. To analyze the efforts and duties of the State in the protection of the human rights and labour rights of the migrant workers amid pandemic, and the problems seen in the execution of those duties,
3. To make recommendations to the Government of Nepal for the steps to be taken for the protection of the rights of Nepali workers.

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28 Constitution of Nepal, 2015, Article 51 (i), (5) and (6).

29 National Human Rights Commission, Research Report on the State of Rights of Migrant Workers (Lalitpur, NNHRC, 2019), [https://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/Research\\_Report\\_MigrantWorker\\_Situation\\_compress\\_2073-03-31.pdf](https://www.nhrcnepal.org/nhrc_new/doc/newsletter/Research_Report_MigrantWorker_Situation_compress_2073-03-31.pdf)

Amnesty International, *False Promises: Exploitation and Forced Labour of Nepalese Migrant Workers* (London: Amnesty International, 2011), <https://www.amnesty.org/download/Documents/28000/asa310072011en.pdf>

Centre for the Study of Labour and Mobility (CESLAM), *Returning Home: Challenges and Opportunities for Women Migrant Workers in the Nepali Labour Market* (Kathmandu: Centre for the Study of Labour and Mobility, 2019), <https://www.ceslam.org/our-publications/returning-home-challenges>

30 Available at National Human Rights Commission, Research Report on the State of Rights of Migrant Workers (Lalitpur, NNHRC, 2019), [https://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/Research\\_Report\\_MigrantWorker\\_Situation\\_compress\\_2073-03-31.pdf](https://www.nhrcnepal.org/nhrc_new/doc/newsletter/Research_Report_MigrantWorker_Situation_compress_2073-03-31.pdf).

## 2. Rationale of the Study

The Constitution of Nepal (2015) has stated that it is the duty of the National Human Rights Commission (NHRC) to ensure respect, protection and promotion of human rights and its effective fulfillment.<sup>31</sup> Migrant workers are among the groups that are most vulnerable to the crisis induced by the COVID-19. As a result, it is the constitutional and legal mandate of the NHRC to monitor and study the situation of the rights of the migrant workers.

The NHRC has been drawing the attention of the Government of Nepal towards the impact and possible impact of the COVID-19 pandemic on the Nepali migrant workers, since its outbreak across the globe.<sup>32</sup> In this connection, NHRC commissioner Sudip Pathak met with Minister for Foreign Affairs Pradeep Gyawali on 17 April 2020 and with Minister for Labour, Employment and Social Security Rameswar Raya Yadav on 23 April, and drew their attention towards the rescue, repatriation, and protection of human rights and labour rights of the Nepali migrant workers.

Likewise, exchange of information, coordination and collaboration is also taking place with the national human rights institutions of Qatar and Malaysia on the matters relating to health, security and protection of the labour rights of Nepali workers.

Though some institutions are carrying out study on the impact of the pandemic on the migrant workers, an evidence based and detailed study from the human rights perspective was yet to be held leading to this study by the NHRC.

## 3. Study team

A multi-stakeholder interaction between various stakeholder agencies and organisations<sup>33</sup> was held to discuss about the immediate steps to be taken in relation to the impact of the COVID-19 crisis on the migrant workers. This interaction held on 13 May 2020 was led by NHRC commissioner Sudip Pathak.

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31 Constitution of Nepal, 2015, Article 249.

32 "Home: Various Activities in Regional, Sub-regional and Central," National Human Rights Commissions-Nepal, [https://www.nhrcnepal.org/nhrc\\_activities.html](https://www.nhrcnepal.org/nhrc_activities.html)

33 Interaction at Ministry of Foreign Affairs; representatives of Ministry of Labour, Employment and Social Security, Department of Foreign Employment, Foreign Employment Board, National Network for Safe Migration, Nepal Association of Foreign Employment Entrepreneurs, NGOs and research organizations working in the field of labour migration, International Labour Organization (ILO) and International Organization of Migration.

It was decided during the interaction that a rapid study would be carried out in the impact of COVID-19 on the migrant workers and the responsibility to the study was given on behalf of the NHRC to Rameshwar Nepal of Equidem Research Nepal<sup>34</sup> and Jeevan Baniya of the Centre for Study of Labour and Mobility (CESLAM)<sup>35</sup>, two institutions involved in the study of labour migration and rights of migrants workers.

The evidence collection, situation analysis and reporting writing for this study was carried out by Rameshwar Nepal<sup>36</sup> and Dr Jeevan Baniya.<sup>37</sup> Likewise, NHRC officer Kamal Thapa Kshetry<sup>38</sup> and senior advocate Deepika Thapaliya<sup>39</sup> were involved in evidence collection, interaction with various agencies, interview and other tasks related to the study. The two researchers carried out all works related to this study on a voluntary basis.

The study held under the overall leadership of NHRC Commissioner Sudip Pathak was coordinated and managed by NHRC Joint Secretary Murari Prasad Kharel and Officers Kamal Thapa Khestri and Ravi Lal Nepali.

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34 Equidem Research Nepal is an organization that carries out research on matters relating to human rights, basically the rights of the migrant workers. It has carried out research for the Government of Nepal, National Human Rights Commission, trade unions and development partners. Involved in the research on the labourer's recruitment process to human rights excesses like the exploitation, forced labour and human trafficking of Nepali workers in the major countries of destination including the gulf countries and Malaysia, and carrying out evidence-based research on the impact of COVID-19 pandemic on the migrant workers. It is also affiliated with 16 different associations including the International Trade Union Confederation, Human rights Watch, Amnesty International, Solidarity Center, Migrant Forum Asia, Business and Human Rights Resource Center to monitor the impact of COVID-19 on the migrant workers in the gulf countries.

35 The **Centre for the Study of Labour and Mobility (CESLAM)** is a research centre under the aegis of Social Science Baha. It aims to contribute to the understanding of labour and movement by pursuing four broad objectives includes, contributing broader theories and understandings on labour and mobility by cultivating new insights through interdisciplinary research; conducting reliable, policy-relevant research on critical issues affecting working people and develop policy alternatives; serving as a forum to foster academic, policy, and public debates about labour and mobility through an open interchange of ideas; and disseminating knowledge to a broad range of audience using a variety of academic, policy, and media outlets.

36 Mr Nepal is the Founder and Executive Director of Equidem Research Nepal and is a researcher on migrant workers' rights. Also, he is the South Asia Director of Equidem Research, an organization based in United Kingdom and involved in research on human rights and labour rights.

37 Dr Baniya is the Assistant Director at Social Sciences Baha.

38 Mr Thapa Kshetry is the focal person for rights of migrant workers at the Central Office of National Human Rights Commission.

39 Advocate Thapaliya is the Research Project Manager at Equidem Research Nepal.

#### 4. Methodology of the Study

This study has been carried on the basis of the evaluation and analysis of the following primary and secondary sources.

1. Interviews with 24 Nepali migrant workers affected by COVID-19 including 13 people (comprising four COVID-19 infected) in the country of destination and 11 who had returned to Nepal (comprising two in quarantine) and the families of three persons who had died in the CoD (including one due to Corona Virus infection);
2. Interview and interaction with migrant workers (including Corona Virus infected) in Qatar, Kuwait, United Arab Emirates, South Korea, Japan and the Maldives;
3. Interaction with Ministry of Foreign Affairs, Ministry of Labour, Employment and Social Security, Foreign Employment Board, and Department of Consular Services;
4. Meetings, talks or discussion with Nepal Police, Armed Police Force, Ministry of Health and Population, Ministry of Culture, Tourism and Civil Aviation, Ministry of Labour, Employment and Social Security, and Chief District Officers (CDOs) of 27 districts;
5. Assessment and analysis of the directives and decisions of various parliamentary committees, and proposals on various issues registered in the parliament;
6. Study of the decision, reports, data, guidelines, action plan, information and statements of various agencies of the Government of Nepal;
7. Talks with Nepali diplomatic mission officials in the major CoDs for Nepali workers including Malaysia, Saudi Arabia, United Arab Emirates, Kuwait and Bahrain;
8. Reports and statements of the NHRC and information, publications and unpublished reports received from various organisations;
9. News reports, interview and opinion expressed through the media;
10. Collective interaction held thrice<sup>40</sup> with the Ministry of Foreign Affairs, Ministry of Labour, Employment and Social Security, Department of Foreign Employment, Foreign Employment Board, National Network for Safe Migration (NNSM), non-government organisations working in the field of labour and migration, United Nations Development

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40 13 May, 5 June and 8 July 2020.

Programme, Safe Migration Project (SAMi);

11. Separate consolation held with representatives of various organisations working in the labour and migration sector;
12. On-site inspection of the Tribhuvan International Airport, Holding Centres and quarantines by the study team,

Equidem Foundation study report on the impact of COVID-19 on migrant workers in the Gulf Cooperation Council (GCC) countries (near-publication)<sup>41</sup>, the rapid study report on the socio-economic and health impact of COVID-19 on the migrants and their families by CESLAM, Social Science Baha<sup>42</sup> were also taken as a resource for this study. In addition to this, the online survey carried out by the Pravasi Nepali Coordination Committee<sup>43</sup> and the details on the impact of COVID-19 on Nepali migrant workers and their needs collected through an online form made public by the workers' network<sup>44</sup> as part of the "*Ghar Jana Paau*" (allow us to go home) campaign<sup>45</sup> were taken as resources for the study.

Considering the security and the right to individual confidentiality, the identity and address of some of the participants interviewed in course of this study have been kept confidential, and the pseudo names have been used.

This study is specially based on the policies and decisions of the state during the 100 days of lockdown (1 July 2020) implemented to prevent and control the spread of the COVID-19 pandemic.

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41 Equidem Foundation, London, United Kingdom, 2020.

42 Baniya et al, 2020.

43 An organization of migrant returnees, it has been carrying out survey through online form about the impact of COVID-19 on Nepali migrant workers. The details in the forms completed by 1,073 persons since this survey began on May 21 to June 1, 2020 have been used in this study.

44 This is a network of Nepali migrant workers in the CoD. This has been helping exchange concerns among the workers, provide information or any other support to the workers in a trouble. Also, it has been taking the problems faced by Nepali migrant workers to the concerned authorities.

45 This campaign began on 1 May 2020 under the leadership of the workers' network and with involvement of organizations working for the rights of migrant workers including Equidem Research Nepal, Law and Policy Forum for Social Justice (LAPSOJ), Centre for Migration and International Relations (CMIR) and Samata Foundation to reach the request of the workers at risk and stranded in the CoDs due to COVID-19 to return home to the concerned authorities. The campaign had also requested the workers make the request to return home too also share their problems. The details in the forms completed by 749 persons were studied by the study team.

## 5. Limitations of the Report

The major limitations of the report are as follows:

1. **Focused on the immediate impact of COVID-19:** This report is focused on the immediate impact and not on the greater issues of migration or the long-term socio-economic and political impact of COVID-19.
2. **Focused on major labour destination countries only:** This report is basically focused on the major labour destination countries (India, GCC member countries and Malaysia) for the Nepali workers.
3. **Limited number of face-to-face interviews:** Due to the circumstance, logistical and time limitation, the study team could not carry out sufficient number of face-to-face interviews with the workers and hence used information and details collected from other institutions/networks and with workers.
4. **Lack of real data:** Due to lack of real data of workers going to India and of the undocumented workers, it was difficult to ascertain the exact number of Nepali workers in various countries of destination and hence estimated data based on various resources were used.
5. **Brief analysis of the provision of health check-up and quarantine facilities for the returnees:** Considering the major objective of this study, only a brief analysis has been made of the health check-up, treatment and quarantine facilities made for the returnees from various countries including India.
6. **Rapidly changing context and its limitation:** From the time this study began on 13 May 2020 to the publication of the report, some of the circumstance relating to the repatriation of those stranded abroad due to the impact of COVID-19, the expenses of their return and management of bodies stopped at the countries of destination continued to evolve and change, hence it would be relevant to look at those issues covered in this report from the same context.

## Chapter Two

# Rights of Migrants Workers

Individuals in foreign employment and their families are entitled to fundamental human rights and labour rights, which needs to be respected, protected and fulfilled even during the times of epidemic and crisis like the current only created by COVID-19. For this, the countries of origin and destination of the migrant workers, private recruiting agencies and the employers in the countries of destination are responsible. If such rights are violation, the concerned workers have the right to justice, compensation and legal protection from competent and independent authorities. This chapter discussed about some basic rights of the migrant workers.

### 1. Universal Declaration of Human Rights.

The Universal Declaration of Human Rights (UDHR)<sup>46</sup> states that 'All human beings are born free and equal in dignity and rights'.<sup>47</sup> The Declaration also states that no one shall be arrested arbitrarily, detain or ousted from the country.<sup>48</sup> Likewise, everyone has the right to leave one's own or any other country and to return to his/her country.<sup>49</sup> The rights to seek and receive information without any obstruction and limitation<sup>50</sup>, right to social security<sup>51</sup> and food, clothing, shelter and health care facilities<sup>52</sup> have also been mention in this declaration. The UDHR also states that all are equally entitled to the enjoyment of all human rights.<sup>53</sup>

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46 This declaration endorsed by the UN General Assembly on 10 December 1948 explains human rights in 30 articles. This has been recognized globally as a document that defines human rights.

47 Universal Declaration of Human Rights, 1948, Article 1.

48 Universal Declaration of Human Rights, 1948, Article 9.

49 Universal Declaration of Human Rights, 1948, Article 13 (2).

50 Universal Declaration of Human Rights, 1948, Article 19.

51 Universal Declaration of Human Rights, 1948, Article 19.

52 Universal Declaration of Human Rights, 1948, Article 25 (2).

53 Universal Declaration of Human Rights, 1948, Article 2.

## 2. International Human Rights Law

The **International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966** has established that the state parties must ensure their citizens right to physical and mental health to the maximum<sup>54</sup> and men and women have equal right to the enjoyment of all economic, social and cultural rights (Article 3), and prevent, treat and control epidemic and other occupational/workplace diseases.<sup>55</sup> Likewise, it is also the responsibilities of the states to respect, protect and fulfill basic human rights like sufficient food, housing, medical care and information.<sup>56</sup> The **International Covenant on Civil and Political Rights (ICCPR), 1966** established the right of any individual to return to his/her country<sup>57</sup> and receive information<sup>58</sup>. Nobody shall be discriminated against on any ground<sup>59</sup> and would be entitled to fair and independent legal remedy in case of violation of their rights.<sup>60</sup> Nepal has ratified both the Covenants.

The international law focused on the rights of the migrant workers has established provisions for the rights of the workers and their family members in the migration cycle. According to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990<sup>61</sup>, the migrant workers and their family have the right to return home at any point of time<sup>62</sup> and have the right to seek and receive information and important details through appropriate medium<sup>63</sup>. Likewise, torture or cruel, inhumane or degrading treatment or punishment against them has been prohibited<sup>64</sup> along with arbitrary arrest.<sup>65</sup> They also have right to health service and treatment in part with the citizens of the working that they are working in order to protect their life and minimize the risk to their health<sup>66</sup>. In addition, the migrants are also entitled to shelter and community housing in part with the citizens of the country.<sup>67</sup>

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54 International Covenant on Economic, Social and Cultural Rights, 1966, Article 12 (1).

55 International Covenant on Economic, Social and Cultural Rights, 1966, Article 12 (2) (c).

56 International Covenant on Economic, Social and Cultural Rights, 1966, Article 19 (1).

57 International Covenant on Civil and Political Rights, 1966, Article 12 (4).

58 International Covenant on Civil and Political Rights, 1966, Article 19 (2).

59 International Covenant on Civil and Political Rights, 1966, Article 2 (1).

60 International Covenant on Civil and Political Rights, 1966, Article 2 (3), (b) and (c).

61 Nepal has not ratified this Convention.

62 Convention on the protection of rights of migrant workers and their families, 1990, Article 8 (2).

63 Convention on the protection of rights of migrant workers and their families, 1990, Article 13 (2).

64 Convention on the protection rights of migrant workers and their families, 1990, Article 10.

65 Convention on the protection rights of migrant workers and their families, 1990, Article 16 (2).

66 Convention on the protection rights of migrant workers and their families, 1990, Article 28.

67 Convention on the protection rights of migrant workers and their families, 1990, Article 43 (1) (d).

**According to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979**, all kinds of discrimination against women on the virtue of being a woman has been prohibited, including the need for the state to take appropriate measures to avoid discrimination against them in health service and treatment.<sup>68</sup> The Convention on elimination of all kinds of Racial discrimination, 1965 provides that the state should protect individuals from discrimination based on race, colour, nationality and ethnic origin in public health, health care/treatment, social security and social services.<sup>69</sup>

The UN guiding principles on business and human rights states that the business houses should not work to affect the rights of anyone and should respect the international established human rights.<sup>70</sup> It also states that the business houses should regularly analysis the risk to the labour rights in difficult circumstances, and address them effectively.<sup>71</sup>

### 3. ILO Convention and Recommendations

Various conventions of the International Labour Organization (ILO) have guaranteed the various rights of the workers in foreign employment. The Migration for Employment (amended)<sup>72</sup> Convention, 1949 (no. 97) outlines the various measures to be adopted by the (source and destination) countries for the protection of the rights of those migrating for work. The Convention states that adequate and free service should be provided to assist migrants for employment and in particular provide them with accurate information (Article 2), destination should provide treatment no less favourable than that which it applies to its own nationals in respect of social security (article 6) and provide the migrants membership of trade unions and enjoyment of the benefits of collective bargaining (article 6 a ii). Likewise, the ILO Convention on occupational safety, health and workplace environment, no. 155<sup>73</sup> provides

68 Convention on Elimination of all forms of Violence against Women, 1979, Article 12 (1).

69 Convention on Elimination of all kinds of Racial Discrimination, 1965, Article 5 (e) iv).

70 (United Nations and United Nations Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (Newyork: United Nations, 2011), Article 11 and 12, [https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf)

71 United Nations and United Nations Human Rights, *Guiding Principles on Business and Human Rights*, Article 18, [https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf)

72 This Convention is an amended form of the Migration for Employment Convention, 1939 (no. 66).

73 Article 2 and 16, "C155 - Occupational Safety and Health Convention, 1981 (No. 155)," International Labour Organization, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C155](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C155)

that the employer should ensure that the workplace, machine, equipment and procedures are safe and that they do not pose any risk to the health.<sup>74</sup> Likewise, the employer should make necessary arrangement to keep every worker safe from accident and face any emergency situation.<sup>75</sup> They should be informed and trained on occupational safety and health.<sup>76</sup>

According to the ILO recommendation no. 164 on occupational safety, health and working environment, the employer should provide sufficient safety tools and equipment to the workers free of cost.<sup>77</sup> In case there is no improvement despite information the employer about the situation of serious risk to the workers life or health, then the workers have the right to disassociate themselves from the work.<sup>78</sup>

Nepal has ratified the Covenant on Economic, Social and Culture Rights, the Covenant on Civil and Political Rights, Convention on Elimination of All kinds of Discrimination Against women, and other major human rights laws, and many ILO conventions on labour rights. Hence, it is the legal obligation of the Government of Nepal to implemented the laws that Nepal has ratified<sup>79</sup> and as a member of the United Nations it has the moral duty to respect the international laws that it has not ratified.

#### **4. International Guidelines and Standards introduced for protection of the rights of the migrant workers impacted by COVID-19**

Since the outbreak of COVID-19, various international agencies have developed some standards for the health, life and employment as well as for the

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74 Article 16, "C155 - Occupational Safety and Health Convention, 1981 (No. 155)," International Labour Organization, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C155](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C155)

75 Occupational Safety and Health Convention, 1981 (No. 155), Article 18.

76 Occupational Safety and Health Convention, 1981 (No. 155), Article 14.

77 Paragraph 10 (E), "Occupational Safety and Health Recommendation, 1981 (No. 164)," International Labour Organization, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:R164](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R164)

78 Occupational Safety and Health Convention, 1981 (No. 155), Article 19 (f).

79 It is the legal obligation of Nepal to follow the international instruments that it has ratified. This provision has been established by the Nepal Treaty Act, 1991. According to Clause 9 (1) of the Act "...In case any matter in a convention ratified by Nepal contradicts with the prevalent law of Nepal then the prevent law shall be inapplicable to the extent of the contradiction and the provision of the concened vonvention shall apply as the law of Nepal". Likewise, Clause 9 (2), provides that the development of a legal provision for implementation of any international law should be made "as soon as possible".

human rights and labour rights of the migrant workers. According to guidelines introduced by the UN International Organisation of Migration (IOM)<sup>80</sup> every employer must respect the existing laws, rules and agreements relating to employment and working environment<sup>81</sup> and should not force to involuntary and forcefully or more than prescribed working hours.<sup>82</sup> Except for the right to mobility among the individual freedom of workers to avoid infection of the virus, other rights cannot be restricted and any restriction should be clearly notified to the workers.<sup>83</sup> If the contact with worker has to be terminated then it should be done with prior information and sufficient compensation as per the prevalent law. The employers who have employed migrant workers should fulfill all liabilities as per the contract before the workers return to their home country and should coordinate, facilitate and support in meeting the expenses of their repatriation including other support.<sup>84</sup>

The International Labour Organization has issued guidelines for the protection of the workers in the context of the present pandemic.<sup>85</sup> Considering the possibility of rise in incidents of violence, excesses, social stigmatization and discrimination during the present crisis, the guidelines has said that the employer and the governments should develop and effectively enforce sufficient policies and plans for the protection of workers and their families. Also, the participation of workers and stakeholders needs to be ensured in the process of formulating such policies.

The World Health Organization has in its interim guidance for protection of refugees and migrants in non-camp settings from COVID-19<sup>86</sup> states that the governments should provide high level physical and mental health care and treatment to every migrant, prohibit discrimination in health service, provide

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80 CREST, IOM, "COVID-19: Guidance for Employers and Business to Enhance Migrant Worker Protection During the Current Health Crisis," Version 1.0- April 7, 2020, [https://iris.iom.int/sites/default/files/IOM-COVID%2019\\_Employer\\_Guidance\\_V1.pdf](https://iris.iom.int/sites/default/files/IOM-COVID%2019_Employer_Guidance_V1.pdf)

81 CREST, IOM, April 7, 2020, No. 7 (a).

82 CREST, IOM, April 7, 2020, No. 7 (c).

83 CREST, IOM, April 7, 2020, No. 7 (e).

84 CREST, IOM, April 7, 2020 No. 13, [https://iris.iom.int/sites/default/files/IOM-COVID%2019\\_Employer\\_Guidance\\_V1.pdf](https://iris.iom.int/sites/default/files/IOM-COVID%2019_Employer_Guidance_V1.pdf)

85 International Labour Organization, *In the Face of a Pandemic: Ensuring Safety and Health at Work: Safety and Health at Work Can Save Lives* (Geneva: International Labour Organization, 2020), [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---safework/documents/publication/wcms\\_742463.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/publication/wcms_742463.pdf)

86 World Health Organization, *Preparedness, Prevention and Control of Coronavirus Disease (COVID-19) for Refugees and Migrants in Non Camp Settings, Interim guidance* (World Health Organization, April 17, 2020), [https://www.who.int/publications/i/item/preparedness-prevention-and-control-of-coronavirus-disease-\(covid-19\)-for-refugees-and-migrants-in-non-camp-settings](https://www.who.int/publications/i/item/preparedness-prevention-and-control-of-coronavirus-disease-(covid-19)-for-refugees-and-migrants-in-non-camp-settings)

special protection to those with special condition including children, senior citizens and people with disabilities, maintain coordination and collaboration between whole-of-government and whole-of-society in the COVID-19 response, and ensure the participation of migrants in the formulation of policy and plans concerning them.

The guidance<sup>87</sup> issued by UN Office of the High Commissioner for Human Rights states that human rights should be the focus in the COVID-19 response. In the COVID-19 response, the states should adopt special measures with due consideration to the age, gender and disabilities of the migrants who are vulnerable. It is the duty of the state to provide equal health service and treatment without any discrimination on the basis of nationality or any other ground to any people who is under one's territory. According to the guidance, the absence of resources should not be an excuse to neglect the need of health services of the migrants. The information related to COVID-19 prevention, primary diagnosis and treatment should be provided to the migrants in a clearly understandable language and accessible format.

It should also be made clear through the medium of public notice that the undocumented migrants shall not be penalized or targeted by making immigration as a standard while seeking or receiving health services. Considering the residential status, sufficient social security should be provided to the migrant workers who have lost employment due to the pandemic or have partial employment opportunities, and to their families in the concerned CoDs, and their access to it should be ensured.

The states should consider migration and labour permit renewal to support access to public health safety and fulfillment of the rights of migrants during the pandemic. The migrants returning from countries with high rate of infection should be protected from stigmatization or discrimination in private or public sector.

## 5. Constitution of Nepal, 2015

The Constitution of Nepal guarantees every citizen's right to employment<sup>88</sup> and the right to live with dignity<sup>89</sup>. Discrimination among the citizens has

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87 "COVID-19 Guidance," United Nations, Office of the High Commissioner for Human Rights, April 20, 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/COVID19Guidance.aspx>

88 Constitution of Nepal, 2015, Article 33 (1).

89 Constitution of Nepal, 2015, Article 16 (1).

been prohibited on any ground<sup>90</sup> and it has prohibited depriving anyone from individual freedom except as provided by the law.<sup>91</sup> Likewise, every individual has the right to be informed about his/her medical treatment.<sup>92</sup> Every citizen has the right to receive free basic health services from the state and nobody shall be deprived from emergency health service.<sup>93</sup> Likewise, constitutional provisions have also been made to make foreign employment free of exploitation, safe and organized, and to regulate and manage this sector to ensure the employment and rights of the workers.

## **6. Foreign Employment Act, 2064 (2007)**

The law of Nepal has ensured the right of migrant workers to receive special protection during a disaster and epidemic. According to the Foreign Employment Act, if case of a war, epidemic, natural disaster in the countries where Nepali workers are working and they have to be rescued immediately, the government should make the necessary arrangements through the diplomatic mission or labour attaché.<sup>94</sup> Likewise, the foreign employment welfare fund<sup>95</sup> could be used to repatriate the workers, compensate them and provide financial support to the returnee workers and their families<sup>96</sup> Likewise, if the workers are stranded for not getting benefits as per the contract and are to return home, then the private recruiting agencies should arrange for their repatriation.<sup>97</sup>

## **7. Infectious Disease Act, 2020 (1963)**

This Act has provided in case of an outbreak or the possibility of an outbreak of any infectious disease the GoN can take necessary action to eliminate or prevent such disease.<sup>98</sup> The Act is also enforceable in the provinces, and gives similar power to the provincial governments.<sup>99</sup>

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90 Constitution of Nepal, 2015, Article 18 (3)

91 Constitution of Nepal, 2015, Article 17 (1)

92 Constitution of Nepal, 2015, Article 35 (2)

93 Constitution of Nepal, 2015, Article 35 (1)

94 Foreign Employment Act, 2064 (2007), Clause 75 (2).

95 Fund established with contributions from every individual who acquires a labour permit to go to foreign employment.

96 Foreign Employment Act, 2064 (2007), Clause 33 (1) (b).

97 Foreign Employment Act, 2064 (2007), Clause 75 (1).

98 Infectious Disease Act 2020 (1963), Clause 2 (1).

99 Infectious Disease Act 2020 (1963), Clause 2 a (1).

## Chapter Three

# Impact of COVID-19 pandemic on Nepali migrants workers

The COVID-19 pandemic has impacted majority of the people around the world. Furthermore, the migrant workers who fall into the special vulnerable group have been seriously impacted by the current crisis.<sup>100</sup> The health and life of the migrant workers abroad have become pushed to a crisis while many have lost their employment and due wages. The undocumented and domestic workers, pregnant, sick and with underlying health conditions are more vulnerable. The governments in the CoDs are found to have not been providing proper health service and treatment facility to the workers working in their countries, and not provided effective protection of employment and remuneration. The problem has further worsened as the role of the Government of Nepal has also not been effective either in the rescue and repatriation of Nepali workers, providing them with appropriate compensation and protecting their human rights and labour rights.

As monitoring by the National Human Rights Commission found that the impact of the COVID-19 would curtail the basis tenants of human rights, the NHRC recommended to the government to address the problem of unemployment in its future budget and plans, and introduce targeted programmes to ensure employment to the Nepali migrant workers who have lost their jobs and returned home.<sup>101</sup>

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100 “COVID-19 Does Not Discriminate; Nor Should Our Response,” United Nations Network on Migration, March 20, 2020, <https://migrationnetwork.un.org/statements/covid-19-does-not-discriminate-nor-should-our-response>

International Labour Organization, *In the Face of a Pandemic: Ensuring Safety and Health at Work: Safety and Health at Work Can Save Lives* (Geneva: International Labour Organization, 2020), [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---safework/documents/publication/wcms\\_742463.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/publication/wcms_742463.pdf)

101 Letter from the NHRC to the GoN, Ministry of Finance dated 14 May 2020.

### **Impact of COVID-19 and experiences-1<sup>102</sup>**

"It has been only 3 months that two of us had arrived when we lost our job in the last week of February. It was 9 months for another person and 11 months for another friend. We were all working for a company in the service industry. To get this job, one person had paid 90 thousand while we both paid 125,000 rupees. That amount was collected by some with an interest rate of 34 and some 36 per cent.

