

# SHIFTING LABOR FRONTIERS

## THE RECRUITMENT OF SOUTH ASIAN MIGRANT WORKERS TO THE EUROPEAN UNION

Dovelyn Rannveig Mendoza

in collaboration with  
Izabela Florczak  
Rameshwar Nepal

October 2020



# TABLES, FIGURES AND BOXES

## TABLES

<b>Table 1</b> South Asia-EU Bilateral Migration Corridors with Largest Increase in First Work Related Residence Permits	19
<b>Table 2</b> Number of posted workers in the Netherlands, by nationality, 2017-2018	23
<b>Table 3</b> Recruitment Cost to Nepal	51
<b>Table 4</b> Monthly expenses of a migrant living in Poland, circa 2018	55
<b>Table 5</b> Number and Types of Complaints filed by Nepalese migrant workers related to migration to Poland, January 2018-December 2019	57

## FIGURES

<b>Figure 1</b> Total emigrant population, selected South Asian countries, absolute, 1990-2019	13
<b>Figure 2</b> Total emigrant population, Nepal and Sri Lanka, 1990-2019	13
<b>Figure 3</b> Number of south Asians living abroad, per region of destination, 1990-2017	14
<b>Figure 4</b> Main destination regions of south Asians living abroad, 2019	15
<b>Figure 5</b> Inflows to OECD by citizenship from South Asia, 2000-2017	15
<b>Figure 6</b> Inflows to OECD by citizenship from South Asia, without India, 2000-2017	16
<b>Figure 7</b> First work-related residence permits into the EU	17
<b>Figure 8</b> Work-related residence permits as a share of all permits	18
<b>Figure 9</b> First permit given to Nepalese nationals for remunerated activity, by country of destination, 2008-2018	20
<b>Figure 10</b> First work-related residence permits issued in Poland for remunerated activities by citizenship, 2008-2018	20
<b>Figure 11</b> Immigration from Poland to the Netherlands, 1995 to 2018	21
<b>Figure 12</b> Immigration from Italy to the Netherlands, 1995 to 2018	22
<b>Figure 13</b> Immigration from Spain to the Netherlands, 1995 to 2018	22
<b>Figure 14</b> First work-related residence permit issued to Nepalese Nationals in Poland, by reasons, 2008-2018	25
<b>Figure 15</b> Labor approval to Poland, 2014-2019	26
<b>Figure 16</b> Number of Type-A Work Permit issued to Nepalese Nationals, by Duration, 2010-2018	26
<b>Figure 17</b> Proportion of Work Permits issued to Nepalese Nationals by category, 2008 to 2019	27
<b>Figure 18</b> Proportion of Work Permits issued to Nepalese Nationals by sector, 2017 to first Half of 2019	27
<b>Figure 19</b> Proportion of Work Permits Issued to Nepalese Nationals, by sex, 2010 to 2019 (1st half)	28
<b>Figure 20</b> Annual GDP per capita growth, Poland and EU	30
<b>Figure 21</b> Unemployment rate of Poland, Euro area and OECD, 1991-2019	31
<b>Figure 22</b> Annual emigration from and immigration to Poland, 2003-2018	32
<b>Figure 23</b> Number of First Related Work Permits Issued to Ukrainians, top ten countries, excluding Poland	33
<b>Figure 24</b> Number of First Related Work Permits Issued to Ukrainians, top ten countries, excluding Poland	33
<b>Figure 25</b> Percent change between 2017 and 2018 in First Work-related Permits Given to Ukraine, highest increase	34
<b>Figure 26</b> Number of registered Recruitment Agencies (RA) and Temporary Work Agencies (TWA) in Poland, 2010-2019	35
<b>Figure 27</b> Number of Labor Approval for Nepalese workers to Poland, Recruitment Agency vs Individual route, absolute, 2014-2019	37
<b>Figure 28</b> Labor approval for Nepalese workers, 2013-2019	38
<b>Figure 29</b> Labor approval for Nepalese workers, 2013-2019, by destination country, absolute	38
<b>Figure 30</b> Labour approval for Nepalese workers, 2013-2019, by destination country, relative	39
<b>Figure 31</b> Administrative steps required in individual recruitment process	41
<b>Figure 32</b> Administrative steps required in agency-mediated recruitment process	42
<b>Figure 33</b> TWAs and RAs controlled by Labor Inspectors (Nepal)	47
<b>Figure 34</b> A Three-Tiered Labor Migration System	48
<b>Figure 35</b> Fertility rate (births per woman) in major origin and destination countries, 1960-2018	62
<b>Figure 36</b> GDP per capita, PPP (current international \$), 1990-2018	63
<b>Figure 37</b> GDP per capita, PPP (current international \$), 1990-2018	63
<b>Box 1:</b> ‘Cheap labor’ or Cheap jobs?	60

# TABLE OF CONTENTS

<b>TABLES, FIGURES AND BOXES</b>	<b>1</b>
<b>EXECUTIVE SUMMARY</b>	<b>3</b>
<b>I. INTRODUCTION</b>	<b>9</b>
<b>II. EMIGRATION TRENDS FROM SOUTH ASIA TO THE EU</b>	<b>12</b>
A. Long-term emigration trends from South Asia	12
B. Recent South Asian migration trends towards OECD countries	15
C. Work-related migration to European countries and duration of stay	17
D. Preliminary evidence for secondary migration of workers	21
<b>III. THE NEPAL-POLAND LABOR MIGRATION CORRIDOR: A CASE STUDY</b>	<b>24</b>
A. Overview on Migration Trends	24
B. Reasons Behind the Shifting Migration Patterns	28
C. The Recruitment Process on Paper: Two countries, Two Systems	39
D. The Recruitment Process in Practice: Parallel Corridors in a Three-Tiered Labor Migration System	45
E. The Route of Broken Contracts	49
F. A Valiant Quest for Permanence Means Moving Again	56
G. The Role of Trade Unions	58
<b>IV. FUTURE MIGRATION SCENARIOS</b>	<b>59</b>
A. Long-term structural drivers of labour migration	59
B. Recruiters, migration policy and the evolution of social networks	64
<b>V. RESISTING 'DIVIDE AND RULE': towards a research agenda recognizing migrant workers as workers</b>	<b>65</b>
<b>WORKS CITED</b>	<b>67</b>
<b>ANNEX</b>	<b>70</b>
<b>SUPPLEMENTARY FIGURES</b>	<b>70</b>
<b>CASE STUDY POLAND</b>	<b>81</b>
<b>CASE STUDY NEPAL</b>	<b>123</b>

# EXECUTIVE SUMMARY

## AIMS AND METHODOLOGY

This study explores the recruitment, employment and living conditions of Third Country Nationals (TCNs) from South Asia working as temporary migrant workers within the European Union (EU), with a special focus on Nepal as a country of origin and Poland as country of transit and destination. It reviewed relevant research and policy literature, developed analyses using primary migration data and documents, and elicited feedback from various stakeholders in the public and private sectors, both in Nepal and Poland, and directly from Nepalese migrants themselves. Ultimately, this study aims to present a research agenda that could inform and strengthen the role of trade unions and migrant organizations in better protecting the rights and improving the welfare of TCN workers in the EU.

## COMMISSIONING ORGANIZATION, RESEARCH AND REVIEW TEAM

The Federatie Nederlandse Vakbeweging (FNV) Mondiaal commissioned this study. The author is the principal investigator. She designed the research, and data collection templates and conducted the overall and comparative analysis of data. She worked with Izabela Florczak of the University of Lodz and Rameshwar Nepal of Equidem Research and Consulting who provided legal and regulatory expertise, conducted the focus group discussions and in-depth interviews, collated administrative data and wrote background case studies for Nepal and Poland, respectively. FNVs Wilma Roos and Imke van Gardingen and International Institute of Social History's Leo Lucassen provided valuable feedback on the research design, interview protocols and the final draft.

## GENERAL FINDINGS

**Continued TCN immigration despite EU enlargements.** The persistent presence of TCNs in the EU reflects a structural feature of European labor markets: the continuous eastward and southward expansion of the European 'labor frontier'. The creation of the EU in 1992 and subsequent enlargements (particularly in 2004) shifted Europe's labor frontier more firmly into the east as labor migrants from the EU's new member countries in Central and Eastern Europe (CEE) moved to Western European countries in search of work. At the same time, southern European countries, former labor exporters themselves, turned into important destination countries in their own right.

However, labor migration from across Europe's borders (such as from North Africa) continued as well as other migrations fueled by colonial and historical ties. These continued TCNs migrations have been facilitated by the recruitment of migrant workers to support a growing, changing and segmented dual economy where migrants dominate the 'secondary' labor market characterized by low wages and poor working conditions.

**Increasing South Asian immigration.** Today, the European labor frontier is showing signs of yet another shift, however with a different character. Analysis of available statistics and administrative data in this study suggests an increasing prominence of South Asian TCN migration to the EU. Although still limited in absolute numbers, there is evidence of growing migration of workers from Nepal, Pakistan, Bangladesh and Sri Lanka to the EU. Many of these migrants enter on temporary work permits into the EU with numbers particularly increasing after 2017. South Asian migrants are primarily entering the EU via countries that are geographically in the periphery of Europe, particularly to Poland, as well as in the Czech Republic in the East, and to Malta, Portugal, Spain, Cyprus and Italy in the South. This reflects the increasing transition of these countries into destination countries and their seemingly declining potential as sources of migrant workers for northwest European countries.

**Nepalese: a fast-growing group.** Although absolute numbers are still relatively small, this study highlights that the Nepalese are the fastest growing South Asian labour migrant group in the EU. While Polish firms have recruited thousands of Nepalese workers in the past few years, Nepalese labour migration to various other European countries has been growing in recent years. Labour migrants from Nepal have also been moving in an increasing rate to Romania, Croatia and Czech Republic.

**Secondary migrations.** While eastern and southern European countries are increasingly becoming labour migration destinations in their own right, some South Asian migrant workers seem to see some of these countries as ‘ports of entry’ from where to move to other destinations in the EU. Preliminary analysis using official data on immigrants’ countries of birth and countries of origin for the Netherlands, suggests that there has been limited of such ‘secondary migration’ from Poland to the Netherlands as yet. The number of TCN migrants posted in the Netherlands from other EU Member States doubled between 2018 and 2019 but Nepalese migrants are not yet reflected in the figures. By contrast, immigration data for southern European countries such as Spain and Italy give evidence that many TCNs legally enter such countries with the intention to migrate to the Netherlands or other West European countries. There is a real possibility that such patterns of secondary migration from Poland and other Eastern European countries to the Netherlands may gain more importance in the future. Further research is therefore needed to know to what extent such patterns of secondary migration are emerging particularly with regards to South Asian migration. However, what is clear from this study is that migrants’ primary intention is generally to enter the EU rather than targeting a specific country.

**A tendency towards semi-permanent settlement.** Low rates of return and circulation strongly suggest that South Asian migrants in the EU have a strong intention and tendency to stay. This is supported by interviews in Nepal that show that South Asian workers consider migration to Europe as a long-term investment in the future of their families, generally revolving around the intention to settle in the EU. This suggests that a longer-term process of semi-permanent settlement is taking place, which increases the potential of this migration and also gain its own momentum through the migration-facilitating workings of social networks.

## FINDINGS ON THE POLAND-NEPAL LABOR MIGRATION CORRIDOR

A more detailed analysis of the Nepal-Poland Corridor provided indications of the factors that may explain these recent regional trends, including labor market dynamics, processes of recruiting and hiring of migrant workers and the central role that various intermediaries play in the recruitment process.

**Shifting numbers: Rapidly shifting trends.** Data on first work-related residence permits and border crossings recorded in Poland suggest that around 6000 Nepalese workers arrived in Poland between 2017 and 2018. In 2018 over 20,000 permits were issued. The discrepancy between work permits issued and actual migration suggests that labor demand outmatches the capacity of Polish and Nepalese authorities to facilitate and process migration permits. There has been an increasing predominance of lower skilled workers over the last few years, as opposed to migrations up unto 2016 when a few hundred Nepalese IT specialists came to Poland. Nepalese labour approval data gives further evidence that labour migration from Nepal to Poland has recently started to decrease, reflecting a reorientation of EU-bound Nepalese emigration from Poland to new destinations in Southern Europe as well as Romania. Despite the recent decrease in Nepalese migration to Poland, an increasing proportion of work permits issued have longer-term contracts, reflecting a preference of employers to retain the Nepalese workers already in Poland in light of the difficulty of hiring new workers directly from Nepal. This could possibly herald a new phase of increasingly long-term settlement of Nepalese labor migrants already in Poland reminiscent of past experiences with ‘temporary’ migration.

**Explanations for increasing Nepalese immigration to Poland.** There are three interrelated factors that seem to explain the dramatic surge followed by the decline in recruitment of Nepalese workers to Poland all in a span of a few years:

- **Characteristics and aspirations of Nepalese migrant workers.** The study revealed that Nepalese labor migrants heading to Poland see themselves as future EU citizens, and not just temporary migrant workers. Workers who are motivated and have the resources to migrate all the way to Poland, and bypass geographically closer or more popular destinations, such as Saudi Arabia, UAE and Malaysia, are not just looking for a job per se, but are looking for a better job and long-time prospects for their families. Migration from Nepal to Poland is generally not a migration driven out of desperation but a deliberate search for better opportunities benefiting not just the migrants but also his or her family. Long-distance migration to European countries such as Poland is a family investment requiring significant resources, which also explains why migrants do not wish to return even when facing considerable adversity and exploitation. In making the decision to migrate, prospective and current migrants from Nepal therefore carefully weigh the benefits of moving to Poland as opposed to staying put in Nepal or moving to other destination countries.

- **Future prospects:** Poland as a destination of TCN workers. Nepalese migrants' aspirations to settle in the EU has found its way in Poland's shifting labour market characterized by deepening labour shortages brought about by rapid economic growth, that both experts and practitioners alike anticipate to only increase over time. Since joining the EU in 2004, the Polish economy has been growing at an average rate of 4.1 percent per year, and has continued posting positive growth even during the height of the global financial crises that began in 2007, defying the EU-wide trend. If the Polish economy keeps on growing on its present or at least moderate rates, such labor shortages could only grow more substantial in the coming years. Furthermore, Poland may not be able to supplement its labor force the way it had over the last decade by recruiting workers from neighboring countries, primarily from Ukraine and, to a lesser extent, Belarus. This may increase its long-term dependence on non-European sources of TCN labor, such as Nepal and other South Asian countries.
- **The crucial role of recruitment.** Besides migrant aspirations and labour shortages, the active role of recruitment agencies (RAs) and temporary work agencies (TWA) in Nepal and Poland plays a crucial role in increasing migration in this corridor, since RAs and TWAs find and connect prospective Nepalese migrants to Polish employers. The recruitment of Nepalese workers occurs in a framework of increasingly 'flexible' labour markets, meaning that governments in both countries left the recruitment and hiring of workers, including migrant workers, largely in the hands of the private sector and reduced the government role to regulators. As a consequence, the number of registered TWA and RAs in Poland has increased from less than 100 in 2010 to over 3500 by 2019. TWAs and RAs have therefore played an increasingly important role in driving labour migration through their rapidly expanding and pervasive presence in matching workers with employees and their operation across multiple migration corridors.

**The complexity and lack of coordination of regulatory frameworks.** Many governments worldwide that send and receive significant numbers of migrant workers have created regulatory regimes and administrative systems, of varying sophistication and complexity, to govern the hiring and recruitment of migrant works as they cross international borders. Poland and Nepal are no exceptions. Both countries implement a complex of rules and regulations stipulating how migrant workers can be recruited from abroad, including the terms and conditions of their employment. Beside the various conditions set by the Polish government, prospective Nepalese workers to Poland also must obtain a permission from the Nepalese government to leave the country. Yet since there is no coordination between Nepal's exit policy and Poland's entry and stay policy, Nepalese migrants and Polish employers must learn to navigate a disjointed and onerous border recruitment system involving multiple steps, actors and institutions located in Nepal and Poland as well as the Polish embassy in New Delhi and the Nepalese embassy in Berlin.

**Migrants' dependency on intermediaries.** This convoluted recruitment system has therefore, by its very design, increased migrant workers reliance on intermediaries, along with their chances of being misinformed or exploited. The recruitment process as envisioned by government regulators involves only three main actors: (1) the migrant, (2) the employer in Poland and, for those taking the recruitment agency-mediated route, (3) the recruitment agency in Nepal. In reality, though, there are many more actors involved in the migration process, creating additional layers of intermediaries and an overall lack of transparency of the process for migrants, employers and regulators alike. Migrants who use the individual route have generally used informal agents to find employers in Poland. Similarly, RAs in Nepal rarely work on their own, but also use a host of mostly informal sub-agents or brokers to find prospective migrants. Such sub-agents – essentially the middlemen for the middlemen – are not formally connected to the RAs they work with and are rarely accountable to the agencies or the migrants they eventually help to deploy.

**The emergence of interconnected networks of parallel migration corridors.** Aside from their vital role in finding and matching workers with employers, this study has highlighted that RAs and TWAs operate across multiple corridors, which facilitates rapid geographical shifts in the orientation of new migration flows. TWAs and RAs in Poland have recently turned their interest into Nepal, but also equally to other South Asian countries such as India, Pakistan and Bangladesh. Likewise, RAs in Nepal sending migrants to Poland are also equally active in other EU destinations such as Romania, Cyprus and Portugal. Indeed, agencies in various origin *and* destination countries are part of an interconnected network of parallel labour migration corridors. Agencies divert flows to specific corridors depending on what they consider as most efficient, fastest and, ultimately, most profitable. What determines the efficiency, speed and profitability of a specific corridor depends on various factors, particularly government regulations and their implementation as well as the realities of actual demand and supply dynamics in labour markets.

**A shift away from Poland?** RAs and TWAs are responsive to changes in the labour market and in government regulations. If there are problems in specific corridors, such as difficulty in getting a work permit, RAs and TWAs will move to different corridors or create new ones as needed. Indeed, an analysis of data on labour approval in Nepal for countries other than Poland may give evidence of such a shift. The decrease in Nepalese labour approval for Poland has been counterbalanced by a similar increase in labour approval to other destinations in the EU, which offers comparable benefits in terms of potential access to permanent residency in the EU. Interviews with key informants in Nepal and Poland indicate the possible beginning of a shift to these other corridors, particular to Romania. However, more research is needed whether this shift away from Poland is temporary or structural, and to what extent the Nepalese migrant workers already present in Poland will settle permanently, potentially enabling continuing migration through family networks.

**The challenges of implementing regulatory frameworks.** Without significant investment in governments' implementation capacity, the system cannot be fully implemented creating significant backlogs, which may create incentives to shift from formal to informal recruitment methods. For instance, Nepal's embassy in Berlin has begun to limit the number of attested labor demands because it did not have resources, both financial and manpower, to undertake such rigorous assessment. Further, interviews with migrants and informants suggest that the processing of the entry visa at Polish Embassy in New Delhi is suffering from a serious backlog. Maintaining the integrity of the system also requires capacity in the form of effective monitoring systems that ensure that actors abide by the rules. The more the number of actors and agencies has increased, the more difficult the inspection process has become. For instance, in Poland, although there has been an increase in agencies controlled by national labour inspection, government offices face great difficulties in managing the administrative aspect of immigration. Inspection is even made more difficult as introductions to agents and subsequent transactions have increasingly moved to the Internet, particularly through social media, making actors hard to trace and prosecute.

**A three-tiered labor migration system.** These fundamental deficiencies and gaps in the regulation of migrant worker recruitment within and across borders have created a three-tiered labor migration system. The top tier is an organized labor migration flow based on contracts that follow to the letter the regulatory guidelines of both origin and destination countries. Lurking just beneath it, however, is a much larger second tier where movements are based on what can be described as "broken contracts" characterized by many irregularities including a lower wage than legally allowed or stated in the contract, a different job, and reduced or foregone benefits. The third tier includes those who bypass the regulated labor migration channel altogether and travel using other admission routes, such as the use of tourist visas and smugglers. Although the third tier gets most attention in both academic and policy circles, the second tier of "broken contracts" maybe more significant. Indeed, interviews with migrants and key informants suggest that Nepalese migrants face six key problems while in Nepal and upon arrival in Poland.

- **Prohibitive recruitment costs and expensive pre-departure loans.** The Nepalese government has put limits on how much RAs can charge migrants and this limit differs per destination. For Poland, the government set the maximum allowed amount at NPR 80,400 (606 EUR). Interviews with migrants and key informants suggest that recruiters generally ask around NPR 940,000 (7,085 EUR) or 12 times more than the maximum allowed fee. To put this amount in the European context, using GDP per capita as a benchmark, this would be the equivalent of a citizen from the Netherlands paying some 139,000 EUR in recruitment fees. Migrants are generally aware that the fees are way above what is considered legal, but many choose to pay anyways, particularly because of the considerable long-term benefits they see in migrating to the EU. In comparison, the Nepalese market rate fee for migrating to Poland is between five to 13 times higher than the fee required to migrate to GCC countries and Malaysia, reflecting its value as a destination. The interviews showed that migrants eyeing for particular destinations are aware of the ongoing "market rate" and that they are willing to pay as long as the rate is within what is seen as an acceptable range. Migrants rationalize the huge recruitment cost by considering expected benefits of migration to Poland, particularly with regards to the opportunity of bringing family and settling in the EU coupled with the belief that future salaries will compensate for the initial recruitment costs. To be able to pay these huge recruitment fees, many migrants borrow money from relatives, friends and moneylenders while others sell property and other valuables.
- **The staggered payment system.** What is even more troubling than the cost of recruitment per se is the staggered way migrants pay these fees, and the abuse and exploitation this can facilitate. Given the prohibitive recruitment fees, migrants rarely cannot and would not want pay in full upfront. Agents usually ask for an advance



fee to start the recruitment process. Migrants then pay more as the process progresses, with the final payment typically due just before departure to Poland. Agents promote this “pay-as-you-go” system because they know that migrants who have put down some money will have a lower chance of backing out or using the services of another recruitment agency. Staggered payments also mean that migrants only pay as and if the recruitment process moves along, thus lowering the monetary risks involved for migrants. Yet this also enables agencies to ask for more money than initially agreed or introduce new arrangements at the last minute, or to hold on to documents until agreed or extra payments.