Currently, though we were removed from our job, we have been getting the accommodation facility. There are hundreds in our camp. We are between 5 to 8 people in one room. Hence, there is no possibility of maintaining social distancing. Now we are all terrified after two of our friends in our camp got infected. However, even two week our friends were taken to the isolation centre, and despite our repeated contact with various agencies, we have neither been tested nor has anyone inquired about any symptoms of the disease. We also contacted the Nepali Embassy many times, but the only response we received was, 'don't' panic, stay safe.'

We have not been paid since January. We have no money left to buy food. We have been received food support from different people. Sometimes, we are left hungry for two to three days. Don't know, how long can we endure like this?

In such a dangerous situation, we are not sure when we may die. If we are able to return home, then maybe we could survive! Citizens from other countries have already been repatriated by their respective governments but Government of Nepal is only saying that it is not possible to take us back home, which is very disappointing. Just imagine the condition we are in at the moment!

Here, we are finding it difficult to save our life while on the other hand the loan we acquired to get this job remains unchanged, it is instead increased with added interest. How am I going to pay back the loan? I think, my head with burst out with this kind of tension."

The workers in the major labour destination countries of Nepalis like India, the gulf countries and Malaysia have been affected in various ways. Some of the major challenges faced by the migrant workers and their families have been discussed below.

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102 Interview by Study Team with four Nepali women workers including Parbati Limbu (name changed) of Eastern Nepal.

## 1. Security of Health and Life

The COVID-19 infection continues to spread rapidly in the major labour destination countries of the Nepali workers. Lately, the number of infected and dead is also found to be increasing in those countries.

**Table 3.1**

**Number of COVID-19 infected and deaths in major labour destination countries of Nepali workers as of 15 July 2020<sup>103</sup>**

S.No.	Country	COVID-19 infected	Death due to COVID-19
1.=	India	968,876	24,915
2.	Saudi Arabia	240,474	2,325
3.	Qatar	104,983	151
4.	United Arab Emirates	55,848	335
5.	Kuwait	56,877	399
6.	Oman	61,147	281
7.	Bahrain	34,560	117
8.	Malaysia	8,734	122

The number of migrants getting infected and dying in those countries is also significantly high. For examples, as of 22 May 2020, of the total number of 19,756 infected and 148 deaths in Kuwait, the migrants constituted 16,531 (i.e. 83.67 per cent) and 142 (i.e. 95.95 per cent) respectively.<sup>104</sup> In Qatar, as of 19 May 2020, of the total 35,631 cases of infection, 34,095 (i.e. 95.69 per cent) were migrants.<sup>105</sup> The Nepalis working in the concerned CoDs said that the number and ratio of migrants infected with and dead of Corona Virus was very high in compared to the citizens of the concerned CoD.<sup>106</sup>

103 "Coronavirus disease (COVID-19), Situation Report – 178", World Health Organization, 16 July 2020, [https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200716-covid-19-sitrep-178.pdf?sfvrsn=28ee165b\\_2](https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200716-covid-19-sitrep-178.pdf?sfvrsn=28ee165b_2)

104 "Article: COVID-19 contact cases among different nationalities in Kuwait ," Wikipedia, h]7 (, @)&& df x]l/Psf], [https://en.wikipedia.org/wiki/COVID-19\\_pandemic\\_in\\_Kuwait](https://en.wikipedia.org/wiki/COVID-19_pandemic_in_Kuwait),

105 Home Karki, "more than 6,900 infected with Corona", Kantipur, 23 May 2020, <https://ekantipur.com/news/2020/05/23/159021264966971490.html>

106 Interaction by study team with Nepali migrant workers based in Qatar, Kuwait, United Arab Emirates, Japan, the Maldives and South Korea on 26 May 2020.

A large number of Nepalis have been infected in various countries around the world. According to the Ministry of Foreign Affairs, as of 6 July 2020, 4,436 Nepalis have been infected with and 134 have died of Corona Virus outside Nepal.

**Table 3.2**

**No of Nepalis infected with and died of COVID-19 in different countries as of 6 July 2020<sup>107</sup>**

S.No.	Country	Infected	Deaths
1	India	73	1
2	UAE	500	25
3	Kuwait	84	2
4	Saudi Arabia	1,364	10
5	Qatar	140	7
6	Bahrain	451	0
7	Malaysia	81	0
8	Other countries	1,753	89
	<b>Total</b>	<b>4,436</b>	<b>134</b>

Nepali diplomatic mission officials<sup>108</sup> in the CoDs and Government of Nepal representatives<sup>109</sup> have said that the exact details about the number of Nepalis infected with and dead of Corona Virus was difficult to receive as in many CoDs, the nationality of the infected is not revealed when the numbers

107 Table developed on the basis of details provided by the Ministry of Foreign Affairs to the NHRC on 7 July 2020.

108 Ratopati TV, "The view with Nepali Ambassadors on the state of Nepali workers in the gulf countries", Youtube video ,10 May 2020, <https://www.youtube.com/watch?v=QF0hKfeQ03Y>

Ratopati TV, "The view with Nepali Ambassadors on the state of Nepali workers in the gulf countries", Youtube video, 18 May 2020, <https://www.youtube.com/watch?v=9fYs6kpmOA0>

Sajha Sabal Media, "Rescue of Nepalis from abroad begins, what did the ambassador say about the health test?" Youtube Video, June 5, 2020, [https://www.youtube.com/watch?v=HgcQtNi\\_ZGA](https://www.youtube.com/watch?v=HgcQtNi_ZGA)

" Corona Virus: problems to ascertain the number of infected Nepalis in gulf," BBC Nepali sewa, 4 May 2020, <https://www.bbc.com/nepali/news-52525881>

109 Virtual meeting by the study team with the Ministry of Foreign Affairs, Minister of Labour, Employment and Social Security, Department of Consular Services and Foreign Employment Board on 25 May 2020.

are made public. As a result, the exact number of Nepali who have been infected and who have died of Corona Virus was not ascertained due to the lockdown and the fear of infection.

The employers and the governments should protect the human rights and labour rights of the workers even during a pandemic like COVID-19 (see, chapter two). According to Occupational Safety and Health Convention, 1981, the measures to prevent negative impact on workplace safety and health and provide protection to the workers should be taken by the employers even during a pandemic like COVID-19.<sup>110</sup> Accordingly to international human rights law, it is the obligation of the states to respect, protecting and fulfill basic human rights like sufficient food, shelter, health service and information.<sup>111</sup> Likewise, the employers should provide sufficient safety tools and equipment free of cost to the workers<sup>112</sup> while they need to be informed and trained on ways to face an emergency situation.<sup>113</sup> In case the workers face serious risk to their life or health and if it is not addressed despite the employer being notified about it, then the worker has the right to relieve him/herself from the job.<sup>114</sup> But studies have shown that the workers in the CoDs did not receive in the initial stage of the outbreak important information like ways to remain safe from Corona Virus, support services available in case of infection and the place of contact for such services. For example, in an interview held until 20 April 2020 with 223 workers in the GCC countries for a study by Equidem Research, 60 per cent of the workers said that they did not receive basic personal safety tools like sanitizer, mask and gloves to safe from the risk of infection,<sup>115</sup> which is also supplemented by the interaction<sup>116</sup> held with Nepali workers in various CoDs by the NHRC study team and by a study<sup>117</sup> carried out by the PNC. In this context, one worker said the following to the study team:

110 "C155 - Occupational Safety and Health Convention, 1981 (No. 155)," Article 16, International Labour Organization, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C155](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C155)

111 International Covenant on Economic, Social and Cultural Rights, 1966, Article 11 (1).

112 "R164-Occupational Safety and Health Recommendation, 1981 (No. 164)," Paragraph 10 (E), International Labour Organization, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:R164](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R164)

113 Occupational Safety and Health Convention, 1981 (No. 155)," Article 14.

114 Occupational Safety and Health Convention, 1981 (No. 155)," Article 19 (f).

115 Rameshwar Nepal, "Nepali workers left in the lurch abroad", Nagarik daily, 21 April 2020, <https://nagariknews.nagariknetwork.com/news/126904/Equidem> Foundation, 2020.

116 Interaction by the study team with Nepali migrant workers in Qatar, Kuwait, the UAE, Japan, the Maldives and South Korea on 26 May 2020.

117 Pravasi Nepali Coordinnation Committee, "Report on the Cases Received in COVID-19 Online Form," 2 June 2020.

*"There was a fever examination booth in the workplace. Fever was examined during entry and exit from the workplace. But there was no such provision in the camp. Until the end of March, health safety tools like mask, sanitizer and gloves were not provided. They were given only in April. Nobody told us where to go and whom to report if we were infected and what support would we receive thereafter. We gathered some information by talking to friends and colleagues, and through the internet."<sup>118</sup>*

The camps used as residence for the migrant workers in the CoDs were over populated and lack sufficient sanitation facilities, which made it difficult to maintain the required social distancing, thereby increasing the risk of Corona Virus infection. The residential camps in the gulf where a large number of Nepalis work are crowded even during normal times and lack sufficient sanitation facilities<sup>119</sup> and with the impact of COVID-19, some employers have adopted a strategy to bring down the number of residential camps to cut down expenses. Likewise, using some camps as isolation centres by translocating the residing workers to other camps has increased the density of people in such camps in compared to the past.<sup>120</sup> In this context, one of the workers said,

*We are staying in our rooms twenty-fours a day after we left without any work. The company has allowed us to stay but not paid for our food. It's been three months that we have not been paid. We have been told that we will not be paid for the time we are not working. There is no place to go out for fresh air, and even if there was then there is fear of Corona, because three people in our camp have been infected. After some people in the camp were infected, the people living in the same room were shifted to other rooms. As our room size is big, we are 18 of us together. Not sure when we will be infected. No work, no pay, and to add to that the fear of Corona !<sup>121</sup>*

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118 Interview by the study team with three Nepali workers in Qatar including Purna Magar (named changed) of Province no. 1.

119 International Labour Organization, "Protecting migrant workers during the COVID-19 pandemic," (Geneva: International Labour Organization, April, 2020), [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---migrant/documents/publication/wcms\\_743268.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_743268.pdf)

120 Interaction by the study team with Nepali migrant workers in Qatar, Kuwait, the UAE, Japan, the Maldives and South Korea on 26 May 2020.

121 Statement based on the details completed by Ashok Rai (name changed) of Province no. 1 in Saudi Arabia in the google form developed by "We want to go home" campaign run by the workers'

As residential quarters are overpopulated and lack sanitation facilities, the risk of other kinds of health problems has also increased.<sup>122</sup> The people who are sick of diseases other than COVID-19 not getting health service has become normal.<sup>123</sup> Similarly, as the workers mentioned below (in box), though many company/employers have shut down their companies some have resumed without following the necessary health protocol, putting the workers at risk of COVID-19 infection. The migrant workers also shared that health services for them were not accessible as it is for the citizens of the concerned country, which is a discrimination against the migrants.

### **Impact of COVID-19 and experience-2<sup>124</sup>**

"Though many companies were shut, our company was running as usual. I went to test myself for Corona Virus after experiencing neck pain and shortness of breath. The report showed positive. But I was not admitted in the hospital but asked to stay in home isolation. I informed my boss about by infection. One of my two roommates also tested positive. A few days later, the third roommate also started experience symptoms like us.

We were very worried. We made repeated calls on the hotline number and to the hospital. There was no place left where we had not called. After a long struggle, we manage to communicate with the Embassy of Nepal. But the Embassy replied, "call the police, don't take tension" but did not take any initiative to get us admitted to the hospital or provide other care. The local citizens are easily admitted and provided good care. But people like us who have come to work from other countries are asked to stay in our rooms. If we had a powerful Embassy then maybe we would have also received good care and treatment.

In many countries, many of the COVID-19 infected have minimum access to health service, COVID-19 test and treatment.<sup>125</sup> News reports were published network.

122 Rima Kalush, "In the Gulf, migrant workers bear the brunt of the pandemic," *Aljazeera*, June 1, 2020, <https://www.aljazeera.com/indepth/opinion/gulf-migrant-workers-bear-brunt-pandemic-200529102238233.html>

123 Interaction by the study team with Nepali migrant workers in Qatar, Kuwait, the UAE, Japan, the Maldives and South Korea on 26 May 2020.

124 Interview by the Study Team with Corona Virus infected Nepali women worker Sangita Rai (named changed) in the UAE.

125 Kaamil Ahmed and Agencies, "Malaysia cites Covid-19 for Rounding up Hundreds of Migrants," *The Guardian*, May 2, 2020, <https://www.theguardian.com/global-development/2020/may/02/malaysia-cites-covid-19-for-rounding-up-hundreds-of-migrants>

stating that the people with symptoms of infection were not tested; no provision was made for the workers to segregate themselves even if a co-worker or a roommate was infected or were denied health check-up.<sup>126</sup> In this context, one of the workers says,

*I cannot say the exact number but at least 50 people staying with us in the camp have been infected. But despite many infection cases, we have yet to be tested. People with no symptoms in the beginning are now developing symptoms. With this, we fear that we may also have been infected. There is no response in the telephone number that has been given to us to make a call. I wish the Embassy took some initiative, but we cannot connect with the Embassy, and if we get a connection, they don't pick it up. One of our friends in the camp finally managed to talk to them, but he was suggested to call the same hotline number, and Embassy replied that they cannot do anything else for us. I fear, I might die here. If I could return to Nepal, I hope I would survive, but that also seems impossible.<sup>127</sup>*

The study team talked to Sher Singh Joshi (name changed) of Sudur Paschim Province who was in isolation after testing positive to Corona Virus in the UAE.<sup>128</sup> Joshi who had reached UAE on Poush 2076 lives with nearly 1,500 workers including around 50 Nepalis in the residential camp. According to him, many workers in the camp have been infected. He said he got infected despite observing precaution because the company that he works for (name of the company and the type of his job has been kept confidential) has resumed operation, the infected and other workers are kept in the same camp, and everyone shares the same rest room and kitchen. He also said that a large number of workers were infected as the employer or the local government authorities failed to take appropriate measures to stop the spread of the infection after a few workers tested positive in the beginning.

Likewise, many reports were made public stating that numerous workers in the CoDs were left hungry. Especially, those who were unable to return after the end of their contract period, those removed from work, those denied remuneration and allowance, and the undocumented workers were found facing

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126 Hom Karki, "Infected Nepalis in UAE not getting proper treatment", Kantipur daily, 13 April 2020, <https://ekantipur.com/news/2020/04/13/158674567273682060.html>

127 Lal Keshar Mahato (name changed) from Province no. 2 in Kuwait sharing his problems in the google form developed by "We want to go home" campaign run by the workers' network.

128 Interview by study team with Sher Singh Joshi (name changed) on 28 June 2020.

difficult in managing food after they ran out of their little savings.<sup>129</sup> In this context, one of the migrant workers said,

*I have not one but many problems. The company asked to be take unpaid leave and sign a document. I have not been paid, and not given money for food. I bought food supplies with my savings, and borrowed some cash after I ran out of my savings. Now there is nobody that I could borrow from. The room is packed with 10 people, which is quite suffocating. I had come here with a huge amount of debt on my back, and had not earned at all. I was asked to take unpaid leave. I tried to call the Embassy with the hope that I could receive some support to be compensated for the expenses that I incurred to come here, but nobody picked up the phone. If they don't even pick up the phone when we are in such a problem, then what's the use of having an Embassy here?<sup>130</sup>*

In the survey by PNCC, 13 per cent of the participants said they faced lack of food.<sup>131</sup> Though some social organisations<sup>132</sup> provided food or food supplies, it is not accessible to all those who are facing problems related to food, while questions have also be raised about the sustainability of such humanitarian assistance.<sup>133</sup>

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129 Ratopati TV, "The view with Nepali Ambassadors on the state of Nepali workers in the gulf countries", Youtube video ,10 May 2020, <https://www.youtube.com/watch?v=QF0hKfeQ03Y>

Ratopati TV, "The view with Nepali Ambassadors on the state of Nepali workers in the gulf countries", Youtube video, 18 May 2020, <https://www.youtube.com/watch?v=9fYs6kpmOA0>

Sajha Sabal Media, "Rescue of Nepalīs from abroad begins, what did the ambassador say about the health test?" Youtube Video, June 5, 2020, [https://www.youtube.com/watch?v=HgcQtNi\\_ZGA](https://www.youtube.com/watch?v=HgcQtNi_ZGA)

Hom Karki, "Nepalis in Kuwait face food problems", Kantipur daily, 12 April 2020, <https://ekantipur.com/diaspora/2020/04/12/158665701383091682.html>

130 Statement based on the details completed by Mukunda Lamsal (name changed) of Bagmati Province in Saudi Arabia in the google form developed by "We want to go home" campaign run by the workers' network.

131 Pravasi Nepali Coordinnation Committee, Report on the Cases Received in COVID-19 Online Form, 2 June 2020.

132 Non-resident Nepalīs Association, Qatar Charity, and various organizations of Nepalīs had provided food supplies or readymade food to the workers facing problems of food.

"Non-resident Nepalīs coming to the support of their fellow citizens in Saudi Arabia", Desh Pardesh, 25 May 2020, <https://deshparadesh.com/2020/05/9907/?fbclid=IwAR2Xj7bPMcyw2eX7Wvir9wfxMTb3nvHMeKcg-N3hgZhLgk7DUegLB2EU8bl>

133 Ratopati TV, "The view with Nepali Ambassadors on the state of Nepali workers in the gulf countries", Youtube video ,10 May 2020, <https://www.youtube.com/watch?v=QF0hKfeQ03Y>

## 2. Impact on employment and remuneration

A large number of Nepali migrant's workers have been rendered fully or partially jobless after companies shut down along with spread of the COVID-19 infection and employers unilaterally removing them from work or annulling their contract. Many have lost income after the employer failed to pay or paid only partially.

The ILO had estimated that 3 to 5 million fulltime jobs would be lost as a result of the impact of COVID-19, of which 1.35 million have already been lost in the first three months of 2020.<sup>134</sup> Likewise, the ILO had also estimated that the workers who would lose their job would also loose income worth 340 billion US dollars.<sup>135</sup> It is further estimated that some 25 million people working for small and medium enterprizes affected badly by COVID-19 will become jobless.<sup>136</sup> Majority of the Nepali workers are employed in the sectors that would be impacted accordingly.<sup>137</sup> The Nepal Association of Foreign Employment Agencies has estimated that the number of Nepalis who would immediately become jobless abroad would be more than 25 per cent.<sup>138</sup> The PNCC survey also showed that 21 per cent of the workers have either lost their job or have been asked by the employer to take a long unpaid leave.<sup>139</sup> In this context, one worker said,

*"It had been only six months that I arrived here. The company was not good otherwise, and did not pay as much as promised. After the lockdown, it has neither paid salary nor given money for food expenses. I was asked to sign on a document in a hurry, and later came to know that it said that 'I was willing to stay on unpaid leave.' Some of the*

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Ratopati TV, "The view with Nepali Ambassadors on the state of Nepali workers in the gulf countries", Youtube video, 18 May 2020, <https://www.youtube.com/watch?v=9fYs6kpmOA0>

134 International Labour Organization, "ILO Monitor: COVID-19 and the World of Work, Fourth edition," (Geneva: International Labour Organization, May 27, 2020), [https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/briefingnote/wcms\\_745963.pdf](https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/briefingnote/wcms_745963.pdf)

135 International Labour Organization, "ILO Monitor: COVID-19 and the World of Work, Third Edition," (Geneva: International Labour Organization, April 29, 2020), [https://www.ilo.org/global/topics/coronavirus/impacts-and-responses/WCMS\\_743146/lang--en/index.htm](https://www.ilo.org/global/topics/coronavirus/impacts-and-responses/WCMS_743146/lang--en/index.htm)

136 International Labour Organization, "ILO Monitor: COVID-19 and the World of Work, Third Edition," (Geneva: International Labour Organization, April 29, 2020), [https://www.ilo.org/global/topics/coronavirus/impacts-and-responses/WCMS\\_743146/lang--en/index.htm](https://www.ilo.org/global/topics/coronavirus/impacts-and-responses/WCMS_743146/lang--en/index.htm)

137 Ministry of Labour, Employment and Social Security, Nepal Labour Migration Report, 2020.

138 Nepal Association of Foreign Employment Entrepreneurs, COVID-19 crisis and solution, 22 May 2020.

139 Pravasi Nepali Coordinnation Committee, rief Report on the Cases Received in COVID-19 Online Form, 2 June 2020.

*friends had just arrived while there are around 700 of us who came here in the last six months. All have faced the same problem. Hence, instead of staying here like this, we wish to go back home.*<sup>140</sup>

Though the exact figure of Nepalis, who lost their jobs is not yet available, the preliminary estimates by the Foreign Employment Board states that around 280,000 Nepalis will become jobless in the GCC countries and Malaysia alone.<sup>141</sup> A large number of Nepali workers have already become jobless as companies have shut down in the CoDs as a result of the impact of COVID-19, while many were removed from work without notice by the employers, citing the crisis.<sup>142</sup> In this context, one migrant worker said,,

*"We were promised work, but neither we were paid nor given money for food. Two months later, our contract was terminated without any information. We are 169 Nepalis whose contract has been terminated. It's had just been 3 months that I arrived. Some had arrived just a week before the lockdown began. Majority of us here are new. We paid 150,000 to be here, thinking that it a job in a restaurant that will earn us tips and overtime work. All the money was taken as a loan. Now, upon return to Nepal, we will not get a job. Here too, we have been removed from work. Wish we could be compensated only for the expenses we incurred to get her. What could be a way out?"*<sup>143</sup>

The employers are found to have not paid or paid only partially to the workers. In Saud Arabia, after the government allowed deduction of up to 40

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140 Statement based on the details completed by Ganesh Prasad Adhikari (name changed) of Gandaki Province in Saudi Arabia in the google form developed by "We want to go home" campaign run by the workers' networks

141 Ministry of Labour, Employment and Social Security, Foreign Employment Board, "Strategic measures to be adopted to address the impact of COVID-19 pandemic and subsequent on the Nepali workers in foreign employment", study report, May 2020.

142 Chandan Kumar Mandal, "Thousands of Nepali migrant workers from Persian Gulf and Malaysia Eexpected to Return Home Soon," *The Kathmandu Post*, May 9, 2020, <https://kathmandupost.com/national/2020/05/09/thousands-of-nepali-migrant-workers-from-persian-gulf-and-malaysia-expected-to-return-home-soon>

Upasana Khadka, "UAE Warning to Send Back workers, Including Nepalis," *Nepali Times*, April 13, 2020, <https://www.nepalitimes.com/latest/uae-threat-to-send-back-workers-including-nepalis/>

143 Statement based on the details completed by Satrugan Thapa (name changed) of Province no. 1 in Kuwait in the google form developed by "We want to go home" campaign run by the workers' networks.

per cent of remuneration,<sup>144</sup> many employers have been paying the workers only 10 per cent of their salary.<sup>145</sup> The UAE government introduced a policy allow employers to send workers on unpaid leave and decrease the salary.<sup>146</sup> Likewise, in Qatar, the government has said that the employers were found not paying their workers.<sup>147</sup>

A large number of workers have not been paid their monthly salary, and not paid allowances including for food and accommodation. Not only for the lockdown period, but some have not been paid salary or allowance from before it. Seventeen per cent of the workers who participated in the PNCC survey said that they had not been paid.<sup>148</sup> The workers were found unable to pay their rent, buy food supplies, medicine and other essentials after losing their job and income or for not being paid on time.<sup>149</sup> Some employers had paid only partially. In this context, a migrant workers shares his experience as follows,

*I work for a cleaning company. After completing two years, I renewed my VISA and was preparing to go home on holiday. But in between the lockdown began. I am still working, but we are sent to work on a shift-wise basis. However, our 50 per cent salary has been deducted, citing that we don't have to work cent per cent like before. Due to few number of vehicles in compared to the past, 50 to 60 people are transported in a single vehicle. Many people working for our company have been infected. There is no income, and fear of infection as well. Instead of waiting to die here like this, I wish I could return home.<sup>150</sup>*

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Studies show that people going for foreign employment from Nepal are

- 144 Sara Al Shurafa, "COVID-19: Saudi Arabia to Cut Salaries by 40%," *GulfNews*, May 4, 2020, <https://gulfnews.com/world/gulf/saudi/covid-19-saudi-arabia-to-cut-salaries-by-40-1.1588609488167>
- 145 Interaction by the study team with Nepali migrant workers from Qatar, Kuwait, the UAE, Japan, the Maldives and South Korea, on 26 May 2020.
- 146 Marle Nammour, "Coronavirus: UAE issues decree to regulate private sector jobs, salaries" *Khaleejtimes*, March 31, 2020, <https://www.khaleejtimes.com/coronavirus-outbreak/coronavirus-uae-issues-decree-to-regulate-private-sector-jobs-salaries>
- 147 "Home: News: The Ministry Investigates the Late Settlement of Salaries for a Number of Expatriates," Ministry of Administrative Development, Labour and Social Welfare, Qatar, May 23, 2020, <https://www.adlsa.gov.qa/en/news/Pages/news2352020.aspx>
- 148 Pravasi Nepali Coordinnation Committee, rief Report on the Cases Received in COVID-19 Online Form, 2 June 2020.
- 149 Sebastain Castelier, "Gulf Workers Out of Cash Under COVID-19 Lockdown," *Asia Times*, April 24, 2020, <https://asiatimes.com/2020/04/gulf-workers-out-of-cash-under-covid-19-lockdown/>
- 150 Statement based on the details completed by Dhiraj Chettri (name changed) of Gandaki Province in Dubai in the google form developed by "We want to go home" campaign run by the workers' network.

forced to take loan in high interest rate. Some are found to have acquired loan in 60 per cent interest rate, and paid very high recruitment charge than the stipulated amount.<sup>151</sup> In this context, one of the workers shared his problems as follows,

*It had been only six months that I arrived here. I was very badly cheated by the manpower company (name kept confidential). I was recruitment for one company and sent to work in another company. I have not received a single rupee since I arrived. As I was discussing with the manpower company on how to work for a company that does not pay, the lockdown began. I have been provided food and accommodation facility, but I am penniless. Its pitiable back home. I came here by taking loan, the interest is increasingly steadily. I was already in a problem, which has doubled with the lockdown. I could decrease the loan amount if I was paid my due salary. How could I get my payment?<sup>152</sup>*

A significant number of workers who have lost employment and income due to the impact of COVID-19 are likely to face difficulty in meeting their family expenses, and paying loan principal and interest. This could have a negative impact on the long-term livelihood of the migrant workers and their families.

In this manner, even though a large number of workers have lost employment and income, and had their labour rights violation, neither the authorities in the concerned CoD nor the Government of Nepal were found to take serious note of this matter, and worked to protect the rights of the workers, including for compensation. According to the UN Guidelines on Business and Human Rights, workers and their rights needs to be protected in any situation and by all kinds of businesses. But reasoning the widespread crisis as a result of COVID-19, the employers and business persons have neglected the serious impact on the workers. Citing the COVID-19 crisis, no concrete efforts are

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151 Amnesty International, *Nepal: Turning People into Profits: Abusive Recruitment, Trafficking and Forced Labour of Nepali Migrant Workers* (London: Amnesty International, 2017), <https://www.amnesty.org/download/Documents/ASA3162062017ENGLISH.PDF>

Bandita Sijapati, Ang Sanu Lama, Jeevan Baniya, Jacob Rinck, Kalpana Jha & Amrita Gurung, *Labour Migration and the Remittance Economy: The Socio-Political Impact* (Kathmandu: Centre for the Study of Labour and Migration, 2017), <https://www.ceslam.org/our-publications/the-socio-political-impact>

152 Statement based on the details completed by Sukraman Magar (name changed) of Gandaki Province in Saudi Arabia in the google form developed by "We want to go home" campaign run by the workers' network.

being made to ensure that the workers who have returned to Nepal after facing problems or remain abroad get justice and remedy.

### 3. Migrant workers at special risk

Though COVID-19 has affected every worker in one way or the other, the undocumented, domestic workers, pregnant, those who have lost employment and income, and with no access to information are more vulnerable.

The current crisis has put the undocumented workers at more risk. Majority of the Nepalis who went/were taken using the porous border, on a visit or tourist VISA with the purpose of work are regarded as 'irregular' and liable to penalty by the law of the concerned CoD, and hence are in a state of fear. As major lost employment and income due to the impact of COVID-19, they are facing problems for food and accommodation. Those who had gone abroad on a tourist and family VISA are facing added financial burden for having to stay a long time in the CoD. Likewise, they hesitate to access health services and other facilities due to the fear that their undocumented status might invite problems to them.<sup>153</sup>

Due to the impact of COVID-19, the risk of forced labour has increased for such workers. In some situation, the undocumented workers are forced to work without rest, food and leave, and to work for more working hours than specified.<sup>154</sup> Government authorities have also said that it is not easy to provide support to such kind of workers.<sup>155</sup>

Since air flights were shut down due to the impact of COVID-19, a large number of workers whose labour permit expired (see table 3.4), whose contract expired, who were removed from job and who had purchase return ticket before the closure of aviation service have been left stranded abroad. As a result, they are facing huge financial burden, while some are facing problems of even food and accommodation.<sup>156</sup> In this context, one worker said,

153 Interaction by the study team with Nepali migrant workers from Qatar, Kuwait, the UAE, Japan, the Maldives and South Korea, on 26 May 2020.