- **Non-existent jobs.** For some of the migrants, the problems continue after arriving in Poland. Some of the migrants interviewed, particularly those who working under a TWA, had no jobs upon arrival. They technically have an employer on paper, which is the TWA, but, upon arrival, the TWA still had to find actual jobs for them to do. And without a job, migrants do not get paid. Those who manage to get jobs through the TWA reported from moving from one short-term job to another, with little or with no pay.
- **Weak contracts.** Other migrants who arrived in Poland with an employer found out that the contracts they signed did not provide job security and are designed in a way to circumnavigate government regulations without technically breaking the law. This particularly involves the use (or abuse) of civil law contracts to hire Nepalese workers. As these are based on civil law, and not the labor code, these contracts do not offer standard protections against dismissal nor other benefits such as paid leave, thus offering very unfavorable terms to migrant workers.
- **Underpayment.** Nepalese migrants often receive a lower salary than what was promised in Nepal as well as reduced or foregone benefits. Despite their meager salaries, migrants still try to save money as much as they can to support their families back home and to pay back the recruitment fees.
- **Uncertain access to long-term residency.** There is a concern among migrants that employers are not doing enough to translate their temporary work and residence contract into more long-term arrangements that could eventually lead to permanent residency. Some migrants complain that agents continuously apply for a 3-month residence permit extension because it keeps them dependent on the agent. Without a longer-term residency permit, it is more difficult to move to another job or location. An even larger concern is that migrants are not sure if their agents or employers are actually filing the appropriate documentation to keep their immigration status in Poland legal.

**‘Broken contracts’ and the determination to stay in the EU.** Migrants who found themselves holding these ‘broken contracts’ try to find a way to improve their working and living situations not by staying within the same employer or filing a complaint with government authorities but by continuously moving on: leaving one job after another until either their money, patience, luck or faith runs out. The paths to permanent residency are as many as there are migrants, and so are the outcomes. Some eventually meet employers who are willing to offer satisfactory jobs and living arrangements while providing a clear path to permanent residency. Others would not be as lucky and would eventually choose to leave Poland and return to Nepal burdened with an enormous debt. While still more will have remaining resources to finance their move from Poland to another country in the EU to find better options and start all over again. Recently, for instance, Nepalese migrants intending to leave Poland in search for better jobs and higher chance for gaining permanent residency are likely to go to Portugal. For most migrants, the goal remains as clear as when they left Nepal: gaining a permanent residency anywhere in the EU.

Trade unions have taken note of these issues, particularly in Nepal, where a number of activities targeting migrant workers have been implemented with a focus on increasing the number of migrant workers in unions and integrating them into leadership structures, providing various types of training and strengthening cooperation with Nepalese recruitment agencies.

## LOOKING INTO THE FUTURE

**New sources and new destination:** The EU is at the early stages of the evolution of new migration corridors linking European destination with new ‘labour frontier’ countries in South Asia, as well as other emerging origin regions such as sub-Saharan Africa. In particular, the emigration potential of low-income countries in these regions, such as Nepal, Pakistan, Ethiopia and Nigeria seem to be increasing – particularly if large origin-destination income gaps are combined with still youthful populations, increasing education and skills and access to resources to engage in long-distance migration. With regards to intra-European migration, fast economic development, increasing wages and falling unemployment in CEE countries such as Poland and Romania are likely to further decrease the emigration



potential of these countries, while Ukrainians and citizens of other former Soviet states may still be attracted to West European labour markets although at a decreasing rate than anticipated. Given these trends, it is likely that a larger share of TCN immigrants will be of non-European origin, irrespective of actual levels, specific patterns, as well as business-cycle driven fluctuations in immigration flows.

## CONCLUSION: SETTING A RESEARCH AGENDA

**Resisting 'Divide and Rule' and Recognizing Migrant Workers as Workers.** There is a unique opportunity to set a research agenda that recognizes the realities and complexities of migration to the EU and builds on the insights that can be gathered from this study. The following four key research areas remain under-researched and require further attention:

- **Labor Migration via EU's Periphery:** As shown in this study, available data gives evidence of increasing migration of South Asian workers to the EU entering on temporary work permits via countries that are in the geographical periphery of the EU. It is important to improve understanding of the dynamics behind the labour movements along these emerging and interrelated corridors, including how the use of particular routes and recruitment mechanisms affects migrant workers welfare and working conditions.
- **Secondary migration within the EU and the quest for Permanence:** The study's findings also expose the limited knowledge on the extent and nature of 'secondary migration' or transit migration within the EU, particularly on secondary migration originating from the EU's periphery. Further research is needed especially given the evidence in this study that migrants' primary intention is generally to enter the EU rather than target a specific country and more importantly to gain permanent residence.
- **"Broken Contracts" in a Three-Tiered Labor Migration System:** This study also showed that it is crucial to improve understanding of how, to what extent and under what conditions, migrants' contracts are frequently 'broken' in the EU, and in which ways governments and other actors, especially trade unions, can improve the effectiveness of recruitment regulations. Central to this question is achieving a better understanding of exactly how convoluted and disjointed recruitment systems increases migrant workers reliance on recruitment agencies, along with their chance of exploitation, as well as how it incentivizes all actors—agencies, employers, government officials and even migrants themselves—to game and undermine the recruitment system.
- **Europe's own version of the "Kafala" system?** Another key observation of this study is how the complexity of migration systems makes migrants vulnerable to exploitation even when rules are respected. For instance, the current set of rules making it difficult to change employers are practices which has some key features in common with the 'kafala system' recruitment practices of Gulf states, which also binds a migrant worker to an individual sponsor, called the *kafeel*, for their contract period. In some cases, workers in the Gulf even enjoy better entitlements than TCNs migrants in the EU such as, for instance, the security of obtaining longer-term contracts lasting at least two years. Indeed, discussions on migrant exploitation in the EU is mostly framed on how migrants are "exploited" by employers (and recruiters) but rarely highlight how the rules themselves, though legal, can be exploitative in themselves.

Far from disjointed lines of inquiry, these four research areas are connected by a single purpose: to ensure that in the EU, migrant workers' rights and experiences are guaranteed at an equal footing with native workers. Migrant workers are workers. Interventions should ensure that migrant workers will not get downgraded to second-class workers and do not serve to 'divide and rule' the working class.

# I. INTRODUCTION

Nearly 30 years ago in 1992, the 12 members countries of the then European Community (EC)—Belgium, Italy, Luxembourg, France, Netherlands, West Germany, Denmark, Ireland, United Kingdom, Greece, Portugal, and Spain—signed the Treaty of Maastricht forming the basis of the European Union (EU) as known today. The treaty established the freedom of movement for all EU nationals and introduced the concept of a common European citizenship. After the fall of the Berlin Wall, the pace of enlargement picked up, adding 16 more members. Austria, Finland and Sweden joined the Union in 1995 and in 2004, it expanded to include Cyprus, Malta, and eight former Communist countries in Central and Eastern Europe—the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia. Bulgaria and Romania acceded in 2007 while Croatia joined in 2013.

Results of Eurobarometer<sup>1</sup> surveys highlight the tremendous value European citizens place on freedom of movement. Although intra-EU mobility has been increasing especially in recent years, Third-Country Nationals (TCNs), a term used to refer to non-EU nationals living and working within the EU, still continue to represent a sizeable portion of foreign citizens in the EU. Indeed, according to Eurostat, the statistical office of the EU, of the 60 million foreign citizens living in the EU in 2018, the majority are TCNs. The TCN population has remained a significant proportion of the EU population, outnumbering EU foreign citizens since 1992 and remaining significant despite every after enlargement. The internal opening generated increasing, but lower-than-anticipated, volumes of intra-EU migration across Europe (although some countries such as the UK, Ireland East-European inflows were rather high<sup>2</sup>) and, more importantly, it did not coincide with a systematic decrease of immigration of TCNs. Quite on the contrary, TCN immigration has continued and even shown a consistently increasing trend<sup>3</sup>. For instance, in recent years, South Asian countries, and Nepal in particular, has been developing into new sources of migrant workers moving to the EU potentially unlocking a significant future emigration potential.

The persistent presence of TCNs despite enlargement reflects what has always been a structural feature of European labor markets going much further back than the establishment of the current EU: the recruitment of migrant workers overseas to support a growing and changing economy. After the Second World War, the industrial core of Western Europe which included (West-) Germany, northern Italy, Switzerland, Austria, France, Belgium, the Netherlands, Luxembourg, the United Kingdom, Denmark and Sweden recruited many migrant workers from less developed countries in the Mediterranean region particularly from Portugal, Spain, Italy, former Yugoslavia and Greece. There was also a substantial labor migration from Ireland (to the United Kingdom) and Finland (to Sweden.) From the 1960s, as most of these countries entered their own migration transitions and became destinations themselves as a result of ageing and economic growth, German, Belgium, Dutch, French and Scandinavian employers started to increasingly recruit workers further east into Turkey and further south of the European border to Morocco, Algeria and Tunisia as well as from particular former colonies, such as Senegal and Mali (to France) and the Caribbean (to the United Kingdom)<sup>4</sup>.

## THE SHIFTING EUROPEAN LABOR FRONTIER

Indeed, the recent expansion of the 'European core' in the Post War years have coincided with and arguably was made possible by a similar expansion of Europe's 'labor frontier' - the imaginary line separating emigration from immigration countries<sup>5</sup>. The creation of the EU in 1992 and subsequent enlargements, particularly in 2004 (when 10 new, mainly former Communist) countries joined the EU), shifted Europe's labor frontier more firmly into the east as many labor migrants from the EU's newly expanded eastern periphery moved to Western European countries in search of work. However, as part of that process, several of these Central Eastern European (CEE) countries also

<sup>1</sup>Eurobarometer is a series of public opinion surveys conducted regularly on behalf of the European Commission since 1973. These surveys address a wide variety of topical issues relating to the European Union throughout its member states

<sup>2</sup>See for instance, Galgóczi, Béla, and Janine Leschke. "Intra-EU labor mobility: A key pillar of the EU architecture subject to challenge." *International Journal of Public Administration* 38.12 (2015): 860-873; Ritzen J., Kahanec M. (2017) EU Mobility. In: Ritzen J. (eds) *A Second Chance for Europe*. Springer, Cham; Anzelika Zaiceva, Klaus F. Zimmermann, Scale, diversity, and determinants of labour migration in Europe, *Oxford Review of Economic Policy*, Volume 24, Issue 3, Autumn 2008, pp 427-451.

<sup>3</sup>de Haas, Hein, Simona Vezzoli and María Villares-Varela. (2019). *Opening the floodgates? European migration under restrictive and liberal border regimes 1950-2010*, University of Amsterdam: International Migration Institute; Farchy, E. (2016), "The Impact of Intra-EU Mobility on Immigration by Third-Country Foreign Workers", OECD Social, Employment and Migration Working Papers, No. 179, OECD Publishing, Paris, <https://doi.org/10.1787/5jlwxbzbr5-en>.

<sup>4</sup>See de Haas, Hein, Simona Vezzoli and María Villares-Varela. (2019). *Opening the floodgates? European migration under restrictive and liberal border regimes 1950-2010*, University of Amsterdam: International Migration Institute; Lucassen, J., & Lucassen, L. (2018). *Vijf eeuwen migratie: een verhaal van winnaars en verliezers*. Atlas Contact; de Haas, H., Castles, S., & Miller, M. J. (2020). *The Age of Migration: International Population Movements in the Modern World*. Guilford Press.

<sup>5</sup>R. Skeldon (1997) *Migration and Development: A Global Perspective*. Routledge.

started to attract migrant workers in their own right. This particularly concerned Ukrainians and Belarusians crossing the border into Poland and Czech Republic. In Poland alone, there is an estimated 1.5 to 2 million Ukrainians in 2018, a number larger than all other seasonal migration to the whole of EU. Labor migration from the south of the European border remained strong as Moroccans and Albanians continue to migrate to work in nearby Italy, Cyprus, Spain and Greece. In addition to geographical proximity, colonial and historical ties, as manifested, for instance, by the large number of Brazilian workers in Portugal, Indian workers in the United Kingdom and Vietnamese workers in Poland, could also explain the characters and shifts in the European labor frontier through time.

Today, nearly thirty years after the creation of the EU, the labor frontier is again showing signs of another outward shift, however with a different character: an increasing number of migrant workers are coming further afield from countries with no apparent geographic or colonial ties to EU destination countries. Recent emigration trends point specifically to an increase in South Asian migration to the EU well outside of the well-established, post-colonial India-United Kingdom corridor. Although still limited in absolute numbers, there is evidence of increasing migration of workers from Nepal, Pakistan, Bangladesh and Sri Lanka to the EU. Many of these migrants enter on temporary work permits into the EU with numbers particularly increasing after 2017. Further, they are primarily entering the Union via former Central and Eastern European 'accession countries' that are located in the geographical peripheries of the EU, particularly to Poland, as well as in the Czech Republic in the East, and to Malta, Portugal, Spain, Cyprus and Italy in the South. A trend that is most likely only to get more pronounced for reasons that will be discussed at length in this study.

## OBJECTIVES

This study analyzes these new migrations of TCNs to the EU, with a particular focus on magnitude, type and direction of emigration from South Asia. It aims to provide tentative explanations *why* these new migrations are emerging now as well as the manner *how* they occur, particularly with regards to the migrant recruitment process, both as they are envisioned by government regulators and how they actually play out on the ground. More specifically, it will introduce the particularly central role recruitment agencies play in the South Asia-EU labor migration corridor, and the potential of such emergent links to lead to significant future increases in this migration. It will conduct a forward-looking analysis of possible future migration flows and trends from South Asia to and within the EU, including insights on potential new sources and/or destination of migrants. Specifically, it will address the important question of whether the recent increases in South Asian labor migration to the EU is heralding the emergence of new migration systems which may in the future systematically link South Asian workers to European employers and labor markets. Ultimately, the study aims to present a research agenda that could inform and strengthen the role of trade unions and migrant organizations in better protecting the rights and improving the welfare of TCN workers in the EU.

## METHODOLOGY

To fulfill these objectives, the study conducted analysis on two levels. First, in order to have a full understanding of the nature and extent of the labor movement of South Asian TCNs to and within the EU, it began with a *review of the relevant research and policy literature*, including articles published in academic journals, and reports issued by various governments, trade unions, relevant UN agencies and NGOs. It also conducted a *statistical analysis of primary data* both at the regional and national levels highlighting:

- The absolute and relative size of TCN migration between South Asia and the EU, including trends in migrant flow and stock data since 1990;
- *Types* of migrants involved as disaggregated by gender, nationality, age, skill level, sectors, occupation and legal status and;
- The changing *direction* of labor migration including the main bilateral migration corridors between South Asia and the EU and extent of onward ('secondary') migration within, to and from the EU, in the last decade (2010-2020).

Second, in order to better understand the rationale behind the regional trends and the recruitment process itself, the study conducted a *case study* exploring in more details the movement in one particular corridor connecting South Asian workers to the EU—the recruitment of Nepalese labor migrants to Poland. Nepal is one of the fastest growing origin countries of TCNs in the EU while Poland has transformed, particularly in recent years, into a key destination country, and, possibly, also as a transit country. The 'multiple corridor approach' deployed by this study is important because it recognizes the complex transnational nature of recruitment transactions, which creates the need to essentially 'follow the trail' from the country of origin to the country of destination and back. Studies that limit

analysis on recruitment practices and regulations at just one origin or one destination may provide an overview of the regulatory framework at the country level but do not fully allow for a deeper analysis needed to identify gaps across borders and how the interplay between origin and destination country regulatory frameworks generate particular migration outcomes. Single-sited approaches fail to recognize migration as a process, in which migrants and recruiters shift strategies and destinations depending on circumstances in multiple origin and destination countries.

The case study reviewed available administrative data and other relevant statistics collected by the governments of Nepal and Poland. The review also included relevant official documents, such as laws and regulations on recruitment process, to illustrate how the regulatory framework to facilitate the recruitment and employment of TCNs from Nepal and in Poland is designed to work. Since the real functioning of cross-border recruitment systems often differs from the theoretical, “on-paper” design, the study complemented the findings from the review of official documents and data by conducting 13 *structured interviews with key informants* in Nepal and Poland, including key government officials, heads of recruitment and temporary work agencies and their associations, employers, and officials of migrant organizations and trade unions. To explore possibilities of secondary migration of Nepalese workers from Poland to other countries in the EU core, the study also conducted in-depth interviews with 22 informants in the Netherlands.

The study also convened a total of 12 *focus group discussions and in-depth interviews* between January and March 2020 with Nepalese migrant workers involving a total 52 migrants. Interviewed migrants included potential and return migrant workers currently living in Nepal as well as Nepalese workers already in Poland. The discussions and interviews covered four themes: (i) migrants’ motivations for migrating (ii), their expectations of the recruitment process and work and living conditions (iii) their actual experience at each stage of the migration cycle (at pre-departure, while in transit, at destination, upon return) and (iv) their plans, including aspirations for future migration. The interviews with key informants and migrant workers both followed a pre-established but flexible protocol to ensure that each interview addressed the same set of themes while still allowing for some degree of natural conversation and free association. To facilitate a freer discussion, interviewees were made aware in the beginning of the interview that only the information, ideas and/or opinions expressed during the interview will be used in the drafting of the evaluation and there will be no mention of actual names in the report’s text, unless with explicit authorization or request from the interviewees themselves. Thus, this report identifies the key informants not by their name but their function, the place and date of the interview and the name of the interviewer.

## COMMISSIONING ORGANIZATION AND RESEARCH AND REVIEW TEAM

The Federatie Nederlandse Vakbeweging (FNV) Mondiaal commissioned the report. FNV’s Wilma Roos and Imke Gardingen and the International Institute of Social History’s Leo Lucassen provided feedback on the research design, interview protocols and the final draft. The author designed the research methodology, drafted the interview protocols, and data collection templates and conducted the overall and comparative analysis of data. She also collected and examined administrative data and other relevant statistics and evaluations collated by regional and international institutions as well as conducted interviews with key stakeholders in the Netherlands and Poland. Izabela Florczak, assistant professor at the University of Lodz, and Rameshwar Nepal, South Asia Director at Equidem Research and Consulting, conducted the focus group discussions and in-depth interviews and collated the administrative data in Poland and Nepal respectively. They also provided expertise on Polish and Nepalese legal and regulatory frameworks and wrote two case study reports: *Situation of migrant workers from Nepal on the Polish Labour market and Third Country National Migrants from South Asia to the EU: A Brief Analytical Report*.

## REPORT OUTLINE

Divided in four parts, the report begins with analyzing data on the magnitude, type, direction of TCN migration from South Asia to and within the EU, including trends in flow and stock data. Section 2 follows with findings of the case study of the Nepal-Poland migration corridor focusing on why and how Nepalese migrant workers are recruited and hired, the various actors involved, and particularly the role private recruitment agencies play in the recruitment process. Section 3 then explores possible future migration scenarios incorporating migration trends and drawing on migration policy and related developments in South Asia and the EU. The report ends by exploring insights that could inform and approaches that could strengthen the role of trade unions and migrant organizations in better protecting the rights and improving the welfare of TCN workers in the EU. It will also identify opportunities for further research, particularly with regards to new patterns of migration and settlement of workers from South Asia and other new ‘labour frontier’ countries.

## II. EMIGRATION TRENDS FROM SOUTH ASIA TO THE EU

Available statistics and administrative data highlight the increasing prominence of South Asian migration to the EU. This section gives an overview of recent trends drawing mainly on various international and regional data sources, including the United Nations (UN), the Organisation for Economic Co-operation and Development (OECD)<sup>6</sup>, and Eurostat.

To contextualize recent data, this section starts with an analysis of long-term migration trends out of Nepal, India, Pakistan, Bangladesh and Sri Lanka based on (1) UN-sourced migrant population stock data giving an insight into overall patterns of emigration and (2) OECD annual flow data giving an overview of longer-term trends of migration from these countries towards OECD countries.<sup>7</sup> Understanding long-term and worldwide emigration trend is important because the South Asia-EU corridor is not independent from migration in other corridors. What is happening along these other migration corridors will have a direct impact on movements from South Asia to the EU. For instance, a reorientation of migration from particular origin countries to other regions (such as South-East Asia or the Gulf) will also affect migration to Europe. A longer-term view is also important because short-term migration data is generally very responsive to short-lived episodes such as for instance, an economic recession, conflict or introduction of a new visa policy. Looking at migration data from a long-term perspective allows for us not to focus on recent trends and extrapolate them into the future

After discussing long-term and worldwide migration trends from South Asia, this section then specifically focuses on recent labor migration flows, particularly of the last ten years, specified by destination country as well as duration of work permits. It will also analyse the degree of 'secondary' migration, in which non-EU nationals enter into one EU country in order to migrate onwards to another country.