154 Interaction by the study team with Nepali migrant workers from Qatar, Kuwait, the UAE, Japan, the Maldives and South Korea, on 26 May 2020.

155 Ratopati TV, "The view with Nepali Ambassadors on the state of Nepali workers in the gulf countries", Youtube video, 10 May 2020, <https://www.youtube.com/watch?v=QF0hKfeQ03Y>

Ratopati TV, "The view with Nepali Ambassadors on the state of Nepali workers in the gulf countries", Youtube video, 18 May 2020, <https://www.youtube.com/watch?v=9fYs6kpmOA0>

156 Muna Kunwar, "10 Nepali women stranded in the streets in Dubai", Naya Patrika daily, 22 June 2020, <https://www.nayapatrikadaily.com/news-details/45907/2020-06-23>

*"After my contract expired, I was preparing to return home, and also bought air ticket. But just two days before my flight, international flights was shut down in Nepal. Now, I have no work, and no income. I am forced stay indoors day and night. Not sure, when I will be infected with Corona Virus. Day after day, it's been so many days already. Neither, I get paid, nor I received support for food expenses. I have run out of all my savings. I will have by head burst if I continue to stay like this. Hence, can you please help facilitate my return to Nepal?"<sup>157</sup>*

In this manner, as they have been stranded in different ways abroad, their life has become more painful and are mentally disturbed.

Even before the COVID-19 pandemic, the workers going for foreign employment had to face minor problems to serious forms of exploitation and abuse any one point or the other in the migration cycle.<sup>158</sup> For example, a previous study by the NHRC had found that 76.74 per cent of workers suffer from abuse of one form or the other in the migration cycle.<sup>159</sup> Of them, 55.63 per cent were given salary and benefits less than what was promised at the time of recruitment, 36.62 per cent had to accept a different job altogether, 56.39 per cent were not paid for overtime work and 62.68 per cent were cheated in the employment contract. Almost cent percent of the works interviewed for the study were found to have been charged more than the specified amount of fee, and majority of them were not even given a recipe for the same. As government mechanism has been found to be ineffective in taking legal action and penalizing those involved in such crimes, the workers going for foreign employment continue to face human rights excesses including forced labour, trafficking or transportation, and economic, physical and labour exploitation.

The Nepali migrant workers who were already at risk of such exploitation

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Bedananda Joshi, "We are surviving with just one meal since three months", Ujjyalo online, 1 July 2020, <https://ujyaloonline.com/story/39600/2020/7/1/kuwait-nepali-worker-problem>

157 Statement based on the details completed by Dhan Bahadur Pariyar (name changed) of Gandaki Province in the UAE in the google form developed by "We want to go home" campaign run by the workers' network

158 National Human Rights Commission, Research Report on the Situation of Rights of Migrant Workers, (Lalitpur, NHRC, 2019) [https://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/Research\\_Report\\_MigrantWorker\\_Situation\\_compress\\_2073-03-31.pdf](https://www.nhrcnepal.org/nhrc_new/doc/newsletter/Research_Report_MigrantWorker_Situation_compress_2073-03-31.pdf)

Amnesty International, Nepal: *Turning People into Profits*, 2017.

Amnesty International, *False Promises*, 2011.

159 National Human Rights Commission, Situation of Rights of Migrant Workers, 2019.

and excesses are put at further risk due to COVID-19. The problems of the workers who have been employed in a different job than promised or whose VISA has expired after the employer failed to make the residential permit on time and facing daily fine, or those who have not been paid are getting more complex along with the COVID-19 crisis.

According to details of an incident collected by the Study Team, three Nepali workers including Top Bahadur Dangi (name changed) who had gone to Qatar 9 months before the lockdown began in March 2020, had their VISA term expired in 90 days after the employer did not develop their residential permit, and were fined 10 Riyal daily. During the lockdown, the employer not only expelled them from job but also from their residence leaving them stranded on in the street. The recruitment agency representative managed accommodation for them but when they sought legal remedy the concerned authorities said that they could not support them in any way at the moment due to the COVID-19 crisis and subsequent lockdown.<sup>160</sup>

#### **4. Migrant women workers more vulnerable**

Due to lack of appropriate and decent work in the country, a notable number of Nepali women go for foreign employment. According to the Department of Foreign Employment, a total of 1,121,513 people acquired labour permit to go for foreign employment in the past two fiscal years 2018/19 and 2019/20 (see table 1.1), of which 5.80 per cent were women.<sup>161</sup> The number of women going/taken for foreign employment using the porous border seems to be notable, but the exact data is not available.

Women are going for foreign employment due to lack of suitable and respected job opportunities or due to gender-based violence, and the women workers make a notable contribution to the overall economy of the country, while playing an important role in the socio-economic progress of their families and community. Despite this, among them many face problems and risks in the migration circle. Men going for foreign employment also fall under such risks in the migration circle. But various studies have shown that Nepali women have to face additional and distinct problems and challenges in the labour migration

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160 After an international organization (named kept confidential) shared about the problems of the workers to the concerned authority (name kept confidential) of Qatar, their fine was exempted and return tickets arranged at the initiative of the organization but they got stuck in Qatar as international flights had shut down.

161 Department of Foreign Employment, Annual report, (Fiscal Year 2019/20).

cycle.<sup>162</sup>

Though the foreign employment policy and act of Nepal states that women going for foreign employment shall not be discriminated on any ground, various restrictive policies are being adopted on different occasions based on the CoD, the nature of work and age etc.<sup>163</sup> Instead of taking special measures for the protection of the Nepali women going for foreign employment as they face excesses, the government has been enforcing a prohibitory, ad hoc and impractical policies since a long time. As a result, since there are obstacles while going for foreign employment through formal channel, many women go/taken for foreign employment through unofficial channel putting them at risk of trafficking and transportation, forced to work as undocumented workers, falling to exploitation and forced labour.<sup>164</sup>

In the COVID-19 pandemic, incidents of violence against women have been found to have increased across the world<sup>165</sup>, which puts the women domestic workers at risk of such violence. Women migrant workers, especially

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162 Amnesty International, *False Promises*.

Bandita Sijapati, Ang Sanu Lama, Jeevan Baniya, Pawan Sen, Sambriidhi Kharel, Suvekshya Gautam, Mohd Ayub, Rajita Dhungana, Anisha Bhattarai, Nilima Rai, Manoj Suji, Swarna Jha and Kishor Bikram Shah, *Returning Home: Challenges and Opportunities for Women Migrant Workers in the Nepali Labour Market* (Kathmandu: Centre for the Study of Labour and Migration, 2019), <https://www.ceslam.org/uploads/backup/returning%20home.pdf>

International Labour Organization, *No Easy Exit – Migration Bans Effecting Women from Nepal* (Geneva: International Labour Organization, 2015), [https://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_428686/lang--en/index.htm](https://www.ilo.org/global/topics/forced-labour/publications/WCMS_428686/lang--en/index.htm)

Giovanna Gioli, Amina Maharjan, Manju Gurung, *Neither Heroines nor Victims: Women Migrant Workers and Changing Family and Community Relations in Nepal* (New York: UN Women, 2017), <https://www.unwomen.org/en/digital-library/publications/2017/10/women-migrant-workers-and-changing-family-and-community-relations-in-nepal#view>

163 Uddhab Pd. Pyakurel. "Restrictive Labour Migration Policy on Nepalese Women and Consequences." *Sociology and Anthropology* 6.8 (2018) 650 - 656. doi: 10.13189/sa.2018.060803. [http://www.hrpub.org/journals/article\\_info.php?aid=7232](http://www.hrpub.org/journals/article_info.php?aid=7232)

International Labour Organization, "No easy exit – Migration bans effecting women from Nepal", 20 November 2015. [https://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_428686/lang--en/index.htm](https://www.ilo.org/global/topics/forced-labour/publications/WCMS_428686/lang--en/index.htm)

164 National Human Rights Commission, *Situation of Rights of Migrant Workers*, 2019.

Amnesty International, *False Promises*, 2011.

Sijapati et al., *Returning Home*.

United Nations, "Report of the Special Rapporteur on the Human Rights of Migrants on His Mission to Nepal," (United Nations, 2018). <https://undocs.org/A/HRC/38/41/Add.1>

165 "Home: News/Events: Stories: COVID-19: Women Front and Centre," UN Women, March 20, 2020, <https://asiapacific.unwomen.org/en/news-and-events/stories/2020/03/statement-ed-phumzile-covid-19-women-front-and-centre>

those working as domestic workers are more vulnerable. For example, due to the nationwide lockdown or shutting down of daily activities, the employers and other members of the family are always at home, forcing the domestic workers to work for more hours than the specified working hours and thereby get no time for rest and recreation.<sup>166</sup> Likewise, lack of easy access to sufficient health services and care to the pregnant and lactating women and failure to meet such expenses due to financial reasons invites more problems for them.<sup>167</sup> In the current situation of crisis, studies have shown that their health is at further risk due to lack of pre-natal and maternity services and increased work burden.<sup>168</sup>

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166 Interaction by the study team with Nepali migrant workers from Qatar, Kuwait, the UAE, Japan, the Maldives and South Korea, on 26 May 2020.

Rothna Begum, "Domestic workers in Middle East Risk Abuse amid COVID-19 Crisis," *Aljazeera*, April 4, 2020, <https://www.aljazeera.com/indepth/opinion/domestic-workers-middle-east-risk-abuse-covid-19-crisis-200404152201409.html>

Rana Aoun, "COVID-19 Impact on Female Migrant Domestic Workers in the Middle East," ALNAP, May 18, 2020, <https://www.alnap.org/help-library/covid-19-impact-on-female-migrant-domestic-workers-in-the-middle-east>

Ben Hubbard and Louise Donovan, "Laid Off and Locked Up: Virus Traps Domestic Workers in Arab States", *The New York Times*, July 6, 2020. [https://www.nytimes.com/2020/07/06/world/middleeast/coronavirus-saudi-domestic-workers-maids-arab.html?fbclid=IwAR10cgTzEZYR2iOQF1bzbZ-tgX3OvZWgKfyzMW\\_2W31vVp8PN7ibWYC0koY](https://www.nytimes.com/2020/07/06/world/middleeast/coronavirus-saudi-domestic-workers-maids-arab.html?fbclid=IwAR10cgTzEZYR2iOQF1bzbZ-tgX3OvZWgKfyzMW_2W31vVp8PN7ibWYC0koY)

167 Interaction by the study team with Nepali migrant workers from Qatar, Kuwait, the UAE, Japan, the Maldives and South Korea, on 26 May 2020.

Rana Aoun, "COVID-19 Impact on Female Migrant Domestic Workers in the Middle East," ALNAP, May 18, 2020,

<https://www.alnap.org/help-library/covid-19-impact-on-female-migrant-domestic-workers-in-the-middle-east>

168 Rothna Begum, "Domestic workers in Middle East Risk Abuse amid COVID-19 Crisis," *Aljazeera*, April 4, 2020, <https://www.aljazeera.com/indepth/opinion/domestic-workers-middle-east-risk-abuse-covid-19-crisis-200404152201409.html>

Rana Aoun, "COVID-19 Impact on Female Migrant Domestic Workers in the Middle East," ALNAP, May 18, 2020, <https://www.alnap.org/help-library/covid-19-impact-on-female-migrant-domestic-workers-in-the-middle-east>

### **Impact of COVID-19 and experience-3<sup>169</sup>**

I came to Qatar by paying 125,000 rupees that I had acquired on a loan with 36 per cent interest rate, as I was told that the job of cleaning would make a good income. I came here with a labour permit. But the company that hired me was not an employer but a supplier company. The company sent me to work as a domestic in a household. The family was big with three children. The work was extremely difficult. Sometimes, I could get to sleep for only 3-4 hours. I was not even allowed to make a phone call, and I was able to talk to my family only in six months.

I was told that my salary would be 1,200 Riyal. The landlord paid me my first month's salary, but it was only 1,000. Since then, I was not paid at all. When I asked for it with my employer, I was told that 'I would be paid by the agency that sent me to that household' but the agency would say, 'How could we pay you when you are working for the employer? But still thinking that I would ultimately be paid, I continued working. But since I was not paid by any side ever after six months of working, I felt that there was no point sticking to the same situation and left the job last January.

From there I was not sure where to go, and where to stay. Fortunately, I came in contact with a Bhutanese worker, who gave me shelter. I was thinking of looking for some other work, or return home if not successful. But in between the lockdown began. Neither I got another job, nor can I return home.

People from various countries used to stay in the camp where I was residing. But since the respecting governments rescue and repatriated their citizens, the camp is now empty. There are no people event to talk to. Neither, do I have money. I had called my company, but forget about providing me my payment or any other kind of support, the company authorities scolded me for leaving the job. Who is more tense that I am at the moment!

As a result of the impact of COVID-19, the Nepali women in foreign employment and those returned faced challenges like socio-economic problems, psychosocial and health issues, discrimination and stigmatization. For example, in the initial days after the repatriation of those stranded due to COVID-19 began, a significant number of pregnant women had returned home to Nepal, of which majority of them were living with their families in the CoDs. But various

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169 Interview by the study team with Kalpana Tamang (named changed) from Bagmati Province who was stranded in Qatar.

media and social network platforms were used to make negative comments towards them, degrading them and stigmatizing against them, which hurt their self-respect and also contributed to spreading negativity in the attitude towards them among the general public. Various stakeholders working in the field of migrant workers expressed concern over such activities.<sup>170</sup>

The women who fell victim to sexual violence in the CoD or had conceived in mutual consensus and returned home (along with their child) were likely to face more challenges in the quarantine and their communities. As a result, they had to stay in various shelter homes. On the other hand, the children born abroad or after return to Nepal after conceiving in the aforementioned manner faced difficulties in birth registration in the past, which is likely to be the same in the current situation, making them stateless. Likewise, following the COVID-19 crisis many women faced problems to stay in the CoD and had to return to Nepal but then it was difficult for them to reunite with their families as the family and the society would not accept and welcome them easily. A pregnant woman worker who returned (date of return kept confidential) from a gulf country (name of the country kept confidential) was interviewed by the Study Team. After the mandatory quarantine, her family would not accept her and she had to take refuge at her friend's place.<sup>171</sup>

The impact of COVID-19 on the rights of migrant women workers have been discussed in various other sections of this report.<sup>172</sup>

## **5. Use of force and abuse of migrant workers**

Government and employers of some CoDs were found to have dealt strictly and abuse migrant workers caught in the COVID-19 crisis. For example, Qatar deported workers who had left their residence to purchase food and other essentials by accusing them of violating the lockdown order, of which more than 400 were Nepali workers.<sup>173</sup> Prior to being deported, they were kept in crowded places, handcuffed and returned to Nepal without health check-up. They were also not paid their due payments. But on 22 April 2020, some cash

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170 Based on interaction by the study team with stakeholders, 8 July 2020.

171 Conversation by the study team with Shanta Kunwar (named changed) who returned from the gulf (date of interview kept confidential).

172 Especially, section 3, 4, 6 and 10 of Chapter Three

173 "News: Qatar: Migrant Workers Illegally Expelled During COVID-19 Pandemic," Amnesty International, 15 April 2020, <https://www.amnesty.org/en/latest/news/2020/04/qatar-migrant-workers-illegally-expelled-during-covid19-pandemic/>

was sent through the Nepali mission in Qatar as dues of 94 workers<sup>174</sup>. However, it was not clear how many more workers were yet to get their payments and what would happen in their case. Deporting someone without due payments just on the charge of violating the lockdown order is not a proportionate action in any terms, and this is against the established norms of labour rights and human rights. The GoN failed to take any diplomatic initiative and make any comments over such disproportionate action.

Likewise, in Malaysia, incidents of use of force and arrest against undocumented workers including Nepalis were reported. In this regard, the UN Special Rapporteur expressed concern over the risk to life and health of the workers as even those with symptoms of COVID-19 feared to go out for a test or seek health services due to such highhandedness on part of the government.<sup>175</sup> However, the GoN did not make any comments over this incident.

Abuse against the migrant returnees and their families were also found to have increased in Nepal.<sup>176</sup> The returnees were not allowed to their village and not even allowed to stay in their own house, blaming them of 'bringing Corona, and infecting others'. Abuse against the families itself continued to rise.<sup>177</sup> Likewise, construction of quarantine centres also faced obstruction in various parts of the country, by stating that those coming from abroad 'bring' Corona Virus.<sup>178</sup> The communities and even people's representatives obstructed the management of the bodies of those who died of Corona Virus infection. For example in Pokhara, as the mortal remains of a man of Syangja who died in Pokhara were being taken towards the Seti river bank from the hospital for cremation, the locals and people's representatives created obstacles to prevent

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174 Embassy of Nepal, Doha, Qatar, "In relation to the sending of the cash of workers returned to Nepal," May 8, 2020, Facebook Post, <https://www.facebook.com/eondoha/posts/3371014039594506>

175 "News and Events: DisplayNews: Malaysia / COVID-19: "Stop Crackdown on Migrants, Journalists and Civil Society – UN Rights Experts," United Nations Human Rights, Office of the High Commissioner, May 21, 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25900&LangID=E>

176 "Don't discriminate and abuse returnees," Ujyaalo Online, 1 April, 2020, <https://www.ujyaaloonline.com/story/34978/2020/4/1/do-not-discriminate-and-insult-come-from-foreign>

Umananda Bhusal, "No work abroad, and not even water upon return home", Uyaalo Online, 15 July 2020, <https://ujyaaloonline.com/story/40278/2020/7/15/my-experience-during-covid-19>

177 International Organization of Migration, Radio Message, <https://www.facebook.com/iomnepall/videos/701986213921173/>

178 Raj Bahadur Shahi, "Locals obstruct construction of Quarantine," Kantipur daily, 5 April 2020, <https://ekantipur.com/pradesh-6/2020/06/05/159135239534755463.html>

Rajendra Karki, locals dismantle school for fear of spread of Corona, Annapurna Post daily, 29 May, 2020, <http://annapurnapost.com/news/157202>

the use of a particular pathway to transport the body.<sup>179</sup> News reports were also published about obstruction created in the management of the body of another person who died in Pokhara too.<sup>180</sup> Similar obstructions were reported in the initial cases of death from COVID-19 infection. For example, a youth who had returned from India died at a quarantine centre in Nairanapur of Bank district. But locals obstructed the burial of the body in a particular place, and the body was carried in the bucket of a dozer to be cremated elsewhere.<sup>181</sup> In this backdrop, as the number of people returning home from foreign employment increases, there is a risk of the workers and their family members facing abuse and stigmatization.

## 6. Nepali workers who have to return to Nepal

The workers who have their contract expired in the CoDs, whose companies have closed, who have been removed from work and residence, who have been sent on unpaid leave, who have not been paid or faced deduction in wages, who have no food to eat, the undocumented, and the pregnant and sick are in a vulnerable situation and have to return to Nepal as soon as possible. As international flights remain shut for months and failure to carry out the necessary preparations, their rescue and repatriation remained uncertain. The rescue and repatriation process became more complex due to failure to prepare the exact details of those facing different kinds of problems in various countries.

However, though the exact details about how many Nepalis wish to return home after facing a crisis in the CoD and how many of them have to be rescued and who many only need facilitation support for repatriation, the Government of Nepal has made some estimation. The Foreign Employment Board under the Ministry of Labour, Employment and Social Security estimated that a total of 407,000 Nepalis are in a state of return of which 127,000 were in a state of 'immediate return' while 280,000 would return to Nepal after becoming

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179 Bikash Rokamagar, "Hassles in management of dead bodies of Corona infected: people's representatives block road, police batoncharged," Onlinekhabar, 8 June, 2020

180 Keshav Sharan Lamichhane, "Gun shots fired in Pokhara following obstruction to management of dead bodies of infected: 8 arrested," Annapurna Post daily, 25 June 2020, <http://annapurnapost.com/news/159639>

Dipak Pariyar, "Management of dead bodies of infected facing regular hassles, nobody ready to cremate the body of Corona infected, locals obstruct burial," Kantipur, 26 June 2020, <https://ekantipur.com/news/2020/06/26/15931386699939841.html>

181 Narayan Khadka, "No ambulance until alive, buried with the help of dozer after death," Setopati, 18 May, 2020, <https://www.setopati.com/social/206626>

jobless due to COVID-19.<sup>182</sup> Likewise, the Ministry of Foreign Affairs stated that 210,871 had to be immediately rescued and repatriated by the government while an additional 377,000 were in a situation of having to return to Nepal.<sup>183</sup>

**Table 3.3M**  
**Estimated number of people who could immediately return to Nepal due to COVID-19 pandemic<sup>184</sup>**

<b>S. No.</b>	<b>Classification</b>	<b>Estimated number of those who could return immediately</b>
1	The workers who were ready to return to Nepal upon expiry of their labour permit/contract but stuck due to the lockdown	35,000
2	The workers who had gone for foreign employment with new labour permit (institutional and individual) but lost their jobs due to the Corona Virus pandemic before the end of the contract period	300,000
3	Those who had gone for foreign employment by renewal of the labour permit or revalidation but lost their jobs	500,000
4	Those working on a visit VISA but now lost their jobs or are stranded or fearful of the present situation and wish to return	10,000
5	Those working illegally in the CoD after the expiry of their labour permit or contract, but stranded in the present situation or wish to return home taking advantage of the amnesty	25,000
6	Those who have a valid contract and no problem in employment, but wish to voluntarily leave the job and return home	20,000
	<b>Total</b>	<b>890,000</b>

182 Ministry of Labour, Employment and Social Security, Foreign Employment Board, 'strategic measures to be adopted to address the impact of COVID-19 pandemic and subsequent problems likely on Nepali workers in foreign employment, study report, 29 April, 2020..

183 Jaya Singh Mahara, "No of Nepalis willing to return home reaches 588,000, 250,000 needs to be rescued immediately", Kantipur daily, 11 May 2020, <https://ekantipur.com/news/2020/05/11/158920882052283964.html>

184 Details received from the Foreign Employment Board to the NHRC on 19 April 2020.

7	Nepalis who are living abroad for the purpose of education and business/trade or were in a family reunion or had acquired employment on an individual basis but working without labour permit	700,000
<b>Sum total</b>		<b>1,590,000</b>

According to the "Concept Paper of the Programme related to rehabilitation and reintegration of Nepali workers in Foreign Employment" presented by the Foreign Employment Board at the Disaster Management Committee convened by the Director General of the Department of Foreign Employment, the number of migrant workers who could 'return immediately' would reach up to 890,000 and including those who have gone for study and business would make it 1,590,000 (see, table 3.3). According to the NAFEA, some 500,000 to 600,000 Nepali workers whose VISA has expired and who have become jobless are likely to return to Nepal.<sup>185</sup>

In this manner, as the estimation made and data shared by the various government agencies differ, it shows that the methods and stools that they used to make the estimation of Nepalis that are to be rescued immediately and those who have to return home were not effective.

Among the labour permits issued for foreign employment in the past two years from 15 March 2018 to 13 March 2020, on an average the term of 1,500 expires daily, which shows that among the labour permits issued to go to work in the gulf countries and Malaysia the term of 1,405 expires daily on an average (see Table 3.4). Accordingly, it means that since flights to Nepal shut down from 22 March 2020, in the 115 days until 15 July 2020, the contract period of at least 172,500 has already expired and all need to return to Nepal, and this number continues to rise by 1,500 every day.

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185 Nepal Association of Foreign Employment Agencies, COVID-19 crisis and solution, 18 May 2020.

**Table 3.4M**  
**The number of labour permits whose term has expired since the beginning of lockdown in Nepal<sup>186</sup>**

Country	Average no of labour permits that would expire daily	Days (from 23 March to 15 July 2020)	Total number of labour permits who term has expired since the beginning of lockdown in Nepal
Oman	16	115	1,840
Bahrain	24	115	2,760
Kuwait	74	115	8,510
UAE	347	115	39,905
Saudi Arabia	327	115	37,605
Qatar	422	115	48,530
Total (GCC)*	<b>1,210</b>	115	139,150
Malaysia	195	115	22,425
Other countries**	95	115	10,925
<b>Total of all countries</b>	<b>1,500</b>	115	<b>172,500</b>
*1209.71			
**94.63			

In the aforementioned number if the number of undocumented Nepali workers in the particular country, the number of workers who had already bought tickets to return home prior to the closure in international flights and those who lost their jobs due to various other reasons, and those who have gone for education and business, then the number of Nepalis who need to immediately return is higher. The Nepali workers who have been stuck after seeing their labour permit expire and contract period end are facing various problems including for food, accommodation, health service and the fine imposed on them. For example, like the three workers including aforementioned Top Bahadur Dangi (named changed) the Nepali workers are not only facing the burden of fine but are left stranded after being ousted from work and residence. After not being able to return home even in such a condition, some Nepali workers were seen running an 'I want to go home'<sup>187</sup> campaign while some workers even resorted

186 Baniya et al, 2020.

187 "We want to go home" campaign by the workers' network.

to agitation.<sup>188</sup> As they are likely to face action for holding such agitation as per the law of the concerned country, they have become more vulnerable.

The National Human Rights Commission carried out monitoring of two months (2076/12/11 to 2077/02/11) period following the lockdown imposed due to COVID-19 and based on the facts collected from the monitoring and its analysis, the NHRC had made a preliminary recommendation to the Government of Nepal to take diplomatic initiative for meeting the basic needs of the Nepali citizens including migrants workers stranded in foreign countries, and to effectively prepare an atmosphere conducive to their return home.<sup>189</sup>

Counters like Kuwait, the UAE and Malaysia informed the Countries of Origin to manage repatriation of their citizens.<sup>190</sup> In Kuwait, the government declared an amnesty to the undocumented workers. Nepalis were asked to register themselves from April 26 to 30. Those registered during the period had their fine waived and air transportation facility was also provided to return home, which was a big relief for the Nepalis in the country. Following the call, more than 2,800 Nepali<sup>191</sup> registered themselves, waiting for their turn to return home. As it was said that the Kuwaiti government would arrange for their return to Nepal, even though citizens of other countries who had registered themselves along with the Nepalis were taken back by their respective governments immediately, Nepal failed to do so for a long time. Only 42 days after the deadline for registration of Nepali workers participating in the amnesty process, the permission for the return of first group was granted. In this manner, as the Nepali workers had to wait for a long time, news reports published stated that they had to face various kinds of problems.<sup>192</sup>

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188 Umakant Pandey, "Nepalis crowd in UAE Embassy as phone calls were not received, Embassy says: have patience," Ujyaalo Online, 8 June 2020, <https://ujyaaloonline.com/story/38427/2020/6/8/workers-demonstrate-demanding-repatriation-embassy>

189 Letter sent to the Office of the Prime Minister and Council of Ministers by the NHRC on 11 June, 2020.

190 "Nepalis abroad will be managed based on problems: Foreign Minister Gyawali," Radio Kantipur, 7 May 2020, <https://radiokantipur.com/audio-news/2020/05/07/1588823553>

Hom Karki, "Foreign workers without valid VISA asked to leave Malaysia within 14 days of expiry of MOC," Kantipur daily, 7 May 2020, <https://ekantipur.com/news/2020/05/07/158884882049928255.html>

Upasana Khadka, "UAE warning to send back workers, including Nepalis," *Nepali Times*, April 13, 2020, <https://www.nepalitimes.com/latest/uae-threat-to-send-back-workers-including-nepalis/>

191 Information shared to the study team by Nepali Ambassador to Kuwait Durga Prasad Bhandari on 4 June, 2020.

192 Bedananda Joshi, "its been three months, we are surviving on only one meal a day," Ujyaalo Online, 1 July 2020, <https://ujyaaloonline.com/story/39600/2020/7/1/kuwait-nepali-worker-problem>

On 25 May 2020, the Government of Nepal endorsed the 'Order relating to facilitation of the repatriation of Nepali citizens who have to return home due to the adverse situation resulting from the global outbreak of COVID-19, 2077 and decided to bring home the Nepali workers stranded abroad. The Novel Corona Virus Prevention and Control High-level Coordination Committee approved on 29 May 2020 the Action Plan on Facilitation of Repatriation of Nepali Citizens, 2077 and decided to begin the process of repatriating 25,000 Nepalis<sup>193</sup>, and prepared a list of 24,148 people who had to be rescued from 30 countries.<sup>194</sup> However, as mentioned above, this number of very low in compared to the people who had to be rescued immediately or repatriated to Nepal.<sup>195</sup> For example, the Order relating to facilitation of the repatriation of Nepali citizens had enlisted people as to be immediately rescued based on 15 priority factors<sup>196</sup>, of which end of labour contract or loss of employment was one factor. With an average 1,500 labour permits expiring every day (see Table 3.4), it shows that since the shutdown of international air service until the decision of the government (25 May 2020) at least 96,000 labour permits expired. Furthermore, adding the number of Nepalis that fall under other 14 priorities enlisted by the government would make the number of people who have to return very high. But the government's arrangement for comparatively very low number of people should that many Nepalis stranded abroad would not be able to return to Nepal.