A close analysis of these primary migration data points to the following seven key observations:

1. South Asian migration to the EU is still dominated by (predominantly higher-skilled) Indians;
2. Although still limited in absolute numbers, migration of lower skilled workers, particularly from Nepal, Pakistan and Bangladesh, is increasing;
3. The majority of these migrants enter on temporary work permits;
4. Many south-Asian workers migrate to the EU via 'peripheral' countries such as Poland, Malta, Portugal, Spain and Italy, with numbers particularly increasing after 2017;
5. Sri Lankan migration has long been dominated by asylum seekers, but recently numbers of labor migrants have been growing (particularly to Italy);
6. Nepal is developing as a new source country for labour migration to Europe, potentially unlocking a significant future emigration potential; and
7. It is unclear as to what extent south-Asians are represented in secondary (onward) migrations (registered or unregistered) to other EU countries.

### A. LONG-TERM EMIGRATION TRENDS FROM SOUTH ASIA

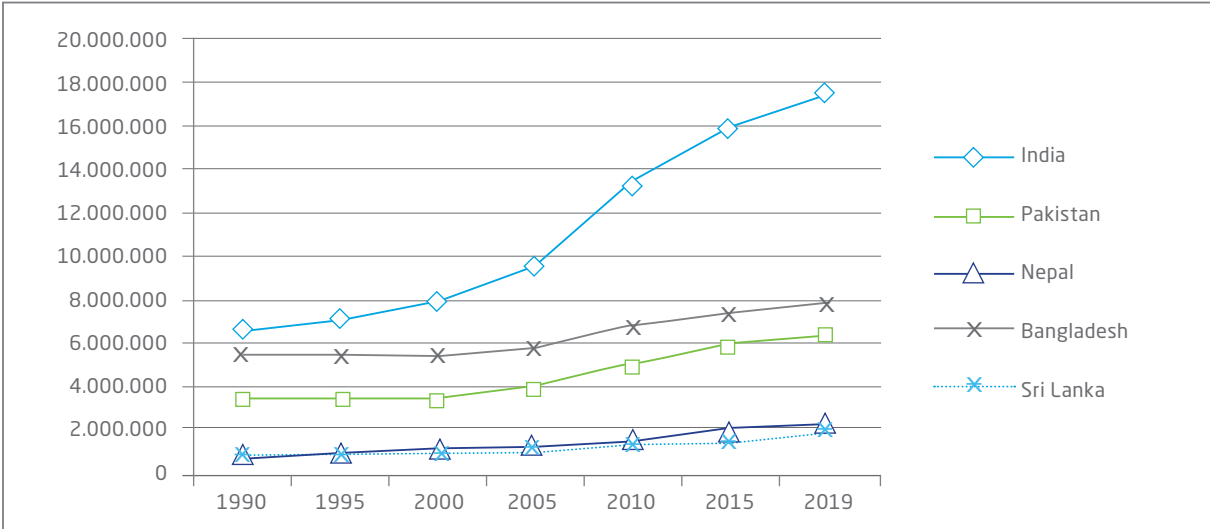
According to United Nations estimates, the worldwide number of South Asian emigrants has steadily increased over the last three decades from just a little over 15 million in 1990 to nearly 35 million in 2019. While Indians are by far the biggest migrant group (taking up between 40 and 50 percent of all South Asian emigrants) numbers amongst other South Asian groups have also increased, and at a larger rate of increase. Focusing on Nepalese and Sinhalese alone, the estimated size of their populations living abroad have increased from between 700,000 Nepalese and 900,000 Sinhalese in 1990 to 2.3 million Nepalese and 1.8 million Sinhalese in 2019. (See figures 1 and 2 below).

---

<sup>6</sup>Most of the 35 OECD members are from Europe. They are Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Luxembourg, Netherlands, Norway, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom. Other members include Israel, Turkey and four countries each from the Americas (Canada, Chile, Mexico, and the United States) and Asia-Pacific (Australia, Japan, Korea, and New Zealand).

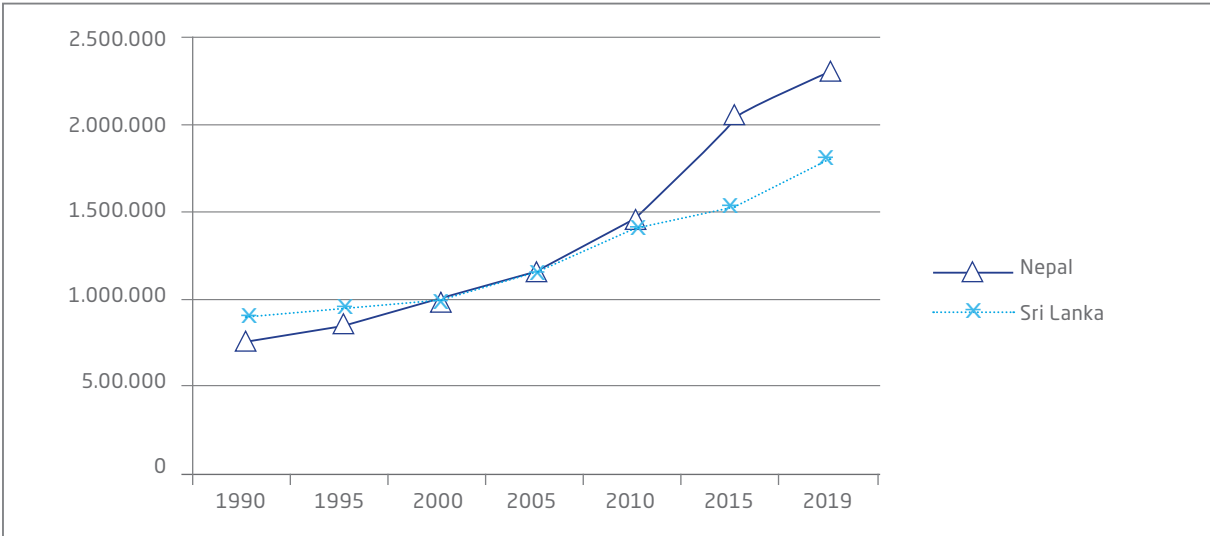
<sup>7</sup>Migration stocks are the numbers of migrants living in a country or region at a given point in time while migration flows are the number of migrants entering or leaving a country or region during a specific period.

**Figure 1** Total emigrant population, selected South Asian countries, absolute, 1990-2019



Source: Author's calculations based on UN Population Division, International Migrant Stock database 2019

**Figure 2** Total emigrant population, Nepal and Sri Lanka, 1990-2019



Source: Author's calculation based on UN Population Division, International Migrant Stock database 2019

In relative terms, emigration from Sri Lanka and Nepal as a percentage of their population is higher than in other countries, and is also increasing. Both countries have currently 7 to 8 per cent of their population living abroad essentially fitting general patterns, in which relatively small countries have higher rates of emigration. As many prominent emigration countries have emigrant rates of between 10 and 15 percent, this may suggest that the emigration potential of these countries, and particularly low-income countries like Nepal, is still quite high, because development in low-income countries paradoxically tends to increase emigration rates. (See annex)

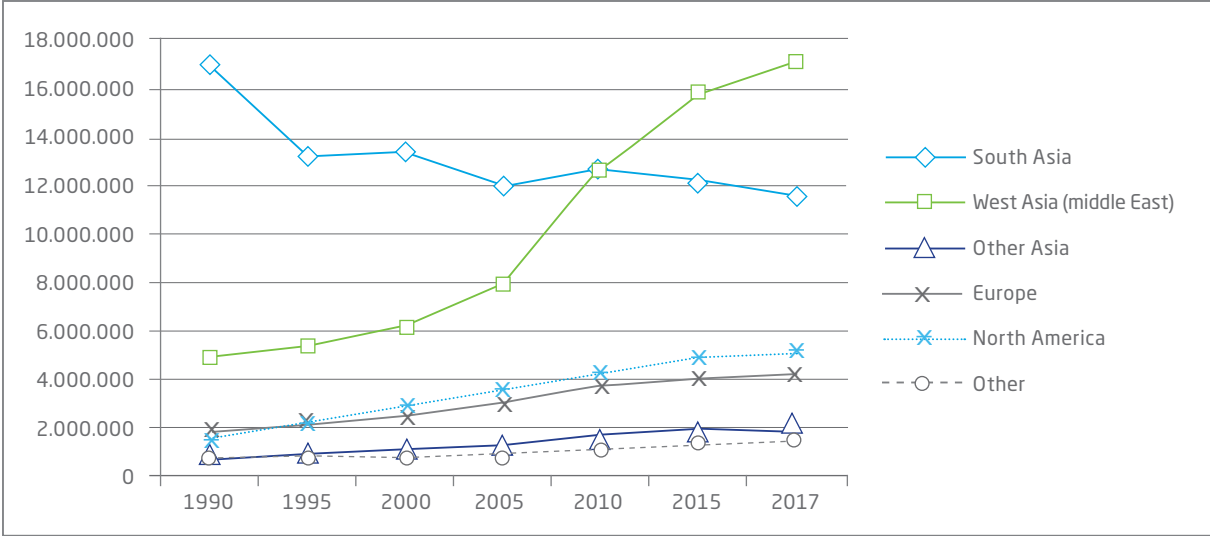
Looking at regions of destination, the share of South Asians moving within their own region (i.e., to other south-Asian countries) has been declining, from making up nearly 70 percent of emigration in 1990 to just a little over 30 percent in 2017 (see Figure 3). In parallel, the share of south Asians living in other world regions has increased fast reflecting in particular a spectacular rise in emigration of workers to the Middle East, particularly to Gulf Cooperation Council (GCC)<sup>8</sup> member countries, as well as to other regions, mainly to North America and Europe. As of 2017, there is an estimated 17 million South Asians in the Middle East, up from around 5 million in 1990, or nearly a 300 percent increase. Another

<sup>8</sup>Gulf Cooperation Council (GCC) is a political and economic alliance of six Middle Eastern countries—Saudi Arabia, Kuwait, the United Arab Emirates, Qatar, Bahrain, and Oman.

eight million South Asians are estimated to be living in Europe and North America in 2017, a doubling of the migrant population compared to 1990.

The same data illustrates that most south Asian emigrants live in the GCC, particularly Saudi Arabia and the United Arab Emirates, which make up 17.0 and 15.6 percent of the total south Asian emigrant population, respectively. Substantial intra-regional migration, however, is still directed towards India. Among EU countries, Italy and Germany registered the highest number of South Asian migrants followed by France and Spain. It is also interesting to note that nearly 2 million South Asians are already estimated to be already living in Ukraine, making a country right outside of the EU the fifth largest destination of South Asian migrants. (See Figure 3 and Annex). As further analyses in this study will show, this reflects a more general trend in which countries usually seen as origin countries, are developing into important destinations in their own right as a result of growing labour shortages in particular sectors.

**Figure 3** Number of south Asians living abroad, per region of destination, 1990-2017



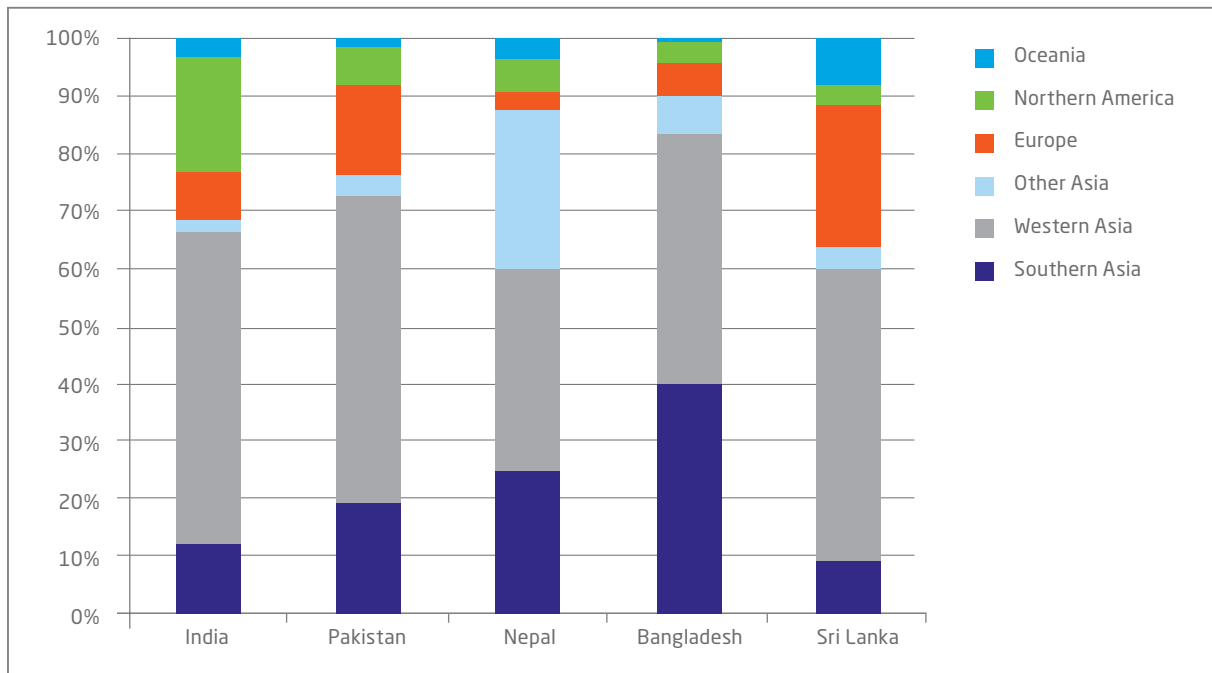
Source: Author's calculations based on UN Population Division, International Migrant Stock database 2019

Figure 4 below confirms the predominance of the Gulf (Western Asia) as a migration destination, but it also shows substantial Indian migration to the US and Pakistani and Singhalese migration to Europe (predominantly to the United Kingdom), but also the relatively high importance of East Asia (Japan and Korea in particular) for Nepalese emigration. It also illustrates that Nepalese and Bangladeshi migrants have the lowest extra-regional migration rates<sup>9</sup>This presumably reflects the lower income status of these countries compared to India and Pakistan, which also indicated their considerable potential as future global 'labor frontier'<sup>10</sup> countries.

<sup>9</sup>Extra-regional migration rate refers to the proportion of migrants leaving for another region.  
<sup>10</sup>The 'labor frontier' is the group of (generally middle-income) countries with high rates of labor emigration. See Skeldon, R. 2012. Migration Transitions Revisited: Their Continued Relevance for The Development of Migration Theory. Population, Space and Place, 18, 154-166; Skeldon, R. 1997. Migration and Development: A Global Perspective, Harlow, Essex, Addison Wesley Longman.



**Figure 4** Main destination regions of south Asians living abroad, 2019



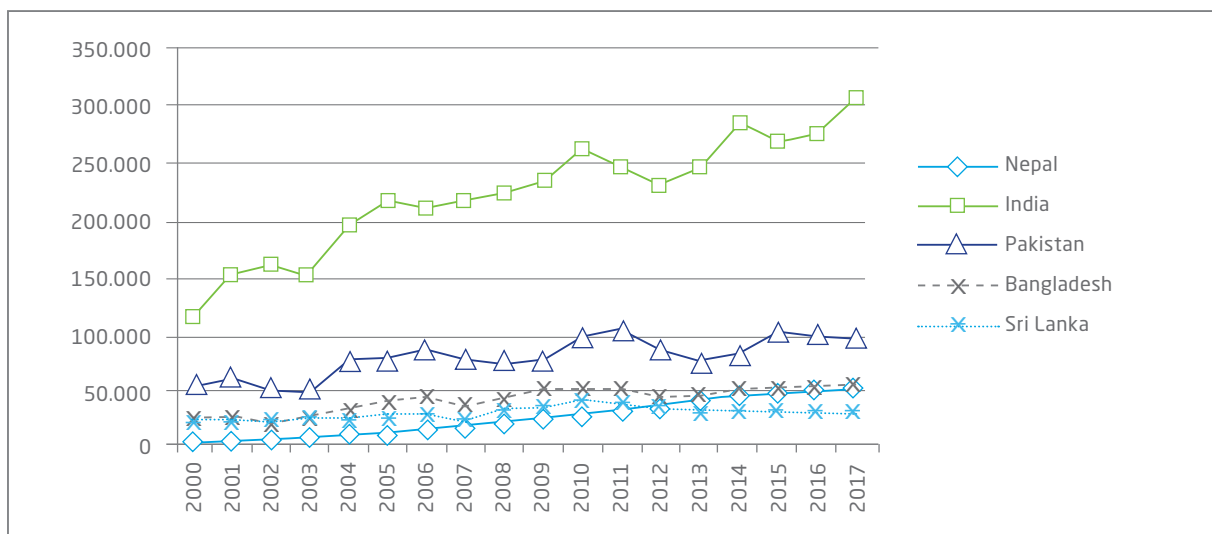
Source: Author's calculations based on UN Population Division, International Migrant Stock database 2019

## B. RECENT SOUTH ASIAN MIGRATION TRENDS TOWARDS OECD COUNTRIES

The previous section looked at migrant population ('stock') data to study longer term trends of South Asian emigration. Zooming in on available annual *flow* data involving member countries of the OECD provides a more precise idea of recent South Asian migration trends.

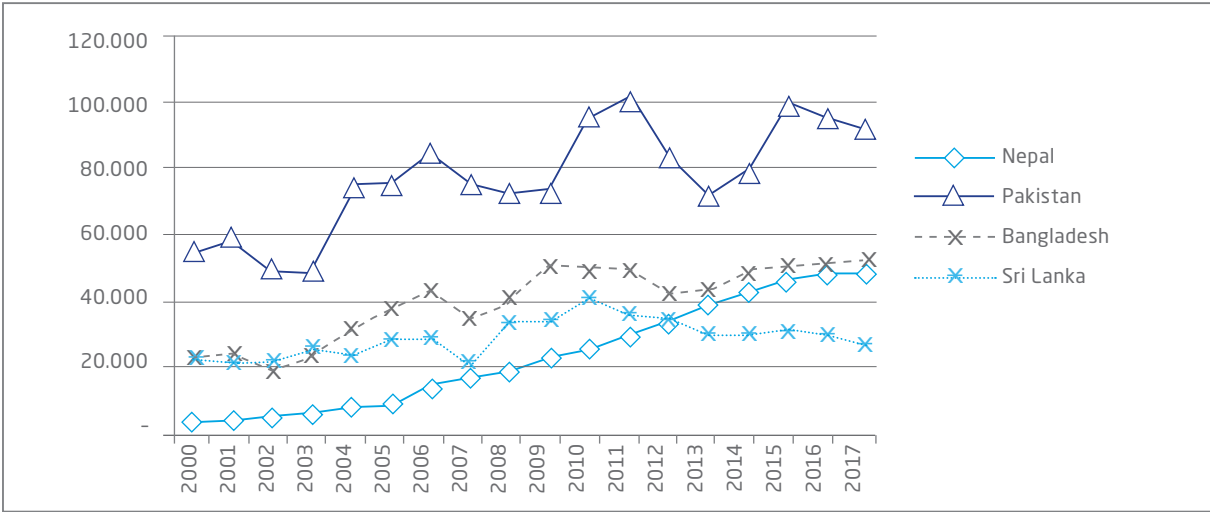
Figures 5 and 6 highlights that annual inflow numbers from India into OECD countries has indeed been growing fast since 2000 although a further breakdown (figure 10) also shows that - with the exception of Sri Lanka - migration from other South Asian countries is increasing. Particularly Nepalese emigration has been on a steep and rather spectacular ascent, from 3,000 in 2000 to 49,000 in 2017, or a 16-fold increase in less than two decades, illustrating Nepal's status as an emerging entrant into the global migration stage.

**Figure 5** Inflows to OECD by citizenship from South Asia, 2000-2017



Source: Author's calculations based on OECD International Migration Database, accessed 23 February 2020

**Figure 6** Inflows to OECD by citizenship from South Asia, without India, 2000-2017



Source: Author’s calculations based on OECD International Migration Database, accessed 23 February 2020

**COUNTRY LEVEL TRENDS**

Looking at origin-country specific trends we see that the fast increase in Nepalese migration up to 2017 is largely explained from a rapid rise of legal migration to Japan and South Korea. Migration to Europe has been stagnating, although recent data seems to suggest an increase. Table 2 in the Annex shows that the US, Japan, Korea, the UK, Australia and Canada are the most important destination countries for Nepalese but other EU countries, such as Germany, Poland, Portugal and Spain, have been attracting smaller, but growing numbers.

While Indian migration to North America has been strong for a long time, recent years have seen increasing migration to Europe, presumably mainly reflecting the mobility of high-skilled workers. Germany, Italy, Spain, the Netherlands and France are now home to sizeable Indian communities (see table 3 in the Annex.).<sup>11</sup>

Pakistani migration has also become increasingly focused on Europe, even more than Indian OECD-bound emigration. Besides the UK, an increasing number of Pakistanis have migrated to Italy, Spain and Germany (see table 4 in the Annex), which occupied the 2nd, 3rd and 4th place of total inflows between 2000 and 2017, only after the UK.

Bengali immigration to North America and Europe has followed roughly similar trends, and has been increasing after 2003. Between 2000 and 2017, Italy was the most important destination country, only after the US, capturing 21.3 percent of all OECD-bound Bengali immigration over that period, while also Spain, Germany and France have been significant destinations (see table 5 in the Annex).