Every Nepali citizen has the right to return home at any point of time and the government must guarantee rescue and repatriation during a pandemic like COVID-19. According to the Covenant on Civil and Political Rights, 1966, which Nepal is a party; any person has the right to return home.<sup>197</sup> Likewise, the International Convention on the Rights of Migrant Workers and their Families, 1990<sup>198</sup> states that the migrant workers and their families have the right to

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193 Interaction by the study team with Ministry of Foreign Affairs, Ministry of Labour, Employment and Social Security, Department of Consular Services and Foreign Employment Board, 31 May, 2020.

194 Matrika Poudel, "24 thousand Nepalis in 30 countries including America needs to be rescued immediately (along with list)," Onlinekhabar, 8 June 2020, <https://www.onlinekhabar.com/2020/06/871395>

195 Janak Raj Sapkota, Binu Subedi, "1 million ready to return, government preparation for 25 thousand only," Kantipur daily, 30 May 2020, <https://ekantipur.com/news/2020/05/30/159080789007568192.html>

196 Order relating to facilitation of return of Nepali workers who have to return due to the adverse situation as result of COVID-19 infection worldwide, 2020, Clause 2 (2).

197 Covenant on Civil and Political Rights, 1966, Article 12 (4).

198 Nepal has not ratified this Convention.

return to their home country at any point of time.<sup>199</sup> The Supreme Court had also issued an interim order on 19 April 2020, directing the government to make arrangement to bring back the Nepalis in a vulnerable condition home.<sup>200</sup> Likewise, the Industry and Commerce and Labour and Consumer's Interest Committee<sup>201</sup>, State's Directive Principle, Policy and Liabilities Enforcement, Monitoring and Evaluation Committee<sup>202</sup>, Law, Justice and Human Rights Committee,<sup>203</sup> Education and Health Committee,<sup>204</sup> and National Concern and Coordination Committee<sup>205</sup> under the House of Representatives had also directed the government to make necessary arrangements without any delay for the return of the Nepalis from various countries. The National Human Rights Commission had also drawn the attention of the government on this matter. The Foreign Employment Act, 2064 has clear provisions reading, ""In case the Nepali workers have to be repatriated immediately due to war, epidemic and natural disaster in the country they are working, the government of Nepal should make arrangement for their return through its diplomatic mission or labour attaché<sup>206</sup> and also a provision to 'use the foreign employment welfare fund to repatriate, compensation and provide financial support to the returnees or their families'.<sup>207</sup> It is also the legal liability of the recruiting agencies and the employers to protect the labour rights and human rights including repatriation and compensation of the workers in the present situation. The Foreign Employment Act also provides that if workers are stranded after being deprived of benefits as mentioned in the country and have to return home, then the concerned licensee should repatriate such workers.<sup>208</sup>

### Citizens need more support during a crisis like the present one than in a

- 199 Convention on Protection of Rights of Migrant Workers and their families, 1990, Article 8 (2).
- 200 Advocate Som Prasad Luintel et all Vs Office of the Prime Minister and Council of Ministers, writ petition 076-WO-0940, interim order by Supreme Court on 16 April 2020.
- 201 Decision of Industry and Commerce, Labour and Consumers' Interest Committee meeting decision on 19 April 2020.
- 202 Jaya Singh Mahara, "No of Nepalis willing to return from abroad reaches 588,000, 250,000 needs to be rescued immediately", Kantipur daily, 11 May 2020, <https://ekantipur.com/news/2020/05/11/158920882052283964.html>
- 203 Jaya Singh Mahara, "Parliamentary committee tells government to prepare to bring citizens home", Kantipur daily, 5 May 2020, <https://ekantipur.com/news/2020/05/05/158868124429282079.html>
- 204 "Parliamentary committee directs to bring students, workers home, Kantipur daily, 14 May 2020, <https://ekantipur.com/news/2020/05/14/158945778519689722.html>
- 205 "Government directed to repatriate Nepalis in trouble abroad immediately " Setopati, 24 May 2020, <https://www.setopati.com/social/207133>
- 206 Foreign Employment Act, 2064 (2007), Clause 75 (2).
- 207 Foreign Employment Act, 2064 (2007), Clause 33 (1) (b).
- 208 Foreign Employment Act, 2064 (2007), Clause 75 (1).

normal situation, and such support would be needed more for the people who are in a foreign land than those with their family members at home country. Soon after the COVID-19 pandemic spread, a concrete plan should have been introduced based on an analysis of the situation, and preparations should have been made for rescuing and repatriating those stranded abroad. But for months, the government resorted to dilly dallying with statements like 'we are preparing the plan'<sup>209</sup> or international flights have shut down, there is a lockdown or the quarantine facility is yet to be established to start the repatriation.<sup>210</sup> Meanwhile, the Nepali diplomatic missions reported of having requested the government to arrange repatriation of the stranded Nepali, whose life had become trouble in the foreign land.<sup>211</sup> Despite this arrangement for repatriation of the stranded workers were not made even after many months. Though Government of Nepal argued that it was a situation of crisis and repatriating a large number of Nepali citizens was not possible, even during the lockdown the governments of Pakistan<sup>212</sup>,

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209 "All Nepalis cannot be repatriated immediately: Prime Minister Oli", Deshpardesh, 19 May 2020, [https://deshparadesh.com/2020/05/9821/?fbclid=IwAR256\\_3mXyqdUayg4C2ao2-8h-AUvIC3awRt59XBIfd4-1IRIPEZAccCpcY](https://deshparadesh.com/2020/05/9821/?fbclid=IwAR256_3mXyqdUayg4C2ao2-8h-AUvIC3awRt59XBIfd4-1IRIPEZAccCpcY)

Sanjita Devkota, "Don't say labour minister is doing nothing, we are doing homework for repatriation: Labour Minister Yadav," Ujyaalo Online, 5 May 2020, <https://ujyaaloonline.com/desh-paradesh/story/36614/2020/5/5/labour-minister-rameshwor-rama-yadav>

210 "Nepalis abroad will be managed based on problem: Foreign Minister Gyawali, 7 May 2020, <https://radiokantipur.com/audio-news/2020/05/07/1588823553>

211 Ratopati TV, "The view with Nepali Ambassadors on the state of Nepali workers in the gulf countries", Youtube video ,10 May 2020, <https://www.youtube.com/watch?v=QF0hKfeQ03Y>

Ratopati TV, "The view with Nepali Ambassadors on the state of Nepali workers in the gulf countries", Youtube video, 18 May 2020, <https://www.youtube.com/watch?v=9fYs6kpmOA0>

212 Ashfaq Ahmed, "COVID-19: More than 1000 Stranded Pakistanis Repatriated from UAE on Special Flights on Tuesday," *Gulf News*, April 29, 2020, <https://gulfnews.com/world/asia/pakistan/covid-19-more-than-1000-stranded-pakistanis-repatriated-from-uae-on-special-flights-on-tuesday-1.71214592>

Sibte Arif, "35,000 Stranded Pakistanis in UAE to Return Home in 40 Days," *The News International*, April 16, 2020, <https://www.thenews.com.pk/print/645108-35-000-stranded-pakistanis-in-uae-to-return-home-in-40-days>

the Philippines<sup>213</sup>, India<sup>214</sup> and Bangladesh<sup>215</sup> and other countries repatriated their citizens in thousands. Likewise, the government continued to say that the closure of international flights was a reason behind inability to repatriate the workers.<sup>216</sup> But even during the lockdown and regular international flights were shut, many countries rescued their citizens, even using the state-owned Nepal Airlines.<sup>217</sup> Of course Government of Nepal also rescued its citizens. The GoN rescued and repatriated 175 Nepalis from Wuhan of China in an organized manner.<sup>218</sup>

Two months after the lockdown was imposed, the Government issued an order on 25 May 2020 decided to manage the repatriation of Nepalis stranded abroad. But even though it is the responsibility of the GoN to make necessary

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- 213 515 more Filipino migrant workers return to PH amid COVID-19 pandemic, Apr 29 2020 <https://news.abs-cbn.com/news/04/29/20/515-more-filipino-migrant-workers-return-to-ph-amid-covid-19-pandemic>
- 214 Ministry of External Affairs, "Covid-19 Cell, Flight Plan for Return of Indian Nationals Stranded Abroad," Ministry of External Affairs, May 4, 2020 <https://docs.google.com/file/d/1CcT9lz47fGNiwcBOXi34s03taS91mJjd/edit?filetype=mspresentation>  
"Advisory Regarding Ongoing Repatriation of Indian Nationals to India," Embassy of India, Kuwait, <http://www.indembkwt.gov.in/pdf/Advisory%20-%20Repatriation%20Flight%20related%20-%2015%20May%202020.pdf>.
- 215 Stephan Uttom, "Bangladesh Asked to Take Back Thousands of Migrant Workers," *UCA News*, April 7, 2020, <https://www.ucanews.com/news/bangladesh-asked-to-take-back-thousands-of-migrant-workers/87658>  
njana Sankar, Muzaffar Rizvi, Dhanusha Gokulan, Ashwani Kumar, "Coronavirus: Repatriations of Indians, Pakistanis from UAE Gather Pace," *Khaleej Times*, May 8, 2020, <https://www.khaleejtimes.com/coronavirus-pandemic/coronavirus-repatriations-of-indians-pakistanis-from-uae-gather-pace>
- 216 "Not possible to repatriate at the moment, the problems facing Nepalis abroad will be resolved," Ujyaalo Online, 15 April 2020, <https://ujyaaloonline.com/story/35670/2020/4/15/pradip-kumar-gyawali-MOFA>  
"Not possible to repatriate workers from the gulf: Labour Minister," Kantipur daily, 16 April 2020, <https://ekantipur.com/Interview/2020/04/16/158700648917153179.html>  
"Nepalis abroad will be managed based on problem: Foreign Minister Gyawali, 7 May 2020, <https://radiokantipur.com/audio-news/2020/05/07/1588823553>  
Mole Ministry, "Address by honourable Minister to Nepali workers abroad," Youtube Video, 29 April 2020, [https://www.youtube.com/watch?v=emQNSA\\_\\_h-w](https://www.youtube.com/watch?v=emQNSA__h-w)  
"Prime Minister KP Sharma Oli responding to questions raised during deliberations on policy and programmes," House of Representatives meeting, 19 May 2020, <https://hr.parliament.gov.np/video/4353>
- 217 Suraj Kunwar, "8 Nepalis enter, 7,000 exit Nepal via air during lockdown," Kantipur daily, 27 May 2020, <https://ekantipur.com/news/2020/05/27/159058462648758161.html>
- 218 "Aircraft carrying Nepalis from Wuhan lands in Kathmandu", Gorkhapatra daily (photo feature), 16 February 2020, <http://www.gorkhapatraonline.com/mainnews/2020-02-16-8740>

arrangement of rescue and return of the workers from the CoDs in the current circumstances and the Foreign Employment Act, 2064 (2007) providing for meeting such expenses through the foreign employment welfare fund and other sources, the returnee workers were asked to cover their own return ticket along with the expenses for quarantine upon arrival in Nepal and the transportation to their respective homes from the capital.<sup>219</sup> Deciding on a case filed against this policy of the government, the Supreme Court issued an interim order on June 15 in the name of the Government directing it to develop a procedure by maintaining a balance between the valid expectations of the migrant workers who contribute to the foreign employment welfare fund and the just use of the fund<sup>220</sup>. But the even the workers who had lost their jobs or become penniless after being denied remuneration since many months, and those who did not get a return ticket from their employer were asked to meet the expenses incurred in the repatriation.<sup>221</sup> On top of that the air fare announced by the government was found to be very expensive<sup>222</sup>, which was not easy for the stranded, penniless and income-less workers to pay. The fare being expensive was also verified by the fact that diplomatic missions were able to arrange air tickets in a comparatively lower price.<sup>223</sup> Though repeated changes were made in the air fare announced by the government in the onset<sup>224</sup>, as even the changed fare was double or even more than the normal air fare<sup>225</sup> many workers were found to have not be able

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219 Order relating to facilitation of Nepalis workers who have to return due to the adverse situation arising from the COVID-19 infection worldwide, 2077 (2020), Clause 7 (c).

220 Advocate Som Prasad Luintel et all Vs Office of the Prime Minister and Council of Ministers, writ petition 076-WO-0940, interim order by Supreme Court on 16 April 2020.

221 Of the 11 returnees from the UAE and Saud Arabia interviewed by the study team July 2020, 7 had their companies shut down, expelled from work or not been paid for months, and subsequently stranded with no money left.

Rudra Khadka, "Who bears the cost of returnees? Law says: government, government says: the returnees", *Nagarik daily*, 5 May 2020, <https://nagariknews.nagariknetwork.com/economy/231071-1591342745.html>

222 Rabindra Ghimire, "Rescue flights ticket four times expensive than regular fare", *Onlinekhabar*, 11 June, 2020, <https://www.onlinekhabar.com/2020/06/872330>

223 "Fare fixed by government rejected by Embassy in Oman, 350 Nepali returning in low-priced tickets," *Onlinekhabar*, 11 June, 2020, <https://www.onlinekhabar.com/2020/06/872481>

Rudra Khadka, "fare managed by Embassay cheaper than by the government," *Nagarik Daily*, 14 June 2020, [https://nagariknews.nagariknetwork.com/politics/241401-1592099857.html?click\\_from=category](https://nagariknews.nagariknetwork.com/politics/241401-1592099857.html?click_from=category)

224 Bedananda Joshi, "Workers question from abroad: we have problems managing food, how can we pay the expensive fare of chartered flights, government?" *Onlinekhabar*, 12 June 2020, <https://ujyaaloonline.com/story/38659/2020/6/12/migrant-worker-during-lockdown>

225 Rudra Khadka, "Nepali abroad rescued, airfare expensive by more than two times," *Nagarik daily*, 11 June 2020, <https://nagariknews.nagariknetwork.com/economy/239021-1591898400>.

to pay the amount. As a result, the most vulnerable among those affected by the COVID-19 were unable to return home.<sup>226</sup>

Hence, it was not appropriate from humanitarian and legal perspective for the government to delay or shy away from rescuing and repatriating the workers who were stranded abroad, saying 'it is a crisis situation, the government cannot do it', and it should have made necessary preparations for it on time. Failure of the government to rescue and repatriate the Nepali workers stranded abroad due to various reasons showed that the GoN failed to respect, protect and fulfill the rights of the workers to return home. Likewise, the private entrepreneurs also failed to take concrete steps towards that end while the government did not take the initiative to hold them accountable. Even though the process of repatriating the Nepalis from foreign countries began late, the plan to repatriate only few of them among hundreds of thousands of Nepali in a compulsion of home-return and adding the burden of expenses on them should that the right of a large number of workers to return home was not respected.

## 6.1 Impact on the Nepali workers in India and challenges in repatriation

Due to the COVID-19, hundreds of thousands of Nepali workers in India, especially those involved in daily wage and seasonal work were affected. Due to reasons of loss of employment, problem in food and accommodation and increasing risk of Corona Virus infection, among them hundreds of thousands of the Nepalis wished to return home. But those returning home accordingly were prevented from entering Nepal while no proper arrangement were made for their quarantine, food and appropriate protection. Though the border transit points were shut, many entered Nepal using the porous border. But no effective provision was made to quarantine them or carry out health checkup leading to spread of the infection in the community and their families, as reported by the media.<sup>227</sup> Incidents were also reported of the workers being deprived of fundamental services including food, sufficient accommodation, drinking water

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226 Hom Karki, "Those unable to afford tickets stranded in the gulf," Kantipur daily, 26 June 2020, <https://ekantipur.com/news/2020/06/26/15931326660118733.html>

Hom Karki, "Nepali workers left in lurch abroad: have started begging with Embassy staffers to return home," Kantipur daily, 10 July 2020, <https://ekantipur.com/news/2020/07/10/159435795818964418.html>

227 Gautam Shrestha, "Increase in infection in Rautahat along with arrival of returnees from India," Onlinekhabar, 18 May 2020, [//www.onlinekhabar.com/2020/05/865164](http://www.onlinekhabar.com/2020/05/865164)

Maheswar Chamling Rai, "India-returnees spread Corona in Udayapur," Nagarik daily, 26 April 2020, <https://nagariknews.nagariknetwork.com/health/208287-1587865920.html>

etc. in course of the travel towards Nepal and in the quarantine in the border areas.<sup>228</sup> In addition to that, on several occasion, use of force and mistreatment by the concerned agencies of India and/or Nepal led to disenchantment and despair among them.<sup>229</sup>

Due to the nationwide lockdown effective in Nepal, those were arrived at the Nepal-India border were stopped from entering their home country.<sup>230</sup> Those stopped made numerous efforts to enter Nepal. Some took the risk of crossing the border by swimming across the Mahakali river.<sup>231</sup> But the security agencies took them under arrest in Nepal.<sup>232</sup> A Nepali citizen who was returning

228 "Nepalis at the border says, we did not get even water," RSS, Onlinekhabar, 16 May 2020, <https://www.onlinekhabar.com/2020/05/864495>

Mohan Shahi, "Nepali stranded in India-"we will die of hunger than disease", Kantipur daily, 30 March 2020, <https://ekantipur.com/pradesh-7/2020/03/30/15855470280423919.html>

"Nepalis in border: we have not got two meals/water since two days," Ratopati online, 16 May 2020, <https://ratopati.com/story/130315/2020/5/16/boarder-nepali->

Bhagirath Awasthi, "Nepalis stopped at border: Government, we suffered much, we want to quarantine in our country," Annapurna Post daily, 15 April 2020, <http://annapurnapost.com/news/153313>

Akshar Kaka, "Nepal government shoot us," Baahrakhari online, 31 March 2020, <https://baahrakhari.com/news-details/250907/2020-03-31>

"More than four thousand Nepali stranded in border," Naya Patrika daily, 13 May 2020, <https://www.nayapatrikadaily.com/news-details/43215/2020-05-13>

229 Rekha Bhusal, "SSB chases us away, Armed Police forces us to return," Nagarik daily, 11 May 2020, <https://nagariknews.nagariknetwork.com/health/209277-1589166780.html>

Bhanu Bhakta Acharya, "India forced out of quarantine, SSB assaulted," Onlinekhabar, 9 May 2020, <https://www.onlinekhabar.com/2020/05/862383>

230 "Returning crying to India after not being allowed into Nepal", Kantipur daily, 31 March 2020, <https://ekantipur.com/news/2020/03/31/158567020226164848.html>

Madhav Dhungana, "Obstruction at the border against those returning home from abroad," Nepal magazine, 1 April 2020, <https://nepalmag.com.np/contemporary/2020/04/01/1585755559>

231 "Faraway motherland: jumped into Mahakali, saying I will die in my country If I have to die," Naya Patrika, 1 April 2020, <https://www.nayapatrikadaily.com/news-details/40075/2020-04-01>

Sundar Singh Dhami, "Crossing Mahakali on tubeboats from India to Nepal," Annapurna Post, 31 March 2020, <http://annapurnapost.com/news/151852>

"Indra Singh Khatri who jumped into Mahakali to return home: 'Nothing came to my mind, after troubled by hunger,' BBC Nepali, 2 April 2020, <https://www.bbc.com/nepali/news-52130965>

232 Manoj Badu, "Three crossing over by swimming in Mahakali river arrested by police," Kantipur daily, 30 March 2020, <https://ekantipur.com/news/2020/03/30/158555873502261321.html>

Lokendra Bhatta, "Dark behaviour of government in Mahakali: police excesses when crossing the Mahakali to come home," Ratopati online, 1 April 2020, <http://www.ratopati.com/story/124385/2020/4/1/naka-ma-nepali>

Prakash Chandra Bhatta, "What to do after the government stopped us? Nepalis return by risking their lives in the river, police arrest them instead," Hamrakura onlines, 31 March 2020, <https://>

from India lost his mother as he was stopped on the Nepal-India border, and was hence not given permission to enter even to carry out the death rituals of his late mother.<sup>233</sup> Likewise, some of the Nepali workers stopped at the transit point died.<sup>234</sup>

In the context of a large number of Nepalis left stranded after arriving at the Nepal-India border, the Supreme Court issued an interim order on 7 April 2020 to allow them to enter Nepal, and not stop them from entering, and make required arrangements including health check-up and quarantine.<sup>235</sup> Likewise, various parliamentary committees issued directives to the government to not stop those who have arrived at the Nepal-India border and instead make arrangement for their safe and organized return home (see section 9.3).

The National Human Rights Commission requested the Government of Nepal to immediately rescue the Nepali citizens left stranded in the Nepal-India border and keep them in quarantine and isolation as per the World Health Organization (WHO) standards, and carry out their required health check-up, and fulfill the duties of the state to protect and promote the fundamental rights and human rights of its citizens, as guaranteed by the Constitution of Nepal.<sup>236</sup> Likewise, the Nepali ambassador<sup>237</sup> and the diplomatic mission<sup>238</sup> also requested the government to make arrangements for the safe repatriation of those who wish to return home, as the daily life of the Nepalis living in India

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hamrakura.com/news-details/76112/design/

233 Bhagirath Awasthi, "Death rituals from quarantine," Annapurna Post, 21 May 2020, <http://annapurnapost.com/news/156503>

Manoj Badu, "Mourner in quarantine for absence of order from Delhi, mourner could not return despite Home Ministry's directive," Kantipur daily, 17 April 2020, <https://ekantipur.com/news/2020/04/17/158709677342169815.html?author=1>

234 Manika jha, "Youth stopped at border point dies," Annapurna Post, 17 May 2020, <http://annapurnapost.com/news/157009>

Binu Subedi, Ajit Tiwari, "Birendra dies waiting for help at no-mans-land," Kantipur daily, 8 June 2020, <https://ekantipur.com/news/2020/06/08/159158440557392243.html>

235 Interim order by Supreme Court on three separate writs including Advocate Bishnu Luintel et al Vs Office of the Prime Minister and Council of Ministers, (076-WO-0933), Advocate Puspa Poudel et all on behalf of Supreme Court Bar Association Vs Office of the Prime Minister and Council of Ministers, (076-WO-0934), and Advocate Mukunda Adhikari et all Vs Office of the Prime Minister and Council of Ministers, 7 April 2020.

236 NHRC press statement, 2 April 2020

Letter by the NHRC to the Office of the Prime Minister and Council of Ministers, 12 May 2020

237 Facebook status of Nepali Ambassador to India Nilamber Acharya, 6 May 2020, [https://m.facebook.com/story.php?story\\_fbid=10221267050921890&id=1115476858?sfnsn=mo](https://m.facebook.com/story.php?story_fbid=10221267050921890&id=1115476858?sfnsn=mo)

238 Parshuram Kafley, "50 thousand Nepalis in crisis in India, call for help in repatriation, but government's strategy to stop them there," Naya Patrika daily, 8 May 2020, <https://nayapatrikadaily.com/news-details/42906/2020-05-08>

had become very painful. However, despite of that sufficient quarantine and health check-up the returnees were not at the bordering areas even after many months. Instead, following the decision of the Novel Corona Virus Prevention and Control, high-level coordination committee those were had arrived at the Nepal border were not allowed to enter Nepal and asked to stay in the quarantine managed by the Indian government.<sup>239</sup> In some locations, they were kept under tents installed in the no-man's-land along the Nepal-India border.<sup>240</sup> Many news reports and videos were made public of the Nepali workers not being treated humanely in the quarantine across the border in India.<sup>241</sup>

On the one hand the entry to Nepal was closed without making any proper arrangement of health check-up and quarantine, while on the other, many people entered Nepal clandestinely and went straight to their homes, taking benefit of the porous border. Among them, many could have been infected in India or during their travel towards Nepal. But no sufficient attention was paid towards this end and as the work of identifying them, keeping them in quarantine or isolation as needed and carrying of health check-up was not done effectively the risk of infection through them to their family members and the community increased.<sup>242</sup> On the other hand, after the border transit points were opened on 25 May 2020 more than one million Nepali including from the porous border returned home<sup>243</sup> but they were sent to their home after just checking their body

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239 "Novel Corona Disease Prevention and Control, High-level Coordination Committee, meeting no. 18," decision of 7 April 2020, <https://www.opmcm.gov.np/wp-content/uploads/2020/04/Corona-Meeting-High-Level-2076-12-25-18th.pdf>

240 Rupa Gatahtaj, "quarantine in no-mans-land," Kantipur daily, 4 April 2020, <https://ekantipur.com/news/2020/04/04/158596903184527733.html>

241 "Hundreds of workers including pregnant left hungry after being forced out of quarantine by India, the government neither listens nor is there anyone for support," Mirmire Online, 10 May 2020, <https://www.mirmireonline.com/2020/05/10/147630/?fbclid=IwAR0FNj7OAYVUcAIGSeqZRXz5k7Q EilCIKurstcbQxal2i79HfQNEDnFFiZc#.Xre5WvAnvDw.facebook>

"Nepali ousted from their sleep at midnight in Rudrapur of India," Paschim today, 10 May 2020, <https://paschimtoday.com/news-https://paschimtoday.com/news-details/17182/2020-05-10>

"India chased away from quarantine, SSB assaulted in the border," Onlinekhabar, 9 May 2020, <https://www.onlinekhabar.com/2020/05/862383>

"Nepalis left in lurch in India", D1 Nepal, Youtube video, May 6, 2020. [https://www.youtube.com/watch?v=Px\\_QtmpY140](https://www.youtube.com/watch?v=Px_QtmpY140)

242 Bira Gadal, "Risk increased with clandestine entry" Nagarik daily, 6 May 2020, <https://nagariknews.nagariknetwork.com/social-affairs/208946-1588739280.html>

"Corona infected increases in Nepal from those coming from India secretly," Ratopati online, 13 May 2020, <https://ratopati.com/story/129859/2020/5/13/nepal-corona-virus-cases-increase>

243 Interview with Deputy Prime Minister and Defense Minister, Programme The Headliners, Radio Kantipur, 17 July 2020, <https://www.facebook.com/kantipurradio/videos/577716156260272/>

temperature or some without doing so<sup>244</sup>. This was found to have led to the spread of the infection through the returnees, which was also acknowledged by the Prime Minister of Nepal in his address to the nation on 25 May 2020.<sup>245</sup> As the number of COVID-19 infected began to rise in Nepal in the initial days most of them were found to have returned from India or were the people who came in close contact with the returnees. According to the Minister for Health and Population, of the 13,248 cases of Corona Virus infection confirmed as of 29 July 2020, 94 per cent of them were returnees and 6 per cent were those who came in contact with them.<sup>246</sup>

Upon return to Nepal, the workers from outside Kathmandu were kept for a long time before being sent to the quarantine from the holding centre in the capital and during this period they faced problems of food, accommodation, drinking water etc. and incidents of abuse against them were also reported.<sup>247</sup> The study team received video clips showing degrading treatment of those who complained of difficulties. The video also shows that the required physical distance as per the standard was not followed in the bus used to transport them home.

The pregnant, people with disabilities and those with underlying health conditions faced problems of food, drinking water and accommodation as per their needs at the holding centre and during the travel to the quarantine, and it was difficult for them to manage such essentials on their own. As a result, these groups faced additional problems. For example, a group including majority pregnant women who had come to Kathmandu from the gulf countries had to endure for two days to reach to the province (province named kept confidential) from Kathmandu, during which hotel or accommodation facility was not arrange for overnight stay on the way, food and drinking water was not provided and the local hotel/shop owners told them 'don't come near us', while they tried to manage it on their own, thus making it impossible.

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244 Parbat Portel, "More than 1000 Nepalis arrived without a fever test," Kantipur, 26 May 2020, <https://ekantipur.com/pradesh-1/2020/05/26/159049596718453239.html>

"Number of arrivals from India continues to rise in the border points," Kantipur TV, 26 May 2020, <https://www.youtube.com/watch?v=BUTAk8ZGze4>

245 "Prime Minister Oli's address to the nation," Setopati, 25 May 2020, <https://www.youtube.com/watch?v=88GZ3OqnYC4>

246 "More than 94 per cent infection from returnees- Health Minister Bhanu Bhakta Dhakal," Ujyaalo TV, 30 June 2020, [https://www.youtube.com/watch?v=CS385dRY\\_FA](https://www.youtube.com/watch?v=CS385dRY_FA)

247 "Question to the government by the pregnant: is this rescue or military rule?" Army says, -we are not responsible for food arrangements," Onlinekhabar, 22 June 2020, <https://www.onlinekhabar.com/2020/06/875309>

## 6.2 Challenges in the health check-up and treatment and quarantine of the returnee migrant workers

Various international human rights instruments, the Constitution of Nepal and other legislations guarantee the citizen's right to physical and mental health, which should be ensured even during a situation of crisis like the present one.