Singhalese migration to Europe is relatively older and different because of the importance of refugee flows over the past decades. Over recent years, however, labor migration to Japan and Korea has taken off, while further data break-downs (see table 6 in the annex) indicate an upsurge of new destinations in Europe which is independent from older asylum-related flows. Although it seems a less typical workers’ emigration country than other south Asian countries, there has been a striking increase of migration to Italy. In fact, Italy was the top OECD destination country for Singhalese migrants over the 2000-2017 period (see table 6 in the Annex).

**A LONGER-TERM PROCESS OF SEMI-PERMANENT SETTLEMENT**

Data analysis also suggests that a longer-term process of semi-permanent settlement is taking place, which increases the potential of this emerging migration trend to increase in the future and gain its own momentum facilitated by recruitment and social networks. South Asian migrants having a strong tendency to staying put and not returning to their countries of origin. An approximation of the ‘circularity’ of OECD-bound South Asian migration can be arrived at by calculating the ratio between outflows and inflows of people with South Asian origin either by

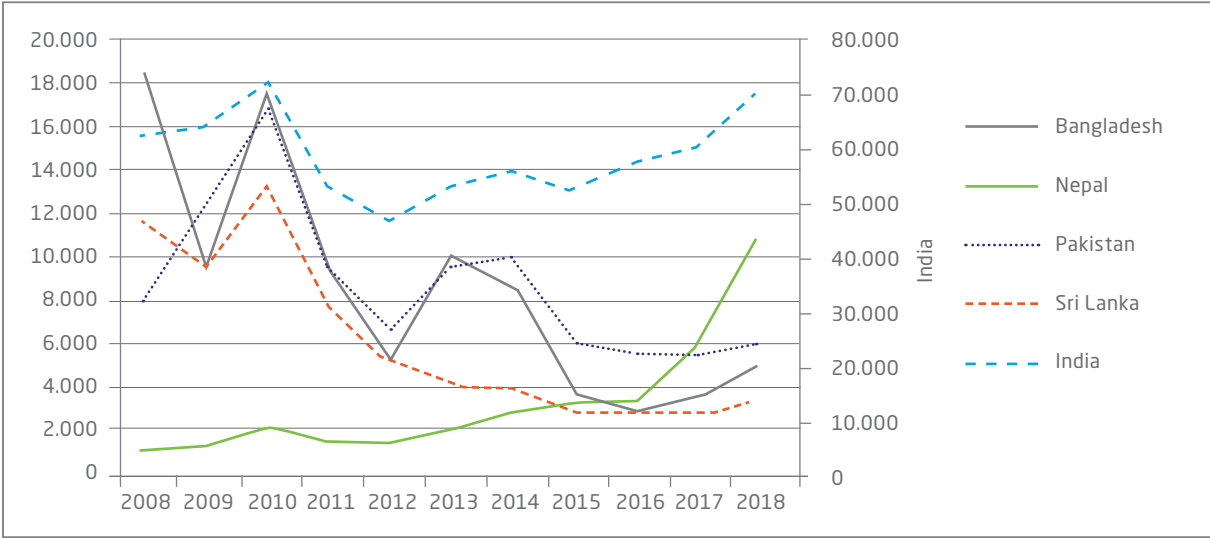
<sup>11</sup>Also, Indian migration to Australia and New Zealand has also more than doubled since 2000.

country of birth or citizenship.<sup>12</sup> Estimated degree of circularity or secondary migration using this method is rather low at a calculated average level of 16 percent, which means that outflows are on average 16 percent of the magnitude of inflows. This average does not differ much across South Asian origin countries. (see Annex) Although outflows may signify return migration, to some extent it may also involve secondary migration to other destination countries inside or outside Europe. Further data analysis is necessary to further explore patterns of movement and settlement of South Asian migrants in the EU. (See Annex)

**C. WORK-RELATED MIGRATION TO EUROPEAN COUNTRIES AND DURATION OF STAY**

Eurostat data can give more refined insights into the nature of South Asian immigration as it disaggregates for variables like first residence permit and reason for migrating, such as family- and work-related migration. To analyse recent trends of labor migration, figure 8 below plots the number of work-related residence permits EU countries issued for the first time to a South Asian TCN between 2008-2018.<sup>13</sup> Because Indian immigration has a much higher volume than migration from other south Asian nationals, it is plotted on a different scale. The graph shows some very significant trends. While Indian work-related migration seems to have gone up and down with European business cycles, dropping after the 2008-9 economic recessions and picking up recently again, Bengali, Singhalese and Pakistani labor migration has shown a decreasing trend, and has not really rebounded with economic recovery in much of Europe. Nepalese labor migration, however, shows a very different trend. Starting at insignificant levels in the late 2000s, it has grown exponentially in recent years. This seems to corroborate the earlier observation using UN stock and OECD flow data that Nepal is becoming a ‘labor frontier’ country, characterized by rapidly increasing emigration over increasingly larger distances. Although it is still mainly focused on Japan, Korea, and the GCC countries, migration to Europe seems to be increasing fast.

Figure 7 First work-related residence permits into the EU



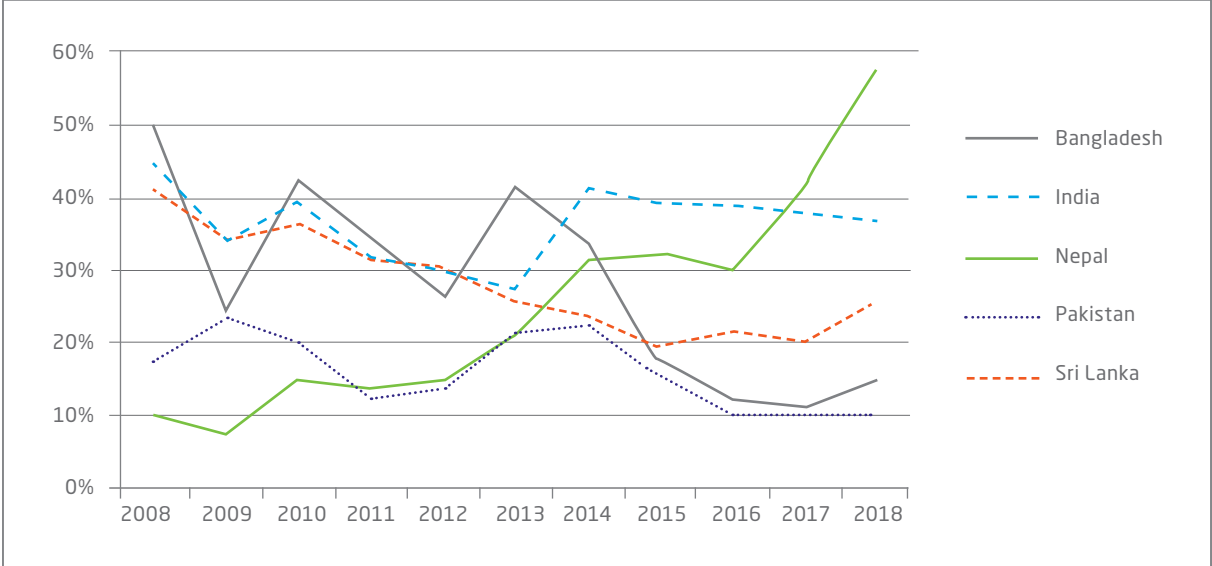
Source: Author's calculations based on Eurostat, accessed 9 March 2020

The percentage of Nepalese coming in on work-related permits as a share of all residence permits has increased from below 10 percent in 2009 to 57 percent in 2018. (see Figure 8) This spectacular increase adds evidence that Nepal is indeed developing as a new source country for primary (new) labor migrants to Europe, potentially unlocking a significant future emigration potential, with networks and intermediaries further facilitating future work-related migration and, as a consequence, creating the conditions for potential future increases in family migration.

<sup>12</sup>The OECD database draws on mixed resources depending on availability.  
<sup>13</sup>Since a residence permit is also considered a first permit if the time gap between expiry of the old permit and the start of validity of the new permit issued for the same reason is at least 6 months, irrespective of the year of issuance of the permit, the number may not correspond to individual persons as a possibility of double counting, although that probability is lower among South Asians given the long distance of migration and that majority of permits given were longer than 6 months.

For Bangladesh, Pakistan and Sri Lanka the relative importance of work-related immigration has rather gone down. Nepalese migration seems to follow different dynamics, presumably related to the dynamics of lower skilled labor demand, while Indians fit more the higher-skilled profile. On the other hand, more established migrant groups such as the Bengalis, Pakistani and Singhalese may use the family migration route as the easiest way to enter, which does not prevent them from entering the labor market since family migration is often given full labor market access.

**Figure 8** Work-related residence permits as a share of all permits



Source: Author's calculations based on Eurostat, accessed 9 March 2020

The prevalence of short-term contracts is also highest among the Nepalese, with 6 to 11 months permits being the most prevalent. In 2017 and 2018, nearly 50 percent of Nepalese workers have contracts of less than one year compared to less than 25 percent for India, and less than 15 percent for Bangladesh, Pakistan and Sri Lanka. This seems to confirm that Nepalese migration in particular is part of a new, emerging movement of migrant workers to Europe, which may gain more long-term and permanent features in the longer-term.

**SOUTH ASIAN MIGRATION TO THE EU'S GEOGRAPHICAL PERIPHERY**

Looking at particular migration corridors between South Asia and EU, a striking trend is that increasing numbers of south-Asian workers migrate to the EU via 'peripheral' countries such as Poland, Malta, Portugal, Spain and Italy, with numbers particularly increasing after 2015.

Table 1 below lists 25 bilateral migration corridors with the largest increase in first work-related residence permits recorded between 2015-2018.

The largest increase was recorded in the Nepal-Malta labor migration corridor. Labor migrants from Nepal have also been moving in an increasing rate to Romania, Poland, Croatia and Czech Republic, with the largest volume heading to Poland while an increasing number of Pakistanis have migrated to Greece and Estonia. Bangladesh and Sri Lanka more closely resemble Nepal's trajectory and had migrated to similar countries, such as Malta, Poland, Romania and Czech Republic.

Interestingly, South Asians have also been increasingly migrating to a few countries in the core of Europe primarily to Belgium and Germany and to a lesser extent to France and Sweden. However, the rate of increase and the volume is not as high as recorded in the periphery of Europe, with the clear exception of Indian migration to Belgium, France and Sweden. This is not surprising given that India is an outlier among its South Asian neighbours given the country's relatively longer history of migration to Europe (particularly to the UK), more established social networks and higher rate of high skilled emigration.