The people who returned to Nepal from India and other countries of destination where they did not have easy access to health service were not tested for COVID-19 before entry into the country, which has been verified by the GoN authorities.<sup>248</sup> As health check-up and testing was not effectively carried out following the return to Nepal, the COVID-19 infection has been found to have been spread up to the community level.<sup>249</sup> During the early days of the lockdown where the border was sealed off, people who entered clandestinely reached straight to their community without the required health checkup and quarantine. Furth more, effective COVID-19 tests were not carried out of those returning to Nepal after the border transits opened.<sup>250</sup>

In Nepal the COVID-19 infected or those with symptoms of it were basically returnees and those who had come in contact with them. Hence, the polymerase chain reaction (PCR) test for Corona Virus was carried out on only this group initially.<sup>251</sup> In case of the infected, they were sent home only after two PCR tests gave a negative result. But the COVID-19 testing guidelines<sup>252</sup>

248 Conversation by the study team with the Secretary of Ministry of Culture, Tourism and Civil Aviation, 16 July 2020.

249 Hariram Upreti, "Three villages of Bhimsen Thapa rural municipality, Gorkha sealed off along with conclusion of community transmission", 26 June 2020, <https://ekantipur.com/news/2020/06/26/159317050211262350.html>

Kripa Gautam, "As the number of infected has increased in the settlements outside the quarantine, the infections is found to have spread in the community," Kantipur TV, 25 June 2020, <https://www.youtube.com/watch?v=SzzG67XUnrM>

Bira Gadal, "Report after 10 days, infected mingles with community," Nagarik daily, 16 June 2020, [https://nagariknews.nagariknetwork.com/social-affairs/244591-1592322737.html?click\\_from=category](https://nagariknews.nagariknetwork.com/social-affairs/244591-1592322737.html?click_from=category)

250 Parbat Portel, "More than thousand Nepalis arrived without even fever test," Kantipur, 26 May 2020, <https://ekantipur.com/pradesh-1/2020/05/26/159049596718453239.html>

Mohan Budhayer, "5,000 enter in a day from Gauriphanta," Kantipur daily, 26 May 2020, <https://ekantipur.com/news/2020/05/26/159050777355358863.html>

251 Polymerase Chain Reaction (PCR) helps to find out whether there is virus in the body.

252 Ministry of Health and Population, *National Testing Guideline for COVID-19* (Ministry of Health and Population, 2 June 2020) [https://drive.google.com/file/d/16qC8AD3q-0E-pQtRr2Hca8S3Ev6GgrM/view?fbclid=IwAR0mMAULP1\\_pU1COF7G2whAJCDxRK80qKdZ2MOOB30OqOFknXLaN55UaEtA](https://drive.google.com/file/d/16qC8AD3q-0E-pQtRr2Hca8S3Ev6GgrM/view?fbclid=IwAR0mMAULP1_pU1COF7G2whAJCDxRK80qKdZ2MOOB30OqOFknXLaN55UaEtA)

released by the government on 2 June 2020 provided that those in quarantine would undergo a Rapid Diagnostic Test (RDT)<sup>253</sup> after completing 14 days (clause 5) while those in isolation were sent home after 14 tests without a test if they did not show any symptoms. Following the introduction of these guidelines, people were sent home after a RDT test<sup>254</sup> or without a test if they did not show any symptoms.<sup>255</sup> However, the World Health Organisation<sup>256</sup> and the experts<sup>257</sup> have noted that there is a possibility that a RDT test of COVID-19 would not give a positive result even for the infected, hence it was not a reliable method to ascertain whether a person is infected. Testimonies of a RDT test showing an infected person as negative and a person with no infection as positive also raised questions over the reliability of this testing method.<sup>258</sup> Likewise, since 99 per cent of the Corona Virus infected persons in Nepal were asymptomatic,<sup>259</sup> the policy to send people home without a PCR test increased the risk of infection among their family and in the community.

Meanwhile, in relation to the provision of sending asymptomatic people home without a test as per the COVID-19 testing guidelines, the Supreme Court issued an order staying the enforcement of that provision (clause 5) and directing the authorities to send the patients in isolation to their respective home only

253 Radip Diagnostic Test (RDT) sees whether the body has produced anti-bodies after the entry of virus.

254 Ghanashyam Gautam, "Sending home after RDT," Kantipur daily, 28 June 2020, <https://ekantipur.com/news/2020/06/28/159331570649519977.html>

"Becoming a silent spreader of Corona: How scientific is it not to carry out PCR test of all those in quarantine?" pahilopost, 6 May 2020, <https://pahilopost.com/content/20200606063055.html>

255 "Testing halted after symptoms were not found", Kantipur daily, 10 July 2020, <https://ekantipur.com/news/2020/07/10/159435694997811178.html>

Manoj Poudel, "Infected heading home without a test," Kantipur daily, 10 June 2020, <https://ekantipur.com/news/2020/06/10/159175044902934765.html>

Mohan Budhayer, Bhawani Bhatta, "Infected being sent home without test," Kantipur daily 8 July 2020, [https://ekantipur.com/news/2020/07/08/159418271895459318.html?fbclid=IwAR244oLiXKFyqHXHPV90vsLB2UTie\\_0D5gr-mgElwwcpbeNh0pgx1fohHK0](https://ekantipur.com/news/2020/07/08/159418271895459318.html?fbclid=IwAR244oLiXKFyqHXHPV90vsLB2UTie_0D5gr-mgElwwcpbeNh0pgx1fohHK0)

256 "Advice on the Use of Point-of-Care Immunodiagnostic Tests for COVID-19, Scientific Brief, World Health Organization, April 8, 2020, <https://www.who.int/news-room/commentaries/detail/advice-on-the-use-of-point-of-care-immunodiagnostic-tests-for-covid-19>

Shree Ram Subedi, "Rapid Diagnostic Test not reliable: WHO Nepal Office," *My Republica*, April 7, 2020, <https://myrepublica.nagariknetwork.com/news/rapid-diagnostic-test-not-reliable-who-nepal-office/>

257 Atul Mishra, "RDT kit helps further spread the infection," Kantipur daily, 19 May 2020, <https://ekantipur.com/news/2020/05/19/15898546132767201.html>

258 Sharad KC, "Corona Virus: why distrust over rapid testing," BBC news Nepali, 14 April 2020, <https://www.bbc.com/nepali/news-52283398>

259 Conversation by Study team with the Ministry of Health and Population, 15 July 2020.

after recovery and a PCR test by noting that "the act of sending the patients kept in isolation after being found infected with Corona Virus without a test is not constitutional in any way.<sup>260</sup> Likewise, the International Relations Committee under the National Assembly also directed the government to increase PCR tests, as the RDT testing method was not effective.<sup>261</sup> But the government continued to send people home only after a RDT test or without a test. The National Human Rights Commission also made a preliminary recommendation to the Government of Nepal to make arrangement for sufficient equipment for PCR testing and expedite the PCR tests in the infected zone to find the cases of infection<sup>262</sup>. The recommendation was made based on the analysis of facts received from a monitoring carried out by the NHRC two months after from lockdown started (from 2076/12//11 to 2077/02/11).

Many people who had returned home after a RDT test showed negative upon completion of the quarantine period were later found infected with Corona Virus infection after few days of return. For example, hundreds of people from

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260 Order by the joint bench of Supreme Court in the Advocate Santosh Bhandari Vs Ministry of Health and Population, Case no. 076-WO-0973, 22 June 2020. A copy of the order is available at: <https://nepallive.com/story/219912?fbclid=IwAR2yj6zecSB8GncxBmCDvnczU6irF3WnSH9bLOGNkaVjRqJEiy6JJybdWg>

261 Jaya Singh Mahara, "Parliamentary Committee directives, 'RDT testing is not effective, expand the PCR system,'" Kantipur daily, 30 May 2020, <https://ekantipur.com/news/2020/05/30/159084536495332232.html>

262 NHRC press statement, 2 April 2020

Letter by the NHRC to the Office of the Prime Minister and Council of Ministers, 12 May 2020

Dailekh<sup>263</sup>, Jhapa,<sup>264</sup> Rautahat<sup>265</sup>, Dhading<sup>266</sup>, Bardia<sup>267</sup>, Nawalparasi<sup>268</sup>, Pyuthan<sup>269</sup> and other districts who had been sent home after a negative RDT result were later found positive to the virus. Some of the people who had been sent following a negative RDT report upon completion of the quarantine period died soon after reaching home and a swab sample collected after the death showed positive result in a PCR test.<sup>270</sup> For example, a migrant worker of Surkhet district who had returned from India was sent home after completing 14 days in quarantine and a RDT positive result. But three hours later, the worker died<sup>271</sup> and a PCR test of the swab sample collected after his death showed positive to COVID-19. In another incident, a youth of Kailali who had also returned from India was sent home from the quarantine after a negative RDT result and stating that he had no other health problems, but he died on the way to home.<sup>272</sup> Likewise, on

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263 Bishnu Sharma, "Relying on RDT makes an entire village infected in Dailekh, two days after being sent from quarantine, 113 confirmed positive," Naya Patrika daily, 7 June 2020, <https://nayapatrikadaily.com/news-details/44832/2020-06-07>

264 Arjun Rajbansi, "Three men sent home from quarantine test positive," Kantipur daily, 4 June 2020, <https://ekantipur.com/pradesh-1/2020/06/04/159128770229466530.html>

265 "Corona infection confirmed 10 days after being sent home from quarantine," Onlinekhabar, 28 April 2020, <https://www.onlinekhabar.com/2020/04/859139>

266 Manish Duwadi, "23 who returned home from quarantine in Dhading corona infected," Annapurna Post, 14 June 2020, <http://annapurnapost.com/news/158633>

"24 sent home after RDT in Dhading confirmed infected," Onlinekhabar, 14 June 2020, <https://www.onlinekhabar.com/2020/06/873194>

267 Thakur Singh Tharu, "26 sent home in Bardia infected with Corona," Kantipur daily, 17 June 2020, <https://ekantipur.com/news/2020/06/17/159237771030376742.html>

"Bardia, 26 sent home without a PCR test confirmed positive," News of Nepal, 17 June 2020, <https://www.newsofnepal.com/2020/06/17/326823/>

"People sent home with a Corona negative result from quarantine, test positive," TV Annapurna, 17 June 2020, <https://www.tvannapurna.com/news-details/21896/2020-06-17>

268 "7 discharged in Nawalparasi confirmed infected with Corona virus, request to stay in home quarantine, Ratopati online, 19 June 2020, <https://ratopati.com/story/135140/2020/6/19/corona-news>

269 "Three sent home from Quarantine in Pyuthan found Corona infected," Onlinekhabar, 23 June 2020, <https://www.onlinekhabar.com/2020/06/875776>

270 Prakash Pant, "Corona Virus Karnali: question of individual who lost relative to COVID-19: Is it the mistake of government or who?, BBC News Nepali, 25 June, <https://www.bbc.com/nepali/news-53148878>

271 "Youth who tested negative to antibody test, found Corona positive after death, toll reaches 11, pahilopost, 5 May 2020, <https://pahilopost.com/content/20200605083201.html>

"Youth sent home from quarantine dies, death toll reaches 11," Janata TV, 5 June 2020, <https://www.janatasamachar.com/2020/06/192859>

272 Mohan Budhayera, "One of Kailali dies while returning home from quarantine," Radio Kantipur, 22 June 2020, <https://radiokantipur.com/national/2020/06/22/1592838757>

25 May 2020, a woman from Surkhet who had returned from India was sent home after 14 days in quarantine and negative RDT result. A week later she committed suicide in her home on 15 June, and a PCR test of her swab sample carried out following the death showed positive to COVID-19.<sup>273</sup> In a similar incident of Dailekh, a youth who had returned from India on May 24 and sent home after a negative RDT result following 14 days in quarantine committed suicide at his home on June 24. His swab sample taken after the death also showed positive to COVID-19.<sup>274</sup>

Incidents were also reported of people being not kept for the prescribed number of days in quarantine<sup>275</sup>, some sent home without recovery<sup>276</sup> or without a test for showing no symptoms.<sup>277</sup> Shortcomings like these has increased the risk and fear of infection among the concerned individual and their family members and community on the one hand while increasing the risk and dissatisfaction among the health workers, security persons, local leadership and quarantine officials in the frontline to prevent and control COVID-19 infection.

It was found that those who returned from abroad did not get a health checkup or treatment on time.<sup>278</sup> Some were not given a PCR test even when they were fighting for life, and the tests carried out after their death showed positive to COVID-19.<sup>279</sup> For example, as of 1 July 2020, of the 30 people who died of Corona Virus infection, the infection was confirmed on 14 of them only

273 "Girl who committed suicide in Surkhet confirmed positive to Corona infection," Onlinekhabar, 17 June 2020, <https://www.onlinekhabar.com/2020/06/874140>

274 Yagya Khatri, "Youth of Dalit who committed suicide confirmed Corona positive," Onlinekharbar, 25 June 2020, <https://www.onlinekhabar.com/2020/06/876396>

275 Aash Gurung, "Home three days after quarantine," Kantipur daily, 30 April 2020, <https://ekantipur.com/pradesh-4/2020/04/30/158822622025661834.html>

Parmananda Pandey, "Infected woman had been released from quarantine in 12 days," Annapurna Post, 15 April 2020, <http://annapurnapost.com/news/153298>

"Women sent home after three days in quarantine, found infected," Nepalsamaya, 4 April 2020, <https://www.nepalsamaya.com/detail/27239>

276 Shanker Prasad Khanal, "Discharged without recovery, 21 June 2020, <https://epaper.amn.media/annapurnapost-detail/1259>

277 Sitaram Ojha, "Many of the 250 sent home from quarantine in Sudur Paschim found infected," Ujyaalo Online, 25 June 2020, @)&&, <https://ujyaaloonline.com/story/39334/2020/6/25/corona-fae-west-nepal>

278 "Not taken to hospital even 24 hrs after being confirmed Corona infected," Ratopati, 6 May 2020, <https://ratopati.com/story/133296/2020/6/6/holding>

279 Atul Mishra, "20 per cent die without treatment", Kantipur daily, 2 July 2020, <https://ekantipur.com/news/2020/07/02/159365562006212140.html>

Thakur Singh Tharu, Madhu Shahi, "Death in quarantine due to Corona", Kantipur daily, 16 May 2020, <https://ekantipur.com/news/2020/05/18/158976331587726538.html>

after their death (see Table 3.5). Many incidents were reports of people who lost their lives for lack of simple care or timely treatment during their stay in quarantine or isolation.<sup>280</sup> Likewise, as the test of those who had arrived in the quarantine was delayed, they died before their test results arrived.<sup>281</sup> As of July 1, of the 30 people who died, the report showing positive to COVID-19 of 7 people was confirmed only after their death.

**Table 3.5**  
**Details of testing and identification of infection of those were died of COVID-19 as of 1 July 2020<sup>282</sup>**

PCR tests carried out only after death	Death before PCR test result arrived	Death after confirmation of infection	Death toll
14	7	9	30

Even those who had a test, did not receive their PCR test reports on time.<sup>283</sup> As a result it was reported that some of the people in quarantine and isolation escaped<sup>284</sup> or had to resort to an agitation demanding permission to return home.<sup>285</sup> For example, reports of people being sent home after completing

280 Hadish Khuddar, "State of Isolation in the country: Report only after 14 days-not corona but youth dies of diarrhea for want of treatment (with video)," Naya Patrika daily, 25 June 2020, <https://nayapatrikadaily.com/news-details/46050/2020-06-25>

Shrawan Dev, "Raju Sada dies in Isolation, suffers for hours for not getting glucose water for diarrhoea", Onlinekhabar, 24 June 2020, <https://www.onlinekhabar.com/2020/06/876028>

Ajit Tiwari, "Death because of negligence in quarantine and isolation", Kantipur daily, 25 June 2020, <https://ekantipur.com/news/2020/06/25/159305159409017865.html?author=1>

Neha Jha, "Messy picture of Corona control shown by the death of Raju Sada", Setopati, 25 June 2020, <https://www.setopati.com/social/209829>

281 Thakur Singh Tharu, "Locals blame youth died in quarantine, before being taken to hospital", Kantipur daily, 17 May 2020, <https://ekantipur.com/news/2020/05/17/158969958085051259.html>

282 Counting by study team based on the daily press conference of the Ministry of Health and Population until 1 July 2020.

283 Giru Prasad Bhandari, "In quarantine and isolation for 2 months, awaiting PCR report", Kantipur daily, 3 July 2020, <https://ekantipur.com/pradesh-5/2020/07/03/159376649603016543.html>

284 Top Raj Sharma, "20 escape from quarantine in Kapilvastu, saying test for Corona was not carried out", Onlinekhabar, 25 May 2020, <https://www.onlinekhabar.com/2020/05/867604>

"78 in quarantine escape", Kantipur daily, 3 July 2020, <https://ekantipur.com/pradesh-6/2020/07/03/159377867023418646.html>

285 Hikmat Bahadur Nepali, "Corona infected agitating due to delay in report, four injured in baton charge by police", Annapurna Post, 13 June 2020, <http://annapurnapost.com/news/158599>

14 days or more in the quarantine before the test results arrived in Dang<sup>286</sup>, Kanchanpur<sup>287</sup>, Siraha,<sup>288</sup> Saptari<sup>289</sup>, Banke<sup>290</sup>, Dailekh<sup>291</sup>, Rupandehi<sup>292</sup>, Achham<sup>293</sup>, Ramechhap,<sup>294</sup> Arghakhanchi<sup>295</sup>, Mahottari<sup>296</sup> and other districts testing positive to COVID-19 later were published.

According to the order relating to facilitation of repatriation issued by the government of Nepal, the Nepali workers have to "present an evidence of testing showing negative to COVID-19 infection"<sup>297</sup> before returning home. However, in reality no such arrangement for testing was made for the Nepali workers who

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- Jyoti Katwal, "Clash between Corona infected and police in Dailekh, 4 injured", Kantipur daily, 13 June 2020, <https://ekantipur.com/pradesh-6/2020/06/13/159205777659162594.html>
- 286 Hem Raj Sharma, "17 sent home from quarantine before report arrived found infected", Ujyaalo online, 15 June 2020, <https://ujyaaloonline.com/story/38802/2020/6/15/dang-corona-virus-isolation>
- Durga Lal KC, "17 sent home before report arrived in Ghorahi found infected with Corona", Kantipur daily, 15 June 2020, <https://ekantipur.com/pradesh-5/2020/06/15/159221107545338695.html>
- Narayan Khadka, "17 sent home without PCR report test positive, villagers gherao ward office", Setopati, 15 June 2020, <https://www.setopati.com/social/209034>
- 287 Bhawani Bhatta, "14 sent home from quarantine infected, 10 days just to wait for report", Kantipur daily, 15 June 2020, <https://ekantipur.com/news/2020/06/15/159218260323119804.html>
- "11 sent home from quarantine before report arrived in Kanchanpur infected with Corona", Paschim Today, 14 June 2020, <https://paschimtoday.com/news-details/18635/2020-06-14>
- 288 Mithilesh Yadav, "Youth sent home before report arrives tests positive (updated), negligence inviting risk of community transmission", Nagarik daily, 12 May 2020, <https://nagariknews.nagariknetwork.com/health/209442-1589256841.html>
- 289 Manohari Pokharel, "Youth sent home without report found infected", Annapurna Post, 17 June 2020, <http://annapurnapost.com/news/158902>
- Gopal Sharma, "After infected reaches home before report arrived...", Annapurna Post, 4 June 2020, <http://annapurnapost.com/news/riportt-naaundai-snkrmmit-ghr-puge-pchi-157792>
- 290 Thakur Singh Tharu, "People sent home without the report found infected, village terrified", Kantipur daily, 28 May 2020, <https://ekantipur.com/news/2020/05/28/159066456020061540.html>
- 291 Jyoti Katwal, "People sent home without report in Dailekh called back after infection was confirmed, Kantipur, 6 June 2020, <https://ekantipur.com/pradesh-6/2020/06/06/159142229359923067.html>
- 292 Rekha Bhusal, "People sent home before PCR report arrived found infected, Nagarik daily, 24 May 2020, <https://nagariknews.nagariknetwork.com/social-affairs/218471-1590344229.html>
- 293 Menuka Dhungana, "People being sent home before report arrives, Kantipur daily, 14 June 2020, <https://ekantipur.com/pradesh-7/2020/06/14/15921300410383320.html>
- 294 "People sent home by rural municipality before report arrived, Onlinekhabar, 14 June 2020, <https://www.onlinekhabar.com/2020/06/870863>
- 295 Bishnu Kumar Aley, "Sent home after RDT, found infected with Corona 12 days after swab was collected, Thahakhabar, 4 June 2020, <https://thahakhabar.com/news/99658>
- 296 "Sent home before report arrived, arrested by police after found infected, Setopati (RSS), 7 June 2020, <https://www.setopati.com/social/208380>
- 297 'Order relating to facilitation of the repatriation of Nepali citizens who have to return home due to the adverse situation resulting from the global outbreak of COVID-19, 2077, Clause 3 (2).

returned from different countries. As a result, many workers who had returned from India and various other countries tested positive to COVID-19 soon after arriving home.<sup>298</sup> Nepali workers who had returned from the UAE in the second week of June shared that their RDT test was carried out before boarding the aircraft and the report of the test was later distributed in the aircraft itself.<sup>299</sup> The returnee workers also said that the prescribed physical distance protocol was not followed in the aircraft during the return home, in the bus used to take passenger from the aircraft to the terminal, in the luggage collection area, at the foreign exchange counter, and the vehicles used to transport them from the airport to the holding centre or from the holding centers to the local level quarantine.<sup>300</sup> An onsite visit by the study team of the Tribhuvan International Airport and the arrangement to take the visitors from the airport to the holding centre, and of the holding centre showed clearly that the physical distancing was not followed during those procedures.<sup>301</sup> As a result, there was a possibility of a person who was free of infection becoming infected during the travel. This was also testified by the fact the some of the pilots and crew members of the aircraft used in the repatriation of the Nepalis were themselves infected during the process.<sup>302</sup>

298 Lila Shrestha, "Woman returning from Kuwait found infected, all 141 passengers of the aircraft quarantined, being sent home after RDT, Kantipur, 14 June 2020, <https://ekantipur.com/national/2020/06/14/159213932189143251.html>

Another woman who had returned from Kuwait also found infected", Onlinekhabar, 18 June <https://www.onlinekhabar.com/2020/06/874424>

"Man who had returned from the UAE and staying at Kharipati quarantine found infected, Kantipur daily, 17 June 2020, <https://ekantipur.com/news/2020/06/17/159237364776213609.html>

Lila Shrestha, "Woman who had returned from the UAE and staying at Kharipati quarantine found infected, Kantipur daily, 16 June 2020, <https://ekantipur.com/news/2020/06/16/159231397773138677.html>

Iswar Kaji Khaijyu, "All eight infected of Bhaktapur Kuwait returnees, Annapurna Post, 20 June 2020, <http://annapurnapost.com/news/159197>

Hari Adhikari, "Seven woman who had returned to Jhapa from Kuwait found infected, Onlinekhabar, 23 June 2020, <https://www.onlinekhabar.com/2020/06/875769>

Ram Gopal Tamakhu, "4 who had returned from the UAE and staying at Kharipati quarantine found infected, News24, 25 June 2020, <https://www.news24nepal.tv/2020/06/25/672683>

Balram Ghimire, "7 of the 9 infected of Rasuwa Kuwait returnees, Kantipur daily, 27 June 2020, <https://ekantipur.com/news/2020/06/27/159326521027999824.html>

299 Interviews taken separately by the NHRC study team with two workers of Bagmati province who had returned from UAE (and staying in quarantine), 12 June 2020.

300 Interviews by the study team with 11 returnees between June-July.

Aasna Sijapati, "The privilege of returning to Nepal," *The Kathmandu Post*, 1 July, 2020, <https://kathmandupost.com/columns/2020/07/01/the-privilege-of-returning-to-nepal>

301 Video and photors recorded during the monitoring by the study team, 2 July 2020

302 Suraj Kunwar, "One pilot of Himalaya Airlines infected," *Kantipur*, 1 July 2020 <https://ekantipur.com/>

### Testimony of Returnee workers-1<sup>303</sup>

So after the Corona Virus pandemic spread, the company terminated the contract of all working in my location. We were confined into our rooms for months. Then, we received a phone call from the company on June 4 stating "tomorrow is your flight to Nepal, be prepared" and we prepared ourselves accordingly.

On June 5, we were headed for the airport from the camp, there were other passengers as well with us. Upon reaching Dubai airport, our RDT test was carried out and we were handed our boarding pass and sent towards the aircraft. The RDT test report was later distributed in the aircraft itself. Physical distance was not maintained in the aircraft, all seats were full.

Upon landing at the airport in Nepal, only our fever was examined. The physical distance had been maintained up to the immigration desk, but the luggage collection counter was messy. After collecting our luggage, we were taken to the bus separated on the basis of province and taken to the holding centre. The bus taking us to the holding centre had all seats occupied. I had protected myself by all means outside the country, but there people coming from different places were all together. I was scared and was disappointed too. I thought at least the buses could have been arranged in way to maintain the required physical distance.

The bus took us to the Yeti Party Place (holding centre) in Basundhara. There we were made to wait for around 2.5 hours. Then we were handed a mobile phone sim card and asked to activate it by dialing 1415. It had already become night. We were served food there. Then we were put on another bus and taken to Bhaktapur. This time though the bus was not full like the travel from airport to the holding centre, there were 14 to 15 of us in the bus with a capacity for 24 to 25 passengers.

At night we were taken to a place in Bhaktapur where it was full of army personnel. We slept there that night. We were three of us in our room, with a common toilet and bathroom. The next day (June 6) we were served lunch and snacks. Then we were asked to pay Rs. 220 for the lunch and

[news/2020/07/01/159358337707366642.html](https://www.setopati.com/social/210674)

"7 includes three pilots of Nepal Airlines test positive," *Setopati*, 6 July 2020, <https://www.setopati.com/social/210674>

"4 Corona infected added to the Corporation," *Kantipur*, 8 July 2020, <https://ekantipur.com/news/2020/07/08/15942185422629296.html>

303 Details based on the interview with Radhika Thing (named changed) of Bagmati province, who returned from UAE on 5 June 2020, at the quarantine, 12 June 2020.

snacks. I did not have Nepali currency and paid in UAE dirham. Since I did not have change, I had to handover a big amount. We were not told that we had to pay for our food. I had money so I paid. But there were others we came after facing a crisis and did not have a penny with them. A sister did not have money with her, so I paid on her behalf.

At around 2:30 in the afternoon, we were taken to our home town in an ambulance. We were four of us in the ambulance. All four of us were almost suffocating as we reached our home town (named kept confidential) from Kathmandu. Now I am staying at a quarantine centre in my village. I am doing good.

The returnees were found to have sent directly to home quarantine after collecting necessary details about Nepal in the holding centres.<sup>304</sup> According to the COVID-19 Crisis Management Operation Centre, as of 10 July 2020, 2,887 workers who return from different countries except India were sent directly to home quarantine after arriving in Kathmandu.<sup>305</sup> Though some of the returnees had carried out a PCR test in the country of destination, the risk of the person getting infected and thus transmitting it to others remained due to the use of a vehicle to reach to the quarantine in Nepal, coming in contact with others during the travel and not maintaining required physical distance.

On the other hand, study also showed that some of those who returned to Nepal did not have a PCR test in the CoD and were sent directly to their home without a PCR test upon arrival in Nepal. Though the provision required that only those who test negative in a PCR test<sup>306</sup> could be sent to home quarantine, those without a PCR tests were also found to have been sent home. The study team had interviewed three persons who had been sent directly to their home after returning to Nepal from the UAE in the third week of June<sup>307</sup>, of which all the three had undergone a RDT test moments before the flight. But upon arrival in Nepal, there were sent home without a PCR test. Furthermore, it came to be known that no agencies followed up effectively on their situation in home

304 Manoj Poudel, Nabin Poudel, Thakur Singh Tharu, "Returnees being taken straight to their homes," *Kantipur*, 28 June 2020, <https://ekantipur.com/news/2020/06/28/159331562610089651.html>

305 "Details of Nepali citizens who returned home from abroad (as of 10 July 2020)," COVID-19 crisis management center, accessed on 11 July 2020, <https://ccmc.gov.np/>

306 "Form to be completed by those who wish to return to Nepal from abroad," COVID-19 crisis management center (CCMC), available at, [https://ccmc.gov.np/arms/person\\_add.php](https://ccmc.gov.np/arms/person_add.php).

307 Interview by study team with Sangeeta Majhi (named changed) of Province no. 5, Babita Karki (named changed) of Gandaki province and Sumita KC (named changed) of Province no. 1 who returned to Nepal from the UAE on June 19.

quarantine.<sup>308</sup>

### Testimony of Returnee workers-2<sup>309</sup>

Upon arriving at Dubai airport, a RDT test was done before boarding the aircraft. Then we were given a sticker reading 'fit to travel.' Then we boarded the plane, where no distancing was following. All the seats were full with three passengers in the seats for three in a row.

After landing in Kathmandu, we had our fever examined before reaching the immigration desk. After completing the immigration process, I went to collect my luggage. All the places were crowded and physical distance was not maintained. Though marks were drawn in the floor for distancing, but the passengers who had arrived were not following it, and there was nobody facilitating the returnees to do so.

After collecting my baggage we boarded a bus. The bus was full of passengers. Then we were taken to Yeti party palace (holding centre). I had heard that the quarantines are very unsafe and even a normal person could become infected there. Hence, instead of going to my home in Province no. 5, I decided to stay at my relatives' place in Kathmandu. Then I said I am pregnant, I have a relative here in Kathmandu, so I will go to stay there. The army personnel in the holding centre asked me to bring a recommendation letter from the concerned Ward Office. I made a call and got the recommendation, and come home. Besides the RDT test carried out in Dubai airport, I have not undergoing any other tests for Corona Virus. Now I am in home quarantine.

Sending returnees direct to their home does not only invites the risk of infection in their family members and the community, but also increases the possibility of them being subjected to stigmatization and abuse in the society.

The GoN has issued guidelines setting the standards for operation and management of quarantine related to COVID-19.<sup>310</sup> According to the

308 Manoj Poudel, Durga Lal KC, Madhav Aryal, Sanju Poudel, "Negligence in home quarantine," *Kantipur*, 1 July 2020, <https://ekantipur.com/news/2020/07/01/15935735599851675.html>

Manoj Poudel, Amrita Anmol, Thakur Singh Tharu, "Infected sent home are not being monitored," *Kantipur*, 3 July 2020, <https://ekantipur.com/news/2020/07/03/159374300078676781.html?author=1>

309 Telephone Interview on 25 June 2020 by study team with Sangeeta Majhi (named changed) of Province no. 5, who returned to Nepal from the UAE on June 19.

310 Corona Virus (COVID-19) quarantine operation and management standards, 2076 (2020).

guidelines, the standards include provision of basic facilities like water, power and communications, bedding and blanket, bed along with mosquito nets as required, healthy food, pure drinking water, sufficient security, and if possible a room with attached bathroom, if not a maximum of three people in room (maintaining a distance of 3.5 feet per person), one toilet and bathroom for six persons etc. Likewise, it says that a separate quarantine should be established for the pregnant, children, elderly and people with disabilities. Those residing in the quarantine should be provided two meals a day and two times tea and snacks.

However, fulfillment of the standards set by the government was a far cry, most of the quarantines were found to have been set up without basic provisions including drinking water, bedding, mosquito net, toilet and bathroom.<sup>311</sup> Furthermore, appropriate arrangements were not made in the quarantines for people with special condition including the pregnant and lactating women, senior citizens or people with disabilities.<sup>312</sup>

Grievances were also heard about lack of sufficient security arrangements in the quarantine, in some situations, the people staying in quarantine after a COVID-19 test committed suicide by hanging<sup>313</sup> or were found drowned in the river.<sup>314</sup> Likewise, some who were in quarantine after return from India died in the quarantine itself but they tested negative to COVID-19.<sup>315</sup>

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311 Pratikshya Kafley, "Quarantine under tents," *Kantipur*, 30 June 2020, <https://ekantipur.com/news/2020/06/30/159348446708617729.html>

312 Bidhy Rai, "Quarantine becoming challenging for women," *Kantipur*, 20 June 2020, <https://ekantipur.com/news/2020/06/21/159273559970193278.html>

313 Top Raj Sharma, "Man commits suicide in Arghakhanchi quarantine, CDO says- a result of delayed result," *Onlinekhabar*, 17 June 2020, <https://www.onlinekhabar.com/2020/06/873985>

Bhagwati Pandey, "One man commits suicide in Arghakhanchi quarantine," *Setopati*, 17 June 2020, <https://www.setopati.com/social/209184>

314 "Body of Thapa who had gone missing while swimming in Myagdi river found," *Beni Online*, 5 June 2020, <https://myagdikali.com/201027/>

315 Bhagirath Yogi, "Report of woman who died in quarantine in Baitedi is Corona negative," *Annapurna post*, 3 June 2020, <http://annapurnapost.com/news/157685>

"Youth who died in quarantine did not show any infection, mourners under isolation, *Thahakhabar*, 9 June 2020, <https://thahakhabar.com/news/100005>

Gokarna Aryal, "Youth dies in Baitedi, death toll in quarantine reaches three," *Gorkhapatra*, 7 June 2020, <https://gorkhapatraonline.com/sports/2020-06-07-15937>

"Woman who died in quarantine tests negative to Corona," *Thahakhabar*, 5 June 2020, <https://thahakhabar.com/news/99671>

"India returnee dies in quarantine in Pokhara," *Onlinekhabar*, 25 April 2020, <https://www.onlinekhabar.com/2020/03/847731>

Lakhan Chaudhary, "Corona infection now found in both who died in isolation and quarantine of Seti

Due to absence of women security personnel in some quarantine, women were not very confident about security and were found staying with uneasiness as a result.<sup>316</sup> The Home Secretary<sup>317</sup> and the Inspector General of Nepal Police<sup>318</sup> told the NHRC that with the currently available human resources, mobilization of sufficient number of security personnel, including women personnel was not possible. The Inspector General of Police also shared that he had proposed in the COVID-19 crisis management committee (CCMC) meeting to recruit temporary police personnel like during an election but had not been addressed so far.

A high-level committee including representatives of Nepal Bar Association, Federation of Nepali Journalists and NGO Federation of Nepal led by the NHRC carried out a monitoring of quarantine centres in different districts, which found women and men put together in the same room in some of the quarantines, according to representatives who were part of the monitoring team.<sup>319</sup> This was also verified by the Ministry of Women, Children and Senior Citizens. In a circular sent to the Ministry of Federal Affairs and General Administration,<sup>320</sup> the MoWCSC had noted that "grievances and evidences were received about the women not being provide safe accommodation in the quarantine, women's rights being violated, women kept together with men in the same room and of incidents of rape." This did not only affect the dignity and confidentiality of women, but also increased the possibility of sexual violence. The Government of Nepal has confirmed an incident of gang rape committed against a migrant women worker who had been staying at quarantine in Kailali following her

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hospital," *Lokantar*; 27 June 2020, <https://lokaantar.com/story/109072/2020/5/27/news-#>

"Death in quarantine," *Lokpath.come*, 7 June 2020, <https://www.lokpath.com/story/262328>

"Person who died in quarantine tests negative to PCR test," *Sourya Online*, 6 June 2020, <https://www.souryaonline.com/2020/06/304093.html>

Rajendra BK, "Man who died in quarantine tests negative to Corona Virus," *Radio Nepal*, 5 June 2020, <http://radionepal.gov.np/oldsite/news-details/31666/2020-06-08>

316 Interview by study team with two women of Bagmati province who returned from foreign employment and staying at two different quarantines, 12 June 2020,

317 Talks held by study team with Home Secretary, 12 July 2020.

318 Talks held by NHRC study team with Nepal Police Inspector General Thakur Prasad Gyawali, AIGP Sailesh Thapa Chettri and Nepal Police spokesperson and DIG Niraj Bahadur Shahi, 17 June 2020

319 Virtual interaction on "Present situation of rights of women" organized by the high-level human rights situation monitoring and coordination committee comprising representatives of NHRC, Nepal Bar Association, Federation of Nepali Journalists and NGO Federation Nepal to monitor the situation of human rights in the adverse situation due to COVID-19, 19 June 2020.

320 Circular from the Ministry of Women, Children and Senior Citizens, 15 June 2020, <https://mowcsc.gov.np/notice-news/letter-to-ministry-of-home-affairs-and-ministry-of-federal-affairs-and-general-administration-for-management-on-covid-19>

return from India.<sup>321</sup>

As the capacity of the quarantine centres was low in compared to the number of returnees they were crowded and mixing the new arrivals to those already living in the quarantine for some time led to some healthy persons becoming infected.<sup>322</sup> The media reportedly widely about the majority of the quarantines lacking the standards specified by the GoN, without even basic facilities like drinking water, mosquito net, fan, sufficient food and toilets.<sup>323</sup> Photo stories were also published showing the occupants sleeping without a proper bed and relatives queuing up to deliver food to their loved ones in the quarantine.<sup>324</sup> There were also reports of the relatives becoming infected while delivering food to those in the quarantine or the family members and outsiders meeting with those staying in the quarantine.<sup>325</sup> In some locations, due to lack of proper facility for sleeping, some people were found going home at night to sleep and returning back to the quarantine next morning.<sup>326</sup> Likewise, reports also highlighted people suffering due to the warm weather, mosquito or snake bite, lack of proper sanitation or unhealthy food making those in the quarantine

321 Ministry of Health and Population, "Novel Corona Virus (COVID-19) Press Briefing," Facebook Video, 15 June 2020, <https://www.facebook.com/mohpnep/videos/295851028238239/>

322 Mohan Budhayer, "Crowded quarantine increases risk of infection," *Kantipur*, 2 June 2020, <https://ekantipur.com/news/2020/06/02/159106921219077812.html>

Nirmal Ghimire, "Messy quarantine helps spread infections," *Nagarik daily*, 6 June 2020, <https://nagariknews.nagariknetwork.com/social-affairs/208752-1588519440.html>

Bira Gadal, "Messy quarantines increases risk," *Nagari daily*, 3 May 2020, <https://nagariknews.nagariknetwork.com/social-affairs/208752-1588519440.html>

323 "Quarantines become factory spreading infection," *Naya Patrika*, 17 June 2020, <https://nayapatrikadaily.com/news-details/45519/2020-06-17>

Janak Raj Sapkota, "Unorganized quarantine and hunger leads to death," *Kantipur*, 8 June 2020, <https://ekantipur.com/video/2020/06/08/159161821355417213.html>

Sunil Sapkota, "Quarantine inviting risk," *Nagarik daily*, 4 June 2020, [https://nagariknews.nagariknetwork.com/health/229571-1591235019.html?click\\_from=trending](https://nagariknews.nagariknetwork.com/health/229571-1591235019.html?click_from=trending)

"Quarantines only namesake," *Kantipur*, 20 May 2020, <https://ekantipur.com/news/2020/05/20/1589938875716196.html?author=1>

324 Gautam Shrestha, "Quarantine in Rautahat: Sleep on mat, food from home," *Onlinekhabar*, 27 May 2020, <https://www.onlinekhabar.com/2020/05/868014>

325 Manoj Poudel, Sanju Paudel, Ghanashyam Gautam "Border quarantine a mess, family at risk for supplying food from home," *Kantipur* 18 May 2020, <https://ekantipur.com/news/2020/05/18/15897651441513349.html>

326 Binu Subedi, Santosh Singh, Sunita Baral, "Day time in quarantine, night at home," *Kantipur* 9 June 2020, <https://ekantipur.com/news/2020/06/09/159166772210578037.html>

"Interview with Social Security Minister Sudarshan Baral of Province No. 5," "The headlineers *Radio Kantipur*, 25 May 2020, <https://www.facebook.com/kantipurradio/videos/540603209938739/?v=540603209938739>

ill, and lack of health service for those who fall sick.<sup>327</sup> Due to these reasons many people who came from abroad escaped saying they could not stay in such conditions in the quarantine centre.<sup>328</sup> Even the Prime Minister and concerned government authorities were found confirming the fact that the quarantines were not up to the minimum standards.<sup>329</sup> Instead living in the quarantine increased the risk of COVID-19 infection<sup>330</sup> and new returnees did not want to stay in the quarantine due to lack of food, water, toilets and sleeping facilities and instead wished to go home while it also reported in the media that the quarantine centres started emptying in the end of June, as the local authorities too started sending people home.<sup>331</sup> As dozens of people coming back to Nepal from abroad between the mid-June to last week of June, sending returnees directly to their home shows that their family members and the community are at great risk of infection.

327 Sabita Budha, "Youth who fell unconscious in quarantine yet to receive treatment," *Setopati*, 28 June 2020, <https://www.setopati.com/social/209989>

Rupa Gahatraj, "Youth is quarantine suffers snakebite, Shaman active with no ambulance in sight throughout the night" *Kantipur*, 9 June 2020, <https://ekantipur.com/pradesh-5/2020/06/09/15917009645015624.html>

328 Madhu Shahi, India returnees escape from quarantine, "Kantipur", 23 March 2020, <https://ekantipur.com/pradesh-5/2020/03/23/158495904085151184.html>

Janak Raj Sapkota, "Reporters' diary: Scene at the hotspot of infection," *Kantipur*, 13 June 2020, <https://ekantipur.com/bibidha/2020/06/13/159201220132663242.html?author=1>

MK Majhi, "Risk of infection along with increase trend of escaping from quarantine, commotion after pregnant escapes," *Sagarmatha Television*, 20 June 2020, <https://sagarmatha.tv/2020/06/20/45632>

329 "National Assembly meeting, 18 June 2020, Thursda," Onlinekhabar, (video live), [https://www.facebook.com/watch/live/?v=2573015409628667&ref=watch\\_permalink](https://www.facebook.com/watch/live/?v=2573015409628667&ref=watch_permalink)

"Interview with Minsiter for Women, Children and Senior Citizens, Programme The Headliners," *Radio Kantipur*, 18 June 2020, <https://www.youtube.com/watch?v=Y5yFeUSzMs8>

"Interview with Social Security Minister for Province no. 5 Sudarshan Baral, The Headliners," *Radio Kantipur*, 25 May 2020, <https://www.facebook.com/kantipurradio/videos/540603209938739/?v=540603209938739>

Conversation held by NHRC member Sudip Pathak with Chief District Officers of 27 districts in May-June 2020.

"Bageswari special programme, Interview with Chief District Officer of Banke district, Bageswari Television, 20 May 2020, <https://www.youtube.com/watch?v=2oA6OScl6iM>

Shanker Prasad Khanal, "CDO sees quarantine as a jail," *Annappurna Post*, 3 June 2020, <http://annappurnapost.com/news/157607>

"Arrivals from India continues to rise," *Kantipur TV*, 26 May 2020, <https://www.youtube.com/watch?v=BUTAk8ZGze4>

330 Gopal Sharma, Bhagirath Awasthi, "Infection in quarantine," *Annappurna Post*, 8 June 2020, <https://epaper.amn.media/annappurnapost-detail/1285>

331 "Quarantines become unsuccessful," *Kantipur*, 30 June 2020, <https://ekantipur.com/news/2020/06/30/159348410463319770.html>

Even months after the quarantine operation and management standards were introduced and reports of the returnees having to suffer in different places, attention was not paid to make the quarantines gender-friendly, disability or senior citizens-friendly and the response was limited to only that the government is doing necessary preparations. The failure of quarantines meeting the set standards and not being friendly to people with special condition like pregnant or lactating women was accepted by the Deputy Prime Minister and Defense Minister, who is the coordinator of the Novel Corona Prevention and Control, high-level coordination committee<sup>332</sup>, Federal Minister for Women, Children and Senior Citizens,<sup>333</sup> Minister for Culture, Tourism and Civil Aviation,<sup>334</sup> Minister for Social Security of Province no. 5<sup>335</sup> and the Chief District Officers of the districts that have comparatively higher number of people infected with Corona Virus.<sup>336</sup> During the inspection of the quarantines, the NHRC found that the people's fundamental rights had been restricted due to lack of nutritious food, drinking water, toilet, proper accommodation and health care, and thereby requested the GoN to operate the quarantines as per the set standards.<sup>337</sup>

In this manner, failure to provide necessary health examinations, treatment, basic and essential services, safe and standard quarantine facilities to the returnees has led to rise in infection among their family members and the community, while also leading to serious incidents like suicide and rape. If these problems are not addressed effectively on time, then further challenges and risk are likely to be faced in the future.

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332 "Interview with Deputy Prime Minister and Defense Minister, Programme The Headliners, *Radio Kantipur*, 17 July 2020, <https://www.facebook.com/kantipurradio/videos/577716156260272/>

333 "Interview with Minister for Women, Children and Senior Citizens Parbat Gurung, Programme The Headliners, *Radio Kantipur*, 18 June 2020, <https://www.youtube.com/watch?v=Y5yFeUSzMs8>

334 "We missed out in quarantine management, *Nagarik daily*, 3 July 2020, <https://nagariknews.nagariknetwork.com/politics/262111-1593759590.html>

335 "Interview with Social Security Minister of Province no. 5," The Headliners, *Radio Kantipur*, 25 May 2020, <https://www.facebook.com/kantipurradio/videos/540603209938739/?v=540603209938739>

336 "Bageswari special programme, Interview with Chief District Officer of Banke district Ram Bahadur Kurumbang", Bageswari Television, 29 May 2020, <https://www.youtube.com/watch?v=2oA6OScl6iM>

Shanker Prasad Khanal, "CDO sees quarantine as a jail, *Annapurna Post*, 3 June 2020 <http://annapurnapost.com/news/157607>

337 NHRC press statement, 18 May 2020

NHRC letter to the Office of the Prime Minister and Council of Ministers, 18 May 2020

## 7. Management of bodies of workers who have died in CoDs

A large number of Nepalis die during foreign employment. According to the GoN records, in the 10 years between fiscal year 2065/66 to 2019/20, a total of 7,476 Nepali workers have died of multiple reasons in the CoDs.<sup>338</sup> This number was 782 in the last fiscal year.<sup>339</sup> The Foreign Employment Board has been doing the necessary coordination work of bringing back the bodies of the workers who had gone with a labour permit and died during employment in the CoDs.

Since regular international flights shut down from 22 March 2020, the work of bringing back the bodies of Nepalis who have died in various countries has also stopped<sup>340</sup>, the number of which had increased to 406 by 10 July.

**Table 3.5**  
**Country-wise details of the Nepali workers who have died during foreign employment<sup>341</sup>**

S. no.	Employer Country	No of dead			No of consent received for cremation	No of bodies brought to Nepal and handed over to families	No of bodies yet to be brought
		Women	Men	Total			
1.=	Malaysia	0	63	63	8	38	17
2.	Saudi Arabia	1	142	143	30	53	60
3.	Qatar	2	62	64	22	38	4
4.	UAE	5	74	79	58	8	13
5.	Kuwait	6	11	17	5	8	4
6.	Bahrain	0	9	9	3	5	1
7.	Oman	0	2	2	1	1	0
8.	South Korea	0	6	6	5	0	1
9.	Others	1	22	23	14	0	9
	<b>Total</b>	<b>15</b>	<b>391</b>	<b>406</b>	<b>146</b>	<b>151</b>	<b>109</b>

338 Ministry of Labour, Employment and Social Security, Nepal Labour Migration report, 2020. As this number is only of the next to the kin who have applied for financial support before the Foreign Employment Board the number of those who died during foreign employment looks to be higher.

339 Foreign Employment Board, Annual Progress Report, 2019/20 (Kathmandu, FEB, 2019), [http://fepb.gov.np/extra\\_upload/5e900afa03c6c\\_annual%20progress2075-76.pdf](http://fepb.gov.np/extra_upload/5e900afa03c6c_annual%20progress2075-76.pdf)

340 Virtual meeting by the Study Team with the Ministry of Foreign Affairs, Ministry of Labour, Employment and Social Security, Department of Consular Services and Foreign Employment Board on 25 May 2020.

341 Foreign Employment Board, "country-wise information on the death of Nepali workers during foreign employment," (updated on 10 July 2020) Facebook Post, <https://www.facebook.com/photo.php?fbid=350173909280123&set=a.111383046492545&type=3&theater>

The Foreign Employment Board issued a notice requesting relatives of the deceased workers to allow cremation of their loved ones in the CoDs, while reasoning that it was difficult to bring back the bodies due to the impact of COVID-19 pandemic. It also information that a cabinet decision of 10 May 2020 had decided to provide a relief support of 50,000 rupees to those who agree to allow the cremation to take place in the country of death.<sup>342</sup> Following this call, as of 10 July 2020, relatives of 146 deceased workers gave government the consent to carry out the cremation abroad. Meanwhile, as of 10 July 2020, the bodies of 151 Nepalis were brought back to the country in the chartered flights that began in the mid-June 2020 to repatriate the stranded workers, following which 109 bodies remained stuck abroad.

According to international laws relating to the rights of migrant workers, arrangement should be made to bring back the bodies of migrant workers and their family members who die in the country of destination.<sup>343</sup> Though Nepal is not a state party to the Convention on Protection of the Rights of All Migrants Workers and their Family members, the Supreme Court of Nepal had mentioned the principle mentioned in the Convention that "it shall be the duty of the state of return the bodies of the migrant workers who die abroad" in a decision on a writ<sup>344</sup> filed at the apex court in relation to finding the cause of death of Nepalis in the CoDs, bringing their bodies back and carrying out the necessary arrangements. Likewise, the Foreign Employment Act, 2064 has established a legal provision stating that "To take initiative to bring back with support of the concerned country or employer the body of the workers who die of natural disaster or any other reason"<sup>345</sup> and that the labour attaché' shall be responsible for it. As some countries took the decision of immediately cremating those who have died of COVID-19 infection, it was not possible to bring back their bodies to Nepal. For example, in UAE, the government has adopted a policy to immediately cremate those who have died of COVID-19 infection following a PCR report, for which the consent of the family is not needed.<sup>346</sup> As per the decision of the UAE Ministry of Health, the bodies of the COVID-19 infected cannot be taken outside the country. Likewise, the protocol in Kuwait is to bury the body of the COVID-19 infected within 24 hours of death<sup>347</sup> while Saudi

342 Foreign Employment Board, Kathmandu notice, 11 May 2020, <http://fepb.gov.np/detail/76/suchana>, accessed on 2 July 2020.

343 Convention on the Protection of the rights of migrant workers and their families, 1990, Article 71 (1).

344 Mandamus order from the Supreme Court on 2074 Kartik 30 on the Law and Policy Forum for Social Justice and Paurakhi Nepal Vs Government of Nepal, public interest litigation, (no. 073-WO-0916).

345 Foreign Employment Act, 2064 (2007), Clause 68 (2) (e).

346 Conversation by study team with Nepali mission representatives in the UAE, 5 July 2020

347 Conversation by study team with Nepali mission representatives in Kuwait, 5 July 2020

Arabia has adopted a policy whereby the concerned agency cremated the body of the COVID-19 infected within three days of death.<sup>348</sup> But as no provision was made to bring back the bodies from countries beside those adopting such policies, the rights of the families to carry out final rites as per their custom and tradition was not respected, protected and fulfilled. This added the pain of not being able to perform the final rites along with the pain of the death of a member in the family of the deceased.<sup>349</sup> Depriving the families to carry out as per their culture, religion and tradition the final sites of their loved ones by bringing back the bodies to Nepal is also an infringement of the religious and cultural rights of the workers and their families guaranteed by the Universal Declaration of Human Rights,<sup>350</sup> international human rights conventions that Nepal has ratified<sup>351</sup> and by the Constitution of Nepal<sup>352</sup>.

Talking to the NHRC study team, GoN officials said that the bodies could not be brought back as international flights had closed and a lockdown order was imposed in Nepal.<sup>353</sup> But this was not the only reason to stop the bodies from being brought back, because despite the lockdown and closure of international flights, the body of a Nepali army personnel who died during a UN peace keeping mission in Sudan was brought back to Nepal at the expense of the UN.<sup>354</sup> Government officials also argued that it would be expensive to bring back the bodies of migrant workers who have died in CoDs in chartered flights. Various stakeholders said that it was not appropriate to cite reasons of expenses on an emotionally sensitive matter like death and not bring back the bodies<sup>355</sup> The government was not found to be concerned and effortful towards respecting and protecting the rights of the families to cremate as per their tradition and culture by seeking alternatives to bring back the bodies to Nepal. Furthermore, as the affected families were not informed about the date and time of the cremation in the CoDs, it created a confusion for the families to carry out

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348 Conversation by study team with Nepali mission representatives in the Saudi Arabia, 10 July 2020

349 Interview by study team with relatives of migrant workers who died in CoDs, July 2020  
Rudra Khadka, "More than hundred bodies struck abroad, highest in Saudi Arabia", Nagarik daily, 29 June 2020, <https://nagariknews.nagariknetwork.com/economy/257431-1593399480.html>

350 Universal Declaration of Human Rights, 1948, Article 27 (1).

351 Covenant on Economic, Social and Cultural Rights, 1966, Article 15 (1).

352 Constitution of Nepal, 2015, Article 25 (1).

353 Interaction by study team with Ministry of Foreign Affairs, Ministry of Labour, Employment and Social Security, Department of Consular Services and Foreign Employment Board, 25 May 2020.

354 "Body of Lieutenant Colonel Ridesh Bista brought to Kathmandu, Shree Airlines Jet returned from Sudan," Pahilopost, 12 April 2020, <https://pahilopost.com/content/20200412164046.html>

355 Consultation by study team with representatives of 6 stakeholder organization working in the field of labour migration, 15, 18, 27 June and 8 July 2020.

the post death rituals back home.<sup>356</sup>

In the order issued by the government to facilitate the repatriation of Nepali citizens stranded abroad, it is stated that "The Ministry of Foreign Affairs and Minister of Labour, Employment and Social Security should make arrangements during the chartered flights to bring back the bodies of the workers who died during employment that remained stuck in the CoDs after international flights were shut down due to the COVID-19 pandemic"<sup>357</sup> but the continued to make efforts to take consent of the families of the deceased workers to cremate the bodies in CoDs even though chartered flights began from June 5. For examples until the chartered flights began on June 5, the government had taken the consent of families of 85<sup>358</sup> deceased workers, which reached 97 on June 12<sup>359</sup>, 114 on June 20<sup>360</sup>, 126 on June 27,<sup>361</sup> 132 on July 3,<sup>362</sup> and 146 on July 10.<sup>363</sup>

As the government lacked a separate procedure to bring back the bodies of the workers who have died abroad and hand it over even for a normal situation, the Supreme Court had directed the government to develop such a procedure and make arrangements for dignified management of the bodies.<sup>364</sup> The management of bodies was not being carried out in a dignified way even

356 Based on the statement by Chair of PNCC in the interaction organized by the study team with stakeholders, 8 July 2020.

357 'Order relating to facilitation of the repatriation of Nepali citizens who have to return home due to the adverse situation resulting from the global outbreak of COVID-19, 2077 (2020), Clause 6 (1).

358 Foreign Employment Board Secretariat, "country-wise details of the Nepali workers who died during foreign employment (updated on 5 June 2020), *Facebook Post*, <https://www.facebook.com/photo.php?fbid=328287698135411&set=a.111383046492545&type=3&theater>

359 Foreign Employment Board Secretariat, "country-wise details of the Nepali workers who died during foreign employment (updated on 12 June 2020),, *Facebook Post*, <https://www.facebook.com/photo.php?fbid=332789817685199&set=a.111383046492545&type=3&theater>

360 Foreign Employment Board Secretariat, "country-wise details of the Nepali workers who died during foreign employment (updated on 20 June 2020),, *Facebook Post*, <https://www.facebook.com/photo.php?fbid=337861787178002&set=a.111383046492545&type=3&theater>

361 Foreign Employment Board Secretariat, "country-wise details of the Nepali workers who died during foreign employment (updated on 27 June 2020),", *Facebook Post*, <https://www.facebook.com/photo.php?fbid=342009510096563&set=a.111383046492545&type=3&theater>

362 Foreign Employment Board Secretariat, "country-wise details of the Nepali workers who died during foreign employment (updated on 3 July 2020), *Facebook Post*, <https://www.facebook.com/photo.php?fbid=345835866380594&set=a.111383046492545&type=3&theater>

363 Foreign Employment Board Secretariat, "country-wise details of the Nepali workers who died during foreign employment (updated on 10 June 2020), *Facebook Post*, <https://www.facebook.com/photo.php?fbid=350173909280123&set=a.111383046492545&type=3&theater>

364 Mandamus order from the Supreme Court on 2074 Kartik 30 on the Law and Policy Forum for Social Justice and Paurakhi Nepal Vs Government of Nepal, public interest litigation, (no. 073-WO-0916

during a normal situation, and the shortcomings and obstruction in management of bodies of those who died due to COVID-19 infection adds to the woes of the relatives of the deceased workers.

## 8. Challenges in the access to justice of the migrant workers and their families

As mentioned in various sections above, the Nepali migrant workers who were expelled from job without any prior notice citing the COVID-19 pandemic, those denied payment, deprived from health treatment and essential goods and service, subjected to forced labour and various kinds of exploitation and violence, suffered use of force and other excesses, deprived of returning home and faced various kinds of discrimination, abuse and violence upon return to Nepal had their human rights and labour rights violated. But due to lack of necessary preparation to ensure justice and compensation to those who faced such excesses, the migrant workers and their families' access to justice in the times of a pandemic looks very challenging.

The migrant workers remain as a group that has been deprived of access to justice even during a normal situation<sup>365</sup> and various studies have shown that the Nepali migrant workers have also faced huge obstructions in access to justice.<sup>366</sup> And these challenges have become more complex during the pandemic. Nepali diplomatic missions were not found inquiring with the workers before their return home if they faced any violation of their human rights and labour rights, and whether they should be provided with compensation and legal remedy, neither any documentation was carried out. Instead the Nepalis who wishes to return home were asked to click (accept) in the condition that "I ensure that I have received all benefits that I am entitled to from the employer before return to Nepal" in the online form that they had to complete, and only then the form could be submitted to be enlisted for repatriation<sup>367</sup>. As a result, the workers

365 Harkins, Ben."Access to Justice for Migrant Workers in South-East Asia", *reliefweb*, July 26, 2017 <https://reliefweb.int/report/thailand/access-justice-migrant-workers-south-east-asia>

366 United Nations General Assembly, *Report of the Special Rapporteur on the Human Rights of Migrants on His Mission to Nepal* (United Nations, 30 April 2018), <https://undocs.org/A/HRC/38/41/Add.1>

National Human Rights Commission, *Situation of the Rights of Migrant Workers*.

Amnesty International, *False Promises, 2011*.

Sarah Paoletti, Eleanor Taylor-Nicholson, Bandita Sijapati and Bassina Farbenblum, *Migrant workers' Access to Justice at Home: Nepal* (Kathmandu: Center for the Study of Labour and Mobility, 2014), <https://www.ceslam.org/index.php/books-and-reports/access-to-justice-english>

367 For example, in the registration form by the Embassy of Nepal in Qatar to Nepalis wishing to return

who were eager to return home after being stranded as a result of COVID-19 may have been compelled to accept the condition, thereby making it difficult to ascertain the number of people who are entitled to compensation for violation of their labour rights in reality. Furthermore, such details were not collected even after their return to Nepal. The Study Team had interviewed 11 workers who had return to Nepal in 2077 Jetha and Asar (mid-May to mid-July) after the repatriation of migrants workers stranded due to COVID-19 began. They shared that nobody inquired with them and no details were collected before leaving for and arriving in Nepal about any problems that were yet to be addressed concerning their employment or remuneration.<sup>368</sup> Among those interviewed by the study team, seven were those who had been removed from job unilaterally without any compensation and despite a valid contract in the CoD and those who had not been paid salary or gratuity for months of their service period. These incidents amount to the violation of labour rights of the workers and they would have been entitled to compensation including financial for such incidents. But no initiative was taken the CoD government or Nepali mission before their return home, nor by the any authorities upon return to Nepal to seek a remedy to the violation of such rights. Unless appropriate and timely attention is paid to such matters and necessary preparations are made, ensuring justice to workers and their families is likely to face huge challenges.

## **9. Major initiatives by the State for protection of the affected migrants**

The Government of Nepal and other organs of the state (legislature and judiciary) have taken various initiatives for the protecting of the human rights and labour rights of the migrant workers and their families affected as a result of the COVID-19 pandemic. This section discusses in brief about such major initiatives taken so far.

### **9.1 Major initiatives by Government of Nepal and its subordinate agencies**

As the impact of COVID-19 continued to rise across the globe, the Prime Minister made an address to the nation on 2076 Chait 7 in which he said that the government was aware of the difficulties faced by the citizens outside the country to return. Urging all to not to panic and not be concerned, he requested

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immediately to Nepal from Qatar, <https://docs.google.com/forms/d/e/1FAIpQLSdF2JmUKHWtFXonxbamrvbB7eAMb7vNodIgS5SWpkYcBe5Wkg/viewform> (accessed at 11 July 2020), only the icon reading "I ensure that the services/benefits I am entitled to as per the law from the employer has been /will be received before returning to Nepal" was allowed to click on, and the online form will not be submitted until "I agree" icon to the aforementioned statement is clicked on.

368 Interview by study team with 11 workers who returned from the UAE, Kuwait and Saudi Arabia.

them to remain in contact with the concerned diplomatic mission when necessary and remain safe where they are at present.<sup>369</sup> In another address made on 25 May 2020<sup>370</sup>, he said that the government would rescue its citizens who are in trouble, no matter which part of the globe they are, and assured that the work would begin soon by maintaining a balance between those that needs to be prioritized and the preparations made inside the country.

The Prime Minister also held telephone conversation with the heads of state or governments of Israel, UAE, Kuwait, Bahrain, Oman, Qatar, India, and Cyprus about the impact of COVID-19 on Nepali migrant workers and their protection<sup>371</sup> while the Minister for Foreign Affairs talked to his counterparts in China<sup>372</sup>, Saudi Arabia<sup>373</sup> and Australia.<sup>374</sup>

The Minister for Foreign Affairs also contacted officials in the Nepali missions in various countries and acquired information about the impact of COVID-19 on the migrant Nepalis and directed the mission officials to remain in close contact with the employer companies and governments of the concerned countries and take the initiative to ensure continuity of the remuneration and social security of the Nepali workers.<sup>375</sup>

Addressing the migrant workers abroad, the Minister for Labour, Employment and Social Security said the need for proximity with family members is felt more during difficult times, and shared that necessary home work was being done to repatriate using appropriate means the Nepali workers who wish return and are in a situation of must-return after the lockdown is

369 "Prime Minister Oli's address to the nation," Setopati, 20 March 2020, [https://www.youtube.com/watch?v="8cR8UX551W4](https://www.youtube.com/watch?v=)

370 "Prime Minister Oli's address to the nation," Setopati, 25 May 2020, <https://www.youtube.com/watch?v=88GZ3OqnYC4>

371 House of representatives meeting, Prime Minister KP Sharma Oli responding to queries raised during deliberations on policy and progammes, 19 May 2020, <https://hr.parliament.gov.np/np/video/4353>

372 "Press release on telephone conversation between Foreign Ministers of Nepal and China," Ministry of Foreign Affaires, April 13, 2020, <https://mofa.gov.np/press-release-on-telephone-conversation-between-foreign-ministers-of-nepal-and-china/>

373 "Press release on Foreign Minister Gyawali's Telephone Conversation with Saudi Foreign Minister," Ministry of Foreign Affaires, April 9, 2020, <https://mofa.gov.np/press-release-on-on-foreign-minister-gyawalis-telephone-conversation-with-saudi-foreign-minister/>

374 "Press Release on telephone conversation between the Foreign Ministers of Nepal and Australia," Ministry of Foreign Affaires, April 6, 2020, <https://mofa.gov.np/press-release-on-telephone-conversation-between-the-foreign-ministers-of-nepal-and-australia/>

375 "Press Release on Video Conference with Nepali Missions Regarding Covid-19," Ministry of Foreign Affairs, 25 March 2020, <https://mofa.gov.np/press-release-on-video-conference-with-nepali-missions-regarding-covid-19-2/>

relaxed.<sup>376</sup> Likewise, the call centres run by the concerned Nepali mission and ministries said that necessary details about the Nepali workers in trouble was being collected and urged them to contact in case of any problem.<sup>377</sup> Likewise, the government on 25 May 2020 introduced the 'Order relating to facilitation of repatriation of Nepali citizens who are in a difficult situation as a result of the COVID-19 pandemic, 2077' in order to rescue and return the Nepali migrants workers stranded abroad as a result of the COVID-19 pandemic. Based on the order, the Action Plan on facilitation of repatriation of Nepali citizens, 2077 was also endorsed.

The Government made arrangements for the return of Nepali citizens including migrants workers stranded abroad as a result of the COVID-19 pandemic. As of 15 July 2020, 28,125 Nepalis returned home from 25 different countries (see Annex 1)<sup>378</sup>. The chartered flights were also used to bring the bodies of Nepali workers who died during work in the CoDs.<sup>379</sup>

The budget estimates for the fiscal year 2077/78<sup>380</sup> mentions that necessary provision has been made to return the Nepalis who are at risk of serious health hazard and are stranded abroad due to loss of job, end of VISA term and other reasons. The annual budget also has also allocated funds for mobilizing those who have lost jobs due to COVID-19 crisis and the returnee migrant works in skills-oriented development works along with people's participation and technology.

A cabinet decision was also taken to take consent of the relatives of the workers who have died due to various reasons during foreign employment based on labour permit to carry out the cremation in the CoDs as international flights were shut due to the COVID-19 pandemic and also provide a relief

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376 Mole Ministry, "Address by Minister to the Nepali workers abroad," youtube video, 29 April 2020, [https://www.youtube.com/watch?v=emQNSA\\_\\_h-w](https://www.youtube.com/watch?v=emQNSA__h-w)

377 Mole Ministry, "Address by Minister to the Nepali workers abroad," youtube video, 29 April 2020, [https://www.youtube.com/watch?v=emQNSA\\_\\_h-w](https://www.youtube.com/watch?v=emQNSA__h-w)

"Any problem abroad? Please contact, it shall be resolved", (Interview with Secretary the Minsitry of Labour, Employmentand Social Security), Ujyaaloonline, 21 April 2020 <https://ujyaaloonline.com/story/35951/2020/4/21/problems-of-nepali-worker-in-gcc-covid-19>

378 "Details of Nepali citizens who have returned from abroad (as of 10 July 2020)", COVID-19 crishs management centre, accessed on 11 July 2020, <https://ccmc.gov.np/>

379 Foreign Employment Board Secretariat, "country-wise details of the Nepali workers who died during foreign employment (updated on 10 July 2020), *Facebook Post*, <https://www.facebook.com/photo.php?fbid=350173909280123&set=a.111383046492545&type=3&theater>

380 Ministry of Finance, "Budget statement for fiscal year 2020/21," [https://mof.gov.np/uploads/document/file/बजेट\\_वक्तव्य\\_२०७७\\_website.pdf](https://mof.gov.np/uploads/document/file/बजेट_वक्तव्य_२०७७_website.pdf)

support of Rs. 50,000 to the next to kin who consent to the proposal.<sup>381</sup>

The Nepali diplomatic missions based in various countries also made various efforts for the protection of the Nepali migrant workers impacted by the COVID-19. The missions have been disseminating information and supporting in collaboration with various organizations those who are facing problems of food and shelter. Likewise, they have also been collecting details of those who are in trouble and have to return home, while also working on classifying them. In addition to this, they have also been coordinating with various agencies of the CoDs and providing testing and treatment facility for the Nepali workers infected with COVID-19. After the government of Nepal took a decision on repatriation, the missions have been facilitating the return of those who have been granted amnesty, who have to return for post-death rituals of their relatives, the pregnant women, those who labour contract has expired or have lost jobs and must return home.

The Ministry of Labour, Employment and Social Security has formed a disaster management committee under the Department of Foreign Employment.<sup>382</sup> The objective of the Committee is reported to be to study the impact of COVID-19 on Nepali migrant workers and make recommendations to the Ministry of Labour, Employment and Social Security.<sup>383</sup> The committee meeting minutes<sup>384</sup> show that it has recommended to use the diplomatic missions abroad to raise public awareness against COVID-19 and collect data and make an estimation of the state of Nepali workers by using various sources with support of the private organizations licensed for housing and security in various countries and the Non-resident Nepalis Association. Likewise, the committee is found to have decided to send the information it received about the problems faced by the workers due to COVID-19 to the Ministry, request the families of the workers who had a valid labour permit and VISA and died in CoDs their consent to cremate them in the CoDs, and recommendation a relief support of

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381 Foreign Employment Board, Notice, 11 May 2020, <http://fepb.gov.np/detail/76/suchana>

382 Committee constituted by the Ministry of Labour, Employment and Social Security on 20 March 2020. This committee convened by the Director General of the Department of Foreign Employment comprises as members the Under-secretary at the MoLESS, the Under-secretary at the Ministry of Foreign Affairs, representatives (2 persons) of Nepal Association of Foreign Employment Entrepreneurs and representatives of Non-resident Nepalis Association. Spokesperson of DoFE is the member-secretary of the Committee which also as representative of NHRC (invitee member).

383 Virtual meeting by the Study Team with the Ministry of Foreign Affairs, Ministry of Labour, Employment and Social Security, Department of Consular Services and Foreign Employment Board on 25 May 2020.

384 Minutes of the Disaster Management Committee's decision on 23 March, 14 April, 20 April, 4 May and 19 May 2020 received by the NHRC.

200,000 rupees to the families that agree to the proposal.

The Foreign Employment Board has developed a concept paper<sup>385</sup> of rehabilitation and reintegration programme of the Nepali migrant workers who would return home after losing their job due to the impact of COVID-19. Then it carried out a study on the possible impact of COVID-19 pandemic on the Nepali workers in foreign employment and the strategic measures to be adopted to address the problem, and submitted a report<sup>386</sup> on it to the Ministry of Labour, Employment and Social Security. The concept paper and study report prepared by the Board mentions about the impact of COVID-19 on the Nepali migrant workers including loss of job, and income, problem in management of the bodies of workers who have died in the CoDs, and the additional problems faced by the undocumented, sick and the pregnant workers. It also projects the number of Nepali workers who are in a state of immediate-return to Nepal and others likely to return home. The Board has drafted the Re-integration programme (operation and management) procedures, 2076 including the various strategies to be adopted for the socio-economic rehabilitation and reintegration of the Nepali workers upon their return home, and the role of various agencies, and presented it to the Ministry of Labour, Employment and Social Security. The procedures had not been endorsed until the writing of this report.<sup>387</sup> Likewise, the Board sent that its sent through the Ministry of Foreign Affairs 8 million rupees as requested for rescue and relief of migrant workers from the Nepali missions in Saudi Arabia, United Arab Emirates, Malaysia and Bahrain.<sup>388</sup> In addition to this, it has also been coordinating the work of bringing the bodies of the workers who have gone for foreign employment with a labour permit and died due to various reasons in the CoDs, and/or seeking consent of the families of the deceased to carry out the cremation in the CoD.<sup>389</sup>

Likewise, stating that it is the duty of the state to ensure continued supply of services for safeguarding the life of women, the Ministry of Women, Children and Senior Citizens took a ministerial decision to direct through the Ministry of Federal Affairs and General Administration all the 753 local levels to make arrangement for separate room for men and women in the quarantine,

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385 "Concept Paper of the Programme related to rehabilitation and reintegration of Nepali workers in Foreign Employment who are repatriated after losing job due to Corona Virus, May 2020..

386 Ministry of Labour, Employment and Social Security, Foreign Employment Board, "Strategic measures to be adopted to address the impact of COVID-19 pandemic and subsequent on the Nepali workers in foreign employment", study report, May 2020.

387 Conversation by study team with FEB Executive Director Rajan Prasad Shrestha, 5 July 2020.

388 Written information sent in a letter to the NHRC by the FEB on 14 May 2020.

389 Foreign Employment Board, notice. 11 May 2020, <http://fepb.gov.np/detail/76/suchana>

provide specialized services for the pregnant and lactating women living in the quarantine, manage sanitary pad and other materials for women undergoing menstruation and mobilizing women volunteers and women police persons stations at the quarantine for the security of the women.<sup>390</sup>

The government has constituted a high-level coordination committee<sup>391</sup> at the federal level for prevention and control of COVID-19, while similar committees have been formed at the province, district and municipality level. These committees have been assuming various responsibilities for the repatriation of the migrant workers.

## 9.2 Efforts by the High-level Coordination Committee

The Novel Corona Virus Prevention and Control, High-level Coordination Committee formed by the Government of Nepal has taken various decisions to address the impact of COVID-19 on the migrant workers, of which the major decisions are as follows:

- To keep the Nepalis in quarantine in India and the foreigners in quarantine in Nepal for the quarantine period with respect and services as determined by the World Health Organization and as per the approved standards of the Ministry of Health and Population, and the Home Ministry to coordinate through the Chief District Officers with the counterpart officials for ensuring food and accommodation both in Nepal and India,<sup>392</sup>
- To constitute a task force led by the member of the National Planning Commission overseeing the labour and employment sector to study and make recommendations on the impact on the country's economy as result of the effect on foreign employment due to the COVID-19

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390 Circular by the Ministry of Women, Children and Senior citizens, 15 June 2020

391 Committee formed on 1 March 2020 and convened by the Deputy Prime Minister to take appropriate steps after comprehensive study and analysis of impact of Corona Virus on various sectors including public health and economy... and to take necessary full preparations and decision and implement them. It includes Ministers for Home, Foreign Affairs, Education, Science and Technology, Agriculture and Livestock Development, Health and Population, Industry, Commerce and Supplies, Culture, Tourism and Civil Aviation, and Finance and Communications and Information Technology. [https://mohp.gov.np/attachments/article/563/कोभिड%20-१९%20\(नोभल%20कोरोना%20भाइरस\)%20रोकथाम%20तथा%20नियन्त्रण%20उच्च%20स्तरीय%20समिति%20गठन.jpg](https://mohp.gov.np/attachments/article/563/कोभिड%20-१९%20(नोभल%20कोरोना%20भाइरस)%20रोकथाम%20तथा%20नियन्त्रण%20उच्च%20स्तरीय%20समिति%20गठन.jpg)

392 Novel Corona Virus Prevention and Control, High-level coordination committee, meeting no. 18, 8 April 2020 decision, <https://www.opmcm.gov.np/wp-content/uploads/2020/04/Corona-Meeting-High-Level-2076-12-25-18th.pdf>

pandemic,<sup>393</sup>

- To expedite the process of enforcement through concerned agencies the interim order issued by the Supreme Court on different occasions,<sup>394</sup>
- To make necessary arrangement through the Ministry of Labour, Employment and Social Security and the Ministry of Federal Affairs and General Administration to involve the migrant returnees and those unemployed in the country in economic activities by linking them to the Prime Minister Employment Programmes and other similar programmes,<sup>395</sup>
- To endorse the Action Plan on facilitating of the repatriation of Nepali citizens, 2077<sup>396</sup> developed to implement the Order relating to facilitation of the repatriating of the Nepali citizens who have to return home, 2077<sup>397</sup> issued by the government.

### 9.3 Efforts by the parliament and parliamentary committees

The House of Representatives Industry and Commerce, and the Labour and Consumers' Interest Committee directed the government to immediately repatriate the Nepali citizens stranded in the Nepal-India border safely and carry out necessary management works immediately.<sup>398</sup> The Committee also directed the Government of Nepal, Ministries of Foreign Affairs and Labour, Employment and Social Security to carry out necessary study on the works who have been left stranded after being removed from their job in the CoD and carry out appropriate management based on the study findings.

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393 Novel Corona Virus Prevention and Control, High-level coordination committee, meeting no. 19, 15 April 2020 decision, <https://www.opmcm.gov.np/wp-content/uploads/2020/04/Corona-Meeting-High-Level-2077-01-03-19th.pdf>. The task force includes as members one gazette first class officer each from Ministry of Finance, Ministry of Home, Ministry of Foreign Affairs, National Planning Commission, and Ministry of Labour, Employment and Social Security.

394 Novel Corona Virus Prevention and Control, High-level coordination committee, meeting no. 21, 25 April 2020 decision, <https://www.opmcm.gov.np/wp-content/uploads/2020/04/Corona-Meeting-High-Level-2077-01-13-21th.pdf>

395 Novel Corona Virus Prevention and Control, High-level coordination committee, meeting no. 21, 25 April 2020 decision, <https://www.opmcm.gov.np/wp-content/uploads/2020/04/Corona-Meeting-High-Level-2077-01-13-21th.pdf>

396 Novel Corona Virus Prevention and Control, High-level coordination committee, meeting no. 27, 29 April 2020 decision, <https://www.opmcm.gov.np/wp-content/uploads/2020/05/Corona-Meeting-High-Level-2077-02-16-27th.pdf>

397 Endorsed by the Government of Nepal, Council of Ministers meeting 25 May 2020.

398 Decision of the Industry and Commerce and Labour and Consumers' Interest Committee, 20 May 2020.

Likewise, the State's directive principle, policy and responsibilities enforcement, monitoring and evaluation committee<sup>399</sup>, the law, justice and human rights committee<sup>400</sup>, education and health committee<sup>401</sup> and the national concern and coordination committee<sup>402</sup> directed the government the government to immediately rescue and repatriate the Nepali citizens who have been facing a crisis of food, shelter and health services due to the pandemic in different countries.

A resolution of urgent public importance was registered at the House of Representatives on 11 May 2020 in order to arrange for immediate and safe repatriation of the Nepalis who have been in a difficulty situation due in the countries affected by the COVID-19 pandemic.<sup>403</sup> The resolution demanded immediate rescue, relief, rehabilitation and repatriation of the citizens who have been stranded in a foreign country after losing their employment due to the pandemic, forced out of the residence, deprived of due payment, highly vulnerable to COVID-19 infection and those who were in a foreign land for study, visit, business and other activities and stranded due to the pandemic. The proposal also recommended formation of a separate high-level mechanism for the current emergency situation, while arguing that the Nepali missions abroad alone would not be able to address the various problems of workers in the current special circumstance.

#### 9.4 Supreme Court orders

The Supreme Court issued an interim order directing the concerned authority to immediately study through the diplomatic mission or labour attaché the health status of the Nepali citizens in foreign employment in various countries where the COVID-19 pandemic has spread, carry out diplomatic communication and coordination through eh Minister of Foreign affairs to

399 Jaya Singh Mahara, "Nepalis wishing to return home reaches 588,000, 250,000 needs to be immediately rescued," Kantipur, 11 May 2020, <https://ekantipur.com/news/2020/05/11/158920882052283964.html>

400 "Parliamentary Committee tells Government: prepare to repatriate citizens, and develop long-term plans for management of the returnees," Kantipur, 5 May 2020, <https://ekantipur.com/news/2020/05/05/158868124429282079.html>

401 "Parliamentary Committee direction to repatriate students, workers abroad," Kantipur, 14 May 2020, <https://ekantipur.com/news/2020/05/14/158945778519689722.html>

402 "Directive to the Government to immediately repatriate Nepalis abroad," Setopati, 24 May 2020, <https://www.setopati.com/social/207133>

403 Resolution of essential public importance registered by House of Representative member Gagan Kumar Thapa and seconded by members Dila Sangraula and Prakash Rasaily (Snehi) to "manage the immediate safe repatriation of Nepalis impacted by Corona Virus in various countries", 11 May 2020

receive WHO standard health services/treatment without any discrimination, and make arrangements for repatriation of the highly vulnerable Nepalis in a safe, non-discriminatory, non-arbitrarily and conscious manner.<sup>404</sup> Likewise, the Supreme Court also announced another order to the government requiring it to not stop the people coming from across the border and make necessary arrangements for them including quarantine.<sup>405</sup> It has also been noted in the orders of the court that immediate steps be taken for the protection of the Nepali citizens no matter where they are in the world while paying attention to ensure that they do not face scarcity of food, shelter and medical treatment.

Likewise, the Supreme Court issued an interim order in connection with the provision in Clause 7 (c) of the order issued by the government on 25 May 2020 to facilitate the repatriation of Nepali citizens that states that among the Nepali in foreign employment in the CoDs in case of the individuals whose expenses have to be met through other resources have to meet the expenses on their own.<sup>406</sup> The interim order reads, "among the people who have gone for foreign employment with a labour permit, who have to return without completion of the contract period and those who have not received a return ticket from the CoD or employer, it is the duty of the state to rescue the individuals who have been stranded for not being able to return home on their own expense due to nature of work, income source, and those certified by the diplomatic mission or labour attaché' to be rescued and reach them to their respective destination, hence begin the rescue work immediately by maintaining a balance between the expectation of the contributors and the just use of the fund after developing a working procedure based on brief consultation with the stakeholders along with the involvement of the writ petitioner."

## 10. Shortcomings in policies and policy making

It is the duty of the state to protect the migrant workers from the risks in a current situation of a pandemic. It is basically the duty of the Country of Destination to manage food, shelter and medical examination and treatment to

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404 Advocate Som Prasad Luintel et all Vs Office of the Prime Minister and Council of Ministers, writ petition 076-WO-0940, interim order by Supreme Court on 15 April 2020.

405 Interim order by Supreme Court on three separate writs including Advocate Bishnu Luintel et all Vs Office of the Prime Minister and Council of Ministers, (076-WO-0933), Advocate Puspa Poudel et all on behalf of Supreme Court Bar Association Vs Office of the Prime Minister and Council of Ministers, (076-WO-0934), and Advocate Mukunda Adhikari et all Vs Office of the Prime Minister and Council of Ministers, 7 April 2020.

406 Advocate Som Prasad Luintel et all Vs Office of the Prime Minister and Council of Ministers, writ petition 076-WO-0940, interim order by Supreme Court on 15 April 2020.

the migrants affected by the pandemic, and protect them from the infection. Likewise, it also the major responsibility of the CoD to protect the migrant workers from human rights excesses and various kinds of discrimination including removal from work without information, termination of contract unilaterally, denying payment or full payment. However, it falls under the obligation of Nepal to check whether those basic rights of its citizens have been protected and if not address it based on the agreement signed with the concerned country, through bilateral diplomatic channel or as per international law and standards. It falls under the duty of Nepal to rescue and repatriate those in crisis by making the CoD also accountable to protect the rights of its citizens to return home. During a crisis like this, the CoD should not use the immigration law to increase risk to health and life of the migrants. Likewise, it is the duty of both the countries to protect the migrants and their families from stigmatization and violence. According to international human rights law, various ILO Conventions and bilateral labour agreements, if the migrant workers face such problems in the migration cycle their right to access to justice, legal remedy and compensation must be ensured.

The health check-up and medical treatment as per the standard soon after arrival of the migrant workers to Nepal, quarantine, safe transportation to home, psychosocial counseling and rehabilitation and reintegration falls under the obligation of the Government of Nepal. These provisions have been mentioned in the policy and plans enforced by the GoN in the context of COVID-19 as well.

The GoN has formulated and enforced different policy, strategy and plans to mitigate the impact/possible impact of COVID-19 pandemic. This also includes policy and plans targeted on the migrant workers. However, the policy and programmes were not sufficient and effective in protecting the human rights and labour rights of the Nepali workers, including the rescue and repatriation and compensation of those who had fallen into various kinds of risk due to the COVID-19 pandemic. In addition, there were shortcomings in their implementation as well, which has been briefly discussed in this section.

### **10.1 Policy and Plan: less rights-oriented and weak implementation**

As a result of the COVID-19 pandemic, Nepali migrant workers faced risk to their health and life, some lost employment and income and some were put at special risk. However, they were not support to remain protected from the possible infection in the CoDs, and no arrangement was made for

proper health service and treatment to the infected, and their employment and remuneration were also not protected. In this regard, Nepal failed to make any substantial effort to hold the government and employers of the CoD accountable as per established international human rights norms and standards and the labour agreement that it had reached with different CoDs. It had also been not mentioned in the labour agreements that the workers would not have to continue working as in normal times during a situation that puts their life at risk like the present pandemic. Likewise, sensitive efforts were also not made towards dignified management of the bodies of those who died during foreign employment.

The labour agreements reached by GoN with various CoDs had failed to mention in clear terms the responsibility of the CoDs in connection with the respect, protection and fulfillment of labour rights during a situation like the current pandemic. For example, in many CoDs, the nationality of the individuals was not made public when the number of Corona Virus infected was declared in public. As a result, the exact data of the number of Nepalis infected and who died of the infection could not be received on time, depriving the concerned worker, their families and the Government of Nepal the right to know such sensitive information. Likewise, the right of the families to carry out cremation as per their culture and tradition by bringing the bodies to Nepal in a timely manner in case of death of the Nepali workers during employment in the CoDs was also not clearly mentioned. There was no mention about holding the employer and/or country of destination accountable in fulfilling the basic needs of the workers in a crisis like COVID-19 and making necessary arrangements for their repatriation to home.

As the COVID-19 continued to spread, Nepalis who were stranded or some voluntarily wished to return home. But in the policy adopted by the Government of Nepal in this regard, a classification was made of 'those who are in a situation of must-return' and an order was issued to 'facilitate' their return. However, it did not mention about facilitating the repatriation of those who wished to return voluntarily, which showed that the government was shying away from its obligation towards those who wished to return home voluntarily.

Even though the Foreign Employment Act, 2064 has provided that it shall be the responsibility of the GoN to facilitate the rescue and repatriation of Nepali workers in the CoDs in times of a crisis like the present one, and that the required expenses should be made through the foreign employment

welfare fund and other sources, the government did not pursue any such policy. Even those who were stranded as a result of COVID-19 and those that had to be rescued by the government were asked to meet the expenses of the return ticket and for quarantine in Nepal and transportation to their respective home on their own<sup>407</sup>, which was not practical and appropriate, and also not in accordance with the foreign employment act.<sup>408</sup>

Announcing its verdict in a case filed against the government's policy, the Supreme Court issued an interim order stating, "among the people who have gone for foreign employment with a labour permit, who have to return without completion of the contract period and those who have not received a return ticket from the CoD or employer, it is the duty of the state to rescue the individuals who have been stranded for not being able to return home on their own expense due to nature of work, income source, and those certified by the diplomatic mission or labour attaché' to be rescued and reach them to their respective destination, hence begin the rescue work immediately by maintaining a balance between the expectation of the contributors and the just use of the fund after developing a working procedure."<sup>409</sup> But the government continued to repatriate the workers by making those who had become penniless after losing job or not being paid for months, and those who had not received a return ticket from their employer.<sup>410</sup> Following the Supreme Court order, a task force was constituted and a working procedure developed but it had not been endorsed as of 15 July 2020. As a result, the workers who were stranded abroad due to lack of expenses would continue to remain in the same situation.<sup>411</sup>

The Order relating to facilitation of the repatriation of Nepali citizens, 2077 introduced by the government provides that the workers returning via air should have received a health examination certificate of not being infected with COVID-19. Likewise, the action plan on facilitation of the repatriation of Nepali citizens states that the health examination certificate for returning to

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407 'Order relating to facilitation of the repatriation of Nepali citizens who have to return home due to the adverse situation resulting from the global outbreak of COVID-19, 2077, Clause 7 (c)

408 Subash Yonzon, "Government collecting contributions illegally from workers in the name of rescue, where is 6 billion of welfare fund?", Capital online, 13 June 2020, <https://www.capitalnepal.com/news/69158>

409 Advocate Som Prasad Luintel et all Vs Office of the Prime Minister and Council of Ministers, writ petition 076-WO-0940, interim order by Supreme Court on 15 April 2020.

410 Interview by study team on June 2020 with 6 of the 10 who returned from the UAE and Saudi Arabia after shutting down of company, removal from job or not paid for months, leading to them being stranded in those countries.

411 Rudra Khadka, "Air fare expensive due to procedural delay", Nagarik Daily, 22 June 2020, <https://nagariknews.nagariknetwork.com/economy/249881-1592790570.html>

Nepal should be of a test carried out within seven days of the return flight. This provision is an added burden to the already stranded workers while it is not easy to undergo a test in the majority of the country under a lockdown. Likewise, since the return flight is not certain and there is repeated cancellation/change in the date of flight, this provision does not seem practical.

Both the order and action plan to facilitate the repatriation of Nepali citizens include provisions like transportation from arrival at airport to the holding centre, from holding centre to the local level quarantine, and the provision of hotel-based quarantine or the local level quarantine, along with a work division for it. But they do not mention about who would be provide for food, water, accommodation as required<sup>412</sup> during the stay at the holding centre and during the travel from there to the quarantine. As a result it was found during the study that the people faced challenges in receiving such essential service during the travel to the quarantine, while the concerned agencies were found shying away from the responsibilities.

Likewise, the order issued by the government does not mention anything about rescue and repatriation of those stranded in India. The order and the action plan mention "Those entering Nepal from the Tribhuvan International Airport by using air route from countries other than India" and "to give flight permission to come from the third world countries except India" respectively, which is discriminator against those who have to/wish to return Nepal using the air route from India.

## **10.2 Shortcomings in data and data collection and use**

Currently the collection of details about the impact of COVID-19 on the Nepali workers outside the country and those who wish to return home is being carried out by the Nepali diplomatic missions in the respective countries through phone, email, sms, online form or the social media. Likewise, stakeholder agencies like the foreign employment board, department, Ministry of Labour, Employment and Social Security and Foreign Ministry are also working to estimate the number of workings who have to be rescued and for the purpose of repatriation. But data and details prepared accordingly were not found to be factual.

Except the working who came into contact with the Nepali missions in the CoDs on their own, exact details about the number of workers who have to

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412 Situation requiring two or more days to reach to the local quarantine from the holding centre of Nepal entry point.

return to Nepal, the undocumented workers, and their problems are not available. Furthermore, the state authorities did not make any concrete efforts to find out the condition of the workers and collect the facts. If the workers themselves or their representatives contact the mission or government agencies to provide any information and details then a record of it is maintained by the agencies failed to collect the details on their own. Furthermore, some missions informing that the workers failed complete the online form that had been prepared for them<sup>413</sup> shows that all those who wanted to share their details could not do so and hence the details of all those in trouble could not be collected. The online forms to be completed by those willing to return home had to also click and accept on conditions like "I shall bear the flight and other cost to return home on my own" or "I ensure that I have/will have received all service/benefits from my employer before returning to Nepal" for the forms to be submitted and enlisted to return to Nepal.<sup>414</sup> As a result, a large number of workers who have not been paid, who have not been provided return ticket or equivalent amount by their employer and who became penniless due to other reasons may not have registered themselves.<sup>415</sup> Likewise, a study of some of the notices issued by the missions showed that the process used could not collect the details of the problems faced by the workers. As a result, this shows that the details and number of only those who completed the online form or contacted the mission were collected. But still there was no uniformity in the details prepared by all the missions in regards to the various impact on the Nepali workers or the process they adopted for the repatriation.<sup>416</sup>

On the other hand as many CoDs did not reveal the nationality of the person while announced the number of people infected with Corona Virus, the Government of Nepal could not get the exact details about the number of Nepalis who have been infected and who died of the infection. To address this situation, no effort was made through political and diplomatic channel to

413 Embassy of Nepal, Saudi Arabia, "Notice of Embassy of Nepal relating to essential information," *Facebook Post*, 21 May 2020, [https://www.facebook.com/nepalembassysaudiArabia/posts/3221797571219975?\\_\\_tn\\_\\_=K-R](https://www.facebook.com/nepalembassysaudiArabia/posts/3221797571219975?__tn__=K-R)

414 For example, in the registration form by the Embassy of Nepal in Qatar to Nepalis wishing to return immediately to Nepal from Qatar, <https://docs.google.com/forms/d/e/1FAIpQLSdF2JmUKHWtFXonxbamrvbB7eAMb7vNodIgS5SWpkYcBe5Wkg/viewform> (accessed at 11 July 2020), only the icon reading "I ensure that the services/benefits I am entitled to as per the law from the employer has been /will be received before returning to Nepal" was allowed to click on, and the online form will not be submitted until "I agree" icon to the aforementioned statement is clicked on.

415 "Wrong step of Nepali Embassy in Qatar pushing workers into trouble," *Deshparadesh*, 8 June 2020, <https://deshparadesh.com/2020/06/10168/>

416 Details provided by the Ministry of Foreign Affairs to NHRC stating that it was prepared based on information received from the missions in CoDs, 25 May 2020.

acquire important information related to the health and life of the workers. As a result, the data documented by the Government of Nepal of those who were infected with and those who died of COVID-19 was not accurate. For example, according to the data (table 3.2) updated by the Ministry of Foreign Affairs on 6 July 2020, the number of Nepalis infected in Qatar is only 140. But on May 18, the official information of the Qatari government was made public which said that 6,911 Nepalis were infected.<sup>417</sup> Likewise, the Nepali Embassy in Saudi Arabia had informed that the number of Nepalis infected by Corona Virus was 1,364 on May 21<sup>418</sup> and though many more Nepalis were infected since then<sup>419</sup> the updated details provided by the Ministry of Foreign Affairs to the NHRC on July 6 showed the same number of 1,364 (table 3.2). Likewise, in the same details, the number of Nepalis who were infected and died of Corona Virus in the UAE and other countries was not the exact figure but an estimated number only.

The number of Nepalis who have been infected with or died of the infection of Corona Virus in the CoDs does not match with the data made public by the Non-resident Nepalis Association (NRNA), which is a member in the disaster management committee formed by the GoN and which is working in collaboration with the Nepali missions in the CoDs.

For example, according to data published by the NRNA on June 28, the number of Nepalis were COVID-19 infected in Qatar was 18,400 i.e. 20 per cent of the total population of Nepalis in the country and more than 8,000 Nepalis were infected in the last two weeks of June in the middle-east countries. But in the details made public a week later by the Ministry of Foreign Affairs shows that only 140 Nepalis were infected in Qatar and the total number of infected in the gulf, Malaysia and India was 2,693 while the total count of Nepalis infected in the world was 4,446 (see table 3.2).

Likewise, a big gap was seen in the estimated number mentioned by different government agencies about the workers who have been stranded as a result of the COVID-19 and have to return home.<sup>420</sup> For example, a report of

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417 Report of Health Protection & Communicable Disease Control of the Population and Health Ministry of Qatar received by the study team from Kantipur daily journalist Hom Karki, 19 May 2020.

418 Embassy of Nepal, Saudi Arabia, "Notice of Embassy of Nepal relating to essential information," 21 May 2020, [https://www.facebook.com/nepalembassysaudiArabia/posts/3221797571219975?\\_\\_tn\\_\\_=K-R](https://www.facebook.com/nepalembassysaudiArabia/posts/3221797571219975?__tn__=K-R)

419 A representative of Embassy of Nepal told study team on 10 July 2020 that the total number of infected in Saudi Arabia was 4 to 5 thousand, but the government has not been providing official information about it since 21 May 2020.

420 Janak Raj Sapkota, Binu Subedi, "1 million ready to return, government preparation for 25 thousand

the Foreign Employment Board<sup>421</sup> states that the number of workers who have to return is 407,000, of which 127,000 have to be immediately rescued but the number presented by the Foreign Minister in the parliamentary committee on State's directive principles, policies and obligation implementation, monitoring and evaluation was 588,000 Nepali who have to return, and 210,871 of them have to be immediately rescued.<sup>422</sup> Likewise, in the data provided by the Foreign Employment Board to the NHRC in the second week of April says that the estimated number of workers who would return immediately is 890,000 (table 3.3). But the GoN decided to facilitate the immediate return of only 24,148 Nepalis. The data of returnees from India are being collected separately by the Armed Police Force, Nepali Army, Nepal Police and various municipalities but all the data have not yet been integrated.<sup>423</sup>

In this way, lack of accuracy and uniformity in the details and data collected the GoN and its subordinate agencies deprived the migrant families and other stakeholders from the real information of the COVID-19 infected and deaths, while it also pose a big challenge in the formulation and effective enforcement of the evidence-based policy and plans for the protection, rescue and repatriation of the Nepali migrant workers.

### 10.3 Insufficient coordination and consultation

The role of various agencies of the state is important for the protection of life, and human rights and labour rights of the Nepali workers who are facing an unprecedented situation following the outbreak of Corona Virus. For this, effective coordination among the various government agencies is essential, along with additional and effective coordination and collaboration with concerned organisation and the stakeholders, which is also in pursuance to the principle of 'Whole-of-Government/Whole-of-Society' adopted by the Global Compact for Migration (GCM)<sup>424</sup> endorsed by Nepal.

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only," Kantipur daily, 30 May 2020, <https://ekantipur.com/news/2020/05/30/159080789007568192.html>

421 Ministry of Labour, Employment and Social Security, Foreign Employment Board, "Strategic measures to be adopted to address the impact of COVID-19 pandemic and subsequent on the Nepali workers in foreign employment", study report, May 2020.

422 Jaya Singh Mahara, "No of Nepalis willing to return home reaches 588,000, 250,000 needs to be rescued immediately", Kantipur daily, 11 May 2020, <https://ekantipur.com/news/2020/05/11/158920882052283964.html>

423 Interaction by study team with high-level officials including Inspector General (IGs) of Nepal Police and Armed Police Force on 17 and 25 June, 2020 respectively.

424 "The Global Compact for Safe, Orderly and Regular Migration, Global Compact for Migration, IOM UN Migration, <https://www.iom.int/global-compact-migration>, endorsed by the UN General

The government has been working in collaboration and coordination with the associations of Nepalis in different countries to provide information, food and shelter and other support to the migrant workers. Likewise, the Nepali mission and such associations are coordinating the repatriation of the Nepalis.<sup>425</sup> In addition to this, the disaster management committee formed by Ministry of Labour, Employment and Social Security includes the representation of the ministries, the NRNA and the FEAN. The committee has been study impact of COVID-19 on the Nepali migrant workers and making recommendations to the Ministry. However, the GoN has not been able to carry out sufficient inter-agency and stakeholders' coordination, collaboration and consultation in the development and implementation of the response policy and plans for the Nepali migrant workers affected by the COVID-19. For example, these stakeholders would have a very important role in the protection of life and human rights of the Nepalis abroad and their repatriation. But absence of the Ministry of Labour, Employment and Social Security in the Novel Corona Virus Prevention and Control High level Committee and statement that the concerned ministries do not have an active and direct role in the rescue and repatriation<sup>426</sup> seemed to have created more confusion.

Likewise, lack of sufficient coordination among the Ministry of Foreign Affairs, concerned Nepali mission and the Ministry of Tourism and Civil Aviation in the repatriation of Nepalis from the CoDs led to expensive charter flight ticket price, repeated changes and cancellation of flights and dates. Furthermore, as the list of Nepali workers who had to immediately return was prepared by the employers and not the missions, which showed that even the missions were not informed about the flights.<sup>427</sup> This led to the missions being blamed of weak preparation while the workers were also unhappy with the mission.

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Assembly 19 December 2018.

425 Ratopati TV, "The view with Nepali Ambassadors on the state of Nepali workers in the gulf countries", Youtube video ,10 May 2020, <https://www.youtube.com/watch?v=QF0hKfeQ03Y>

Ratopati TV, "The view with Nepali Ambassadors on the state of Nepali workers in the gulf countries", Youtube video, 18 May 2020, <https://www.youtube.com/watch?v=9fYs6kpmOA0>

Sajha Sabal Media, "Rescue of Nepalis from abroad begins, what did the ambassador say about the health test?" Youtube Video, June 5, 2020, [https://www.youtube.com/watch?v=HgcQtNi\\_ZGA](https://www.youtube.com/watch?v=HgcQtNi_ZGA)

426 "Minister for Labour, Employment and Social Security Rameshwar Raya Yadav says,- It is the foreign affairs that should repatriate the workers, tourism that should fix the air fare, we cannot direct them.", Naya Patrika daily, 15 June 2020, <https://www.nayapatrikadaily.com/news-details/45393/2020-06-15>

427 Sajita Devkota, Uma Kant Pandey, "Government plan to rescue from abroad based on priority: Nepalis as per the list of Embassy did not arrive in the first day," Ujyaalo Online, 5 June 2020, <https://www.ujyaaloonline.com/story/38318/2020/6/5/repatriation-of-nepali-worker-from-uae>

Likewise, the state agencies and stakeholders were not found to be consulted, coordinated and discussed during the development of the of the guidelines and action plan on repatriation of Nepalis. For example, two people from the NAFEA, the association of recruiting agencies, were represented in the disaster management committee but migrant workers and their families and women were not represented. Likewise, the committee also does not have participation of stakeholders working in the field of labour migration. In addition, thought the committee was mandated to study the impact of the COVID-19 in migrant workers and made recommendations to the Ministry on required COVID-19 response,<sup>428</sup> stakeholders complained and expressed dissatisfaction that they committee did not consult them during the study.<sup>429</sup>

The inter-government agencies coordination was also not very effective. For example, the local levels were not informed about when and how many returnee workers would arrive to their place, which resulted in a problem of management, as said by the local level government representatives (see in box below). As special arrangement had to be made for the people required special care like pregnant, accompanying children and those with underlying health conditions and people with disabilities, lack of such coordination would not only make the work of the local levels difficult but also add problems to the returnees.

#### **Opinion of stakeholder agencies<sup>430</sup>**

Among those returning from Dubai on May 5, one worker was from our municipality and we were not informed that the person would be arriving that day. After arriving in Nepal and spending a night at the holding centre in Bhaktapur and bringing the person the next morning up to our district border, we were not at all informed about it. All of a sudden after arriving at the border police post, we came to know only after the police informed us about it. We were not even informed whether the person was a male

428 Statement by MoLESS representative in the virtual meeting by the study team with the Ministry of Foreign Affairs, Minister of Labour, Employment and Social Security, Department of Consular Services and Foreign Employment Board on 25 May 2020.

429 Virtual interaction by study team in presence of NHRC member Sudip Pathak with United Nations Development Programme, International Labour Organization, International Organization of Migration, Safe Migration project run jointly by Swiss government and GoN, international development partners, national network for safe migration and NGOs working in the migrant labour rights sector, 5 June 2020.

430 Interview by study team with Vice-chair (name kept confidential) of one rural municipality of Bagmati Province, 10 June 2020.

or female, we were just told that "a person from your municipality has arrived, please come to receive". We sent a vehicle to pick up the person, who was a woman.

Soon after the outbreak of COVID-19, our municipality began collecting the details of people who have gone for foreign employment and are also set up quarantine facility assuming that they would return back. We are also making the required preparations for the management after the concerned individuals arrive here. But due to lack of information about who would arrive when, how many male, how many female, how many with special conditions, the management may not be as good as it should be. We wish to support the residents of our municipality at this time of crisis. And we are working day and night for it. But if there is no proper coordination from higher authorities, our management may not be good despite our much effort and labour, while those facing problems already face may have to suffer more misery.

Luckily it was just one person who arrived the other day from Dubai and since our preparation was also good it was not a problem. Now we have made good arrangements for her. But if the number of arrivals was big, with many of special condition, then it would have been difficult to make special arrangements immediately. We have one vehicle standby at our municipality, but if many people come beyond the capacity of the vehicle then we will have to arrange for another vehicle, and if it takes times then they would have to suffer for hours. These things might look petty but it may add more problems.

#### 10.4 Capacity of Missions

As a large number of Nepali workers are affected by COVID-19 in the CoDs, active role of the Nepali diplomatic missions is needed to protect their human rights and labour rights, and facilitate their repatriation. For this, they would require additional and sufficient resources (financial, human and technical) more than normal times. But the missions overseeing the major CoDs were found to be working with the existing resources and personnel even as the COVID-19 crisis exacerbated.<sup>431</sup> The capacity of the missions were not increased, instead the ambassador and officials in the CoDs said that they had to work with lesser capacity compared to the pre-COVID-19 period due to

431 Hom Karki, Jagdiswar Pandey, "Added work load for embassies in Gulf", Kantipur daily, 21 April 2020, <https://ekantipur.com/news/2020/04/21/158743921685338027.html>

the lockdown.<sup>432</sup> As the local staffers working the mission died not have an insurance coverage, they hesitated to continue working in the current situation of crisis.<sup>433</sup> As a result, the workers complained that the missions could not provide sufficient support to those facing a crisis. Workers also said that no concrete support was received when the missions were contact, except for passing over a telephone number to call and contact. Media reports also said that phone calls made to the missions were not answered<sup>434</sup>, which was also confirmed by Government of Nepal officials and the missions.<sup>435</sup>

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432 "News24 Television, Live with Ambassador about Nepalis stranded in India, Live with Labour Minister about Nepalis abroad," Programme Sidhakura Janata Sanga, News24 (Youtube Video), 3 May 2020, <https://www.youtube.com/watch?v=yUq69nDBgqI>

433 Conversation by study team with a representative of a Nepali mission in one gulf country, 10 July 2020.

434 Chandan Kumar Mandal, "Nepali Embassies' Ill-Treatment of Workers Continues Even during Pandemic, *The Kathmandu Post*, June 16, 2020, <https://kathmandupost.com/national/2020/06/16/nepali-embassies-ill-treatment-of-workers-continues-even-during-pandemic>

Umakant Pandey, "Nepalis crowd in UAE Embassy as phone calls were not received, Embassy says: have patience," *Ujyaalo Online*, 8 June 2020, <https://ujyaaloonline.com/story/38427/2020/6/8/workers-demonstrate-demanding-repatriation-embassy>

435 "Programme Corona Capsule (interview with Foreign Minister Pradeep Kumar Gyawali, *Ujyaalo Online*, 20 April 2020, <https://ujyaaloonline.com/show/6858>

"Are you facing problem abroad, contact us, it will be resolved," (Interview with MoLESS secretary Binod KC), *Ujyaalo Online*, 21 April 2020, <https://ujyaaloonline.com/desh-paradesh/story/35951/2020/4/21/problems-of-nepali-worker-in-gcc-covid-19>

Embassy of Nepal, Abu Dhabi, "Important notice about telephone contact" Facebook Post, 9 June 2020, <https://www.facebook.com/EmbassyofNepalUAE/photos/a.109823387089112/287085022696280/?type=3&theater>

## Recommendations

Based on the conclusions of this study carried out on the impact of the COVID-19 on Nepali migrant workers and their families, the following recommendations have been made to the government, private sector and stakeholders' policy, programme and their implementation in relation to the human rights and labour rights of the migrant workers including right to health and right to life, access to justice and compensation, repatriation, rehabilitation and (re) integration.

### 1. Protection of right to life and right to health

#### (a) In the Countries of Destination (CoDs):

- Government of Nepal to immediately collect details of the documented/undocumented migrant Nepali workers who have tested positive to COVID-19, who have not been able to test for COVID-19 and who have not received treatment and arrange free and as required high standard health and medical services without any discrimination;
- Take effective diplomatic measures to make the governments and employers of CoDs responsible in protecting Nepali migrant workers who are currently in various CoDs from COVID-19 infection;
- Take diplomatic measures as required to ensure that the Nepali workers returning home do so only after a PCR test;
- Take effective measures to ensure the right to health of the migrant workers with underlying health conditions other than COVID-19, including for their proper care, check-up and treatment.

#### (b) In Nepal

- Ensure that physical distance as per the prescribed protocol is maintained in the airport following arrival (of the migrant

workers) in the country and in the vehicles during their transfer to holding centers and from there to the local quarantine centers;

- Establish a provision whereby the returnees follow a mandatory 14-day quarantine and are sent home only after they test negative (to Corona Virus) through a PCR test;
- Ensure that the quarantine and isolation centers are according to the standards prescribed by the Government and provide special treatment to women, pregnant and lactating women and those with underlying health conditions;
- Provide necessary mental health service and psychosocial counseling to the returnee migrant workers.

## **2. Protection of Labour rights and welfare:**

- Take immediate necessary measures to protect the migrant workers against the violation of labour rights including unilateral cancellation of contract, forced unpaid leave, forceful termination from job, under-payment or non-payment of salary and benefits, forced labour, forcing to work for excessive hours than the standard and in hazardous condition in the COD;
- Support Nepali migrant workers who have lost their job due to Corona Virus infection or any other reason in the Countries of Destination and are willing to continue working without inviting any risk to their health and labour rights;

## **3. Rescue and Repatriation**

- Determine the prioritization of migrant workers who have to/who wish to return based on their special condition and vulnerabilities. Make arrangements to repatriate them immediately to Nepal and implement the orders of the Supreme Court on this matter;
- Make arrangements to provide air travel, transportation and food cost for the Nepali migrant workers who have been left with no savings, who have not been provided return ticket by their employer and who are undocumented, along with essential drinking water, food and accommodation (in case of two or more than two days required) during the travel home;
- Protect the rights of the migrant workers whose contract period has not expired but wish to return by annulling the contract due to the

perceived/actual risk of infection or any other excesses;

- Formulate required policies and plans to facilitate the immediate return of the Nepali workers stranded in India, and implement the order of the Supreme Court and directives from various Parliamentary Committees in this regard;
- Respect, protect and fulfill the right of the family members of the migrant workers, who have died in the Countries of Destination, to cremate their loved ones and perform death rituals as per their tradition by ensuring dignified return of the dead body and not cremating them in the CoDs against their wish. Also, implement the previous orders of the Supreme Court in this regard.

#### **4. Access to Justice and Compensation:**

- Collect and document the details and evidence to facilitate access to justice of the Nepali migrant worker whose human rights and labour rights have been violated, and make the authorities and employers in the countries of destination responsible in this regard as required;
- Hold to account the governments and employers in the CoDs and recruiting agencies in Nepal to ensure access to justice and compensation to the Nepali workers whose human rights and labour rights have been violated including by denying them their wage and payments, removing from job, forcing them to go in unpaid leave and not providing a return ticket. Adopt high-level political and diplomatic measures as required in this regard;
- Determine specific standards to provide compensation to the Nepali migrant workers who have had to return after losing their job and income but were not compensated by the employer or government in the CoDs;
- Make arrangement to compensate the Nepali migrant workers who suffered human rights and labour rights violation but paid for their own expenses to return.

#### **5. Protection of women migrant workers and those at particular risk:**

- Ensure special protection to the women workers in special condition including those who had gone/were taken through informal channel, the pregnant and lactating women and domestic workers based on their vulnerability;

- Identify the Nepali migrant workers and their families who are undocumented, with disabilities, senior citizens and with underlying health conditions and provided them special protection based on their vulnerability and needs;
- Analyze and address the problems and needs of the migrant workers, especially women who are facing/could face problems in reintegration into their family and community following their return to Nepal.

## **6. Collection, management and use of information and data**

- Maintain integrated and disaggregated database of Nepali migrant workers who have left for and returned from foreign employment to be used in preparedness and formulation of policy and programmes for essential response, protection, rescue, rehabilitation and reintegrated based on a factual analysis during times of a crisis like the present one;
- Collect the detailed information of the migrant workers who have been infected and who have died of Corona Virus, who have lost their employment and income due to impact of COVID-19, and those are facing other economic, psychosocial and social problems in the CoDs;
- Carry out regular study of the impact and changes in the labour market of the CoDs due to COVID-19 to reflect it in the related government's policy and programmes accordingly. Also formulate and implement practical policy and programmes following a study of socio-economic impact including on the employment, livelihood and skills, and (psycho) social capital of the affected Nepali workers.

## **7. Right to information**

- Ensure dissemination of adequate and timely information related to the matters of concern and needs of the Nepali migrant workers and their families during times of a crisis like the present or in other situation;
- Immediately inform the families of the migrant workers who have been infected with Corona Virus and regularly update them about their health condition;
- Inform the families of the migrant workers immediately if any migrant worker has died in the CoD and has to be cremated there itself if it is not possible to bring the body to Nepal;

- Ensure the right of the migrant workers and their families to timely and accessible information and notice related to the policies and programmes on health, employment, income, amnesty, repatriation and quarantine adopted by the CoDs and Government of Nepal in the context of COVID-19 pandemic.

## **8. Rehabilitation and reintegration**

- Make the agencies up to the community level responsible in protecting the returnee migrant workers from possible hate, stigmatization, exclusion, harassment, discrimination and abuse, and ensure the legal rights of those who fall victims to such excesses. Conduct widespread awareness raising campaigns to that end;
- Make necessary arrangement as per the wish of the returnee migrant workers who face challenges in family reunification, and facilitate accordingly;
- Make arrangements to provide necessary psychosocial counseling to migrant workers who face psychosocial problems during foreign employment in the CoDs and (upon return) in Nepal;
- Identify the migrant workers and their families who have lost their employment and income due to the impact of COVID-19 and have fallen into a debt bondage, and introduce special economic relief and rehabilitation program while ensuring their easy access to it;
- Formulate and implement effective policies and programs for immediate reintegration of the returnee migrant workers based on their skills and capacity. Ensure effective coordination between the local, provincial and federal government and concerned ministries for it.

## **9. Mechanism, Coordination and Collaboration**

- Make inter-ministerial cooperation for protection of human rights and labour rights, rehabilitation and reintegration of migrant workers affected by COVID-19 effective and implementation-oriented. For this, ensure participation of the stakeholders including migrant workers and their families in the formulation and implementation, and monitoring of the policy and programmes based on the whole-of-government and whole-of-society approach;
- Ensure adequate resources (technical, financial and human resources) for effective functioning of the Nepali diplomatic missions in countries

of destination;

- Ensure effective communication and coordination among Nepali diplomatic missions in CoDs, Ministry of Foreign Affairs, Ministry of Labor, Employment and Social Security, COVID-19 Crisis Management Committee (CCMC) and other stakeholders in the COVID-19 crisis response;
- Set up a multi-stakeholder mechanism with required authority to formulate and effectively implement short-term, medium-term and long-term policies and programs based on evidence-based study on protection of human rights and labour rights, access to justice, rehabilitation and reintegration.

## Schedule 1 List of Nepali citizens returning to Nepal until 15 July 2020

Government of Nepal  
COVID-19 Crisis Management Centre  
Chhauni, Kathmandu, Nepal

3. As of 15 July 2020, 28,125 Nepali citizens have returned home and the province-wise details are as follows. Further details about the individuals returning to Nepal from abroad can be found at the website of this Centre, [www.ccmc.gov.np](http://www.ccmc.gov.np).

S. No.	Country	Province							Total
		Province no.1	Province no. 2	Bagmati	Gandaki	Province no. 5	Karnali	Sudur Paschim	
1.	Afghanistan			18					18
2.	Australia	49	21	465	47	50	0	2	634
3.	Oman	87	36	149	86	114	9	11	492
4.	Qatar	655	552	862	385	475	50	46	3,025
5.	Myanmar	5	2	14	1	3		1	26
6.	Kuwait	1139	1315	927	659	963	159	81	5243
7.	Japan	48	10	420	163	102	2	11	756
8.	Thailand	30	6	206	23	54	2	5	326
9.	South Korea	92	28	175	73	81	9	18	476
10.	Bangladesh	70	260	371	37	68	14	21	841
11.	Malaysia	720	834	677	218	501	144	132	3226
12.	Maldives	132	29	246	139	129	9	25	709
13.	Sri Lanka			4	1				5
14.	UAE	1397	549	2001	870	1034	92	176	6119
15.	Saudi Arabia	1056	792	673	597	839	113	114	4184
16.	Singapore	20		87	8	26	3	2	146
17.	Hong Kong	15	2	54	13	4	0	1	89
18.	Pakistan	7	13	19	18	4	4	7	72
19.	Bahrain	191	68	183	134	108	7	21	712
20.	USA	16	3	344	43	13	1	1	229
21.	UK	20	1	139	36	31	1	1	229
22.	Israel	18	3	78	11	14	2	1	127
23.	China	10	5	68	10	6	4	2	105
24.	Turkey	2	0	28	4	0	0	0	34
25.	Philippines	6	17	57	7	15	3	3	108
	<b>TOTAL</b>	<b>5785</b>	<b>4546</b>	<b>8265</b>	<b>3583</b>	<b>4634</b>	<b>628</b>	<b>684</b>	<b>28,125</b>



## National Human Rights Commission

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