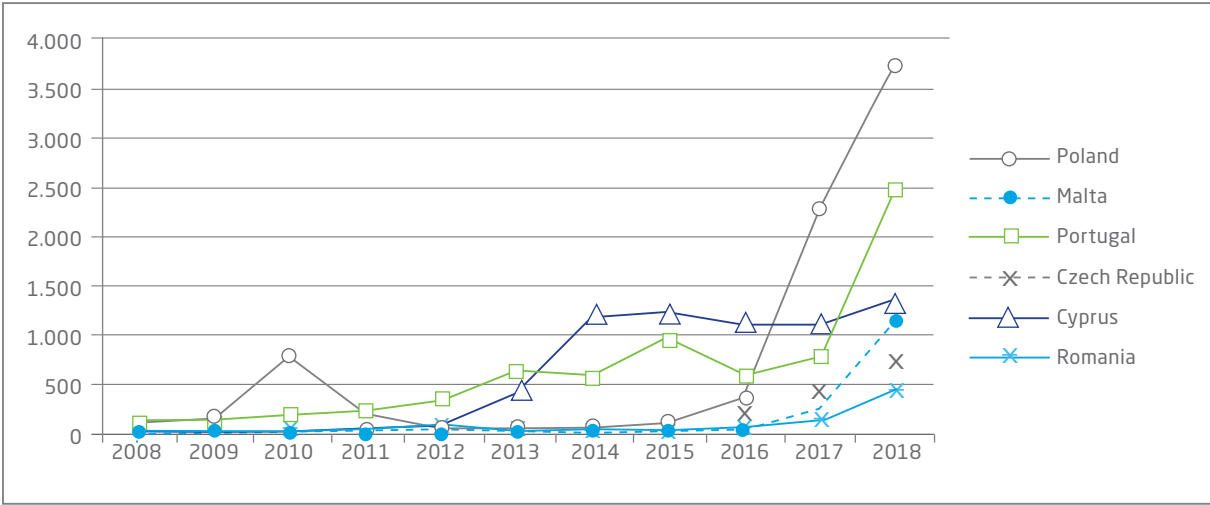
**Table 1** South Asia-EU Bilateral Migration Corridors with Largest Increase in First Work Related Residence Permits

Rank	Migration Corridor		Percent Change	Number Of Permits (2008-2018)
	Destination	Origin	2015-2018	
1	Malta	Nepal	37733%	1405
2	Romania	Nepal	8240%	845
3	Belgium	India	7032%	8225
4	Greece	Pakistan	5200%	253
5	Poland	Nepal	4722%	7241
6	Malta	Bangladesh	3800%	213
7	Malta	Sri Lanka	1800%	146
8	Croatia	Nepal	1650%	42
9	Czech Republic	Bangladesh	1590%	673
10	Malta	India	1418%	3076
11	Czech Republic	Nepal	1330%	1418
12	Poland	Bangladesh	1298%	2402
13	Romania	Bangladesh	1225%	78
14	Estonia	Pakistan	1100%	22
15	Germany	Sri Lanka	825%	237
16	Malta	Pakistan	727%	759
17	Poland	Sri Lanka	614%	160
18	Romania	India	500%	547
19	France	India	463%	4890
20	Germany	Pakistan	405%	591
21	Romania	Sri Lanka	377%	979
22	Sweden	India	350%	4457
23	Croatia	India	350%	205
24	Belgium	Nepal	350%	75
25	Germany	Nepal	328%	1505

Source: Author's calculations based on Eurostat, accessed 9 March 2020

Nepal and Poland figure quite prominently amongst countries of destination and origin. Nepalese workers are present in countries that accessed the European Union in 2004 at a larger rate of increase and volume compared to northwest European countries such as Germany and the Netherlands. For instance, the number of first work-related residence permits issued to Nepalese workers in Poland went up from 340 in 2016, to 2272 in 2017 and 3714 in 2018, capturing rapid increases in inflows. Analyses of Eurostat data also detected fast increases of first work-related residence permits issued to Nepalese workers since 2017 in countries such as Portugal, Malta and Czech Republic. Another important destination, Cyprus, peaked a few years earlier, in 2016, and have since stabilized. Poland, interestingly, was a top destination in 2010, but the numbers decreased until the quick ascent in 2016. (See figure 9) As will be discussed later, this could be explained by the role of recruitment agencies and other intermediaries in both South Asian and the EU play diverting migration flows to easiest and most profitable destinations.

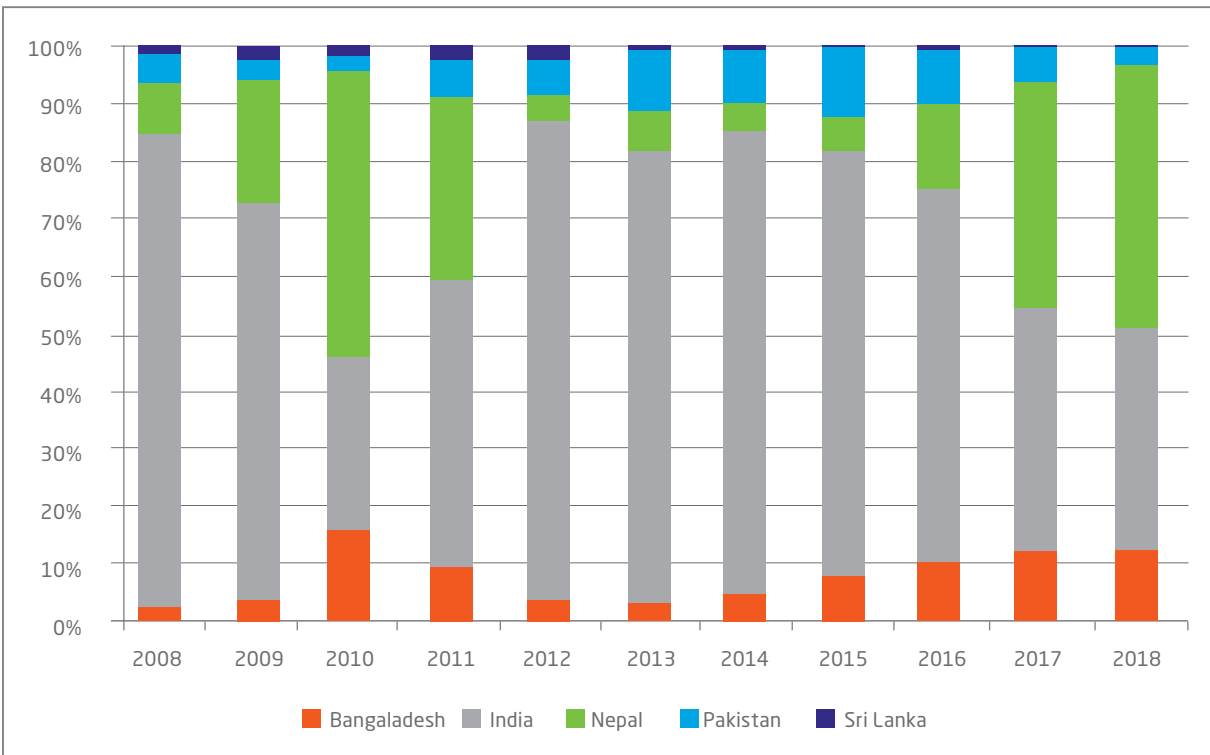
**Figure 9** First permit given to Nepalese nationals for remunerated activity, by country of destination, 2008-2018



Source: Author's calculations based on Eurostat, accessed 9 March 2020

As Figure 9 shows, within the EU, Poland issued the highest number of first work-related residence permits to South Asian migrants by far, particularly at an increasing rate to Nepal and Bangladesh. In 2018, Poland issued 8000 permits, a drastic increase from less than 500 permits a decade earlier. Nearly half of these permits went to Nepalese workers while around 20 percent were issued to Bangladeshi workers.

**Figure 10** First work-related residence permits issued in Poland for remunerated activities by citizenship, 2008-2018



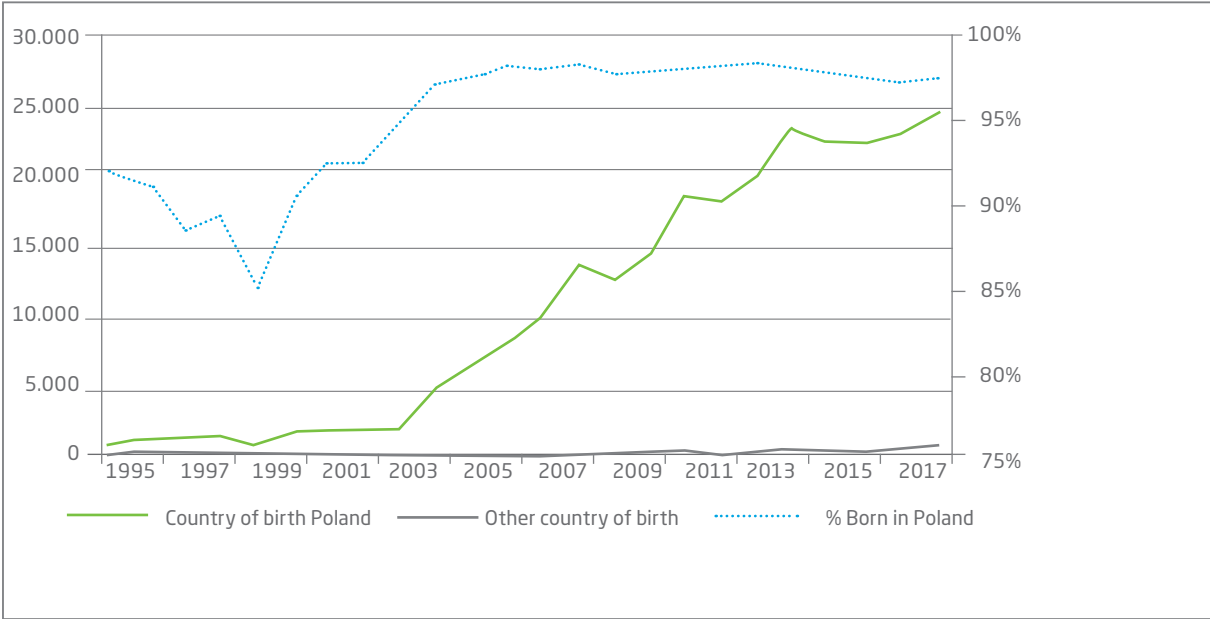
Source: Author's calculations based on Eurostat, accessed 9 March 2020

### D. PRELIMINARY EVIDENCE FOR SECONDARY MIGRATION OF WORKERS

Data analysis of first-time issuance of work-related residence permits supports the notion that South Asian workers are increasingly entering Europe via ‘peripheral’ countries that are not part of the old industrial core of Western European that used to attract most TCN workers. However, it is not clear to what extent this leads to secondary migration in the form of onward migration to other European countries such as the Netherlands or Germany, or to what extent it leads to (registered or unregistered) deployment in other European countries. For instance, the annual number of first work-related residence permits issued to Nepalese nationals in the Netherlands have stayed well under 100 over recent years, with total registered Nepalese immigration hovering around low levels of 200 per year.

One way to estimate secondary migration is by looking at the share of migrants from peripheral countries moving to EU core economies. Figures 11 to 13 show the share of migrants moving to the Netherlands from Poland, Italy, and Spain between 1996 and 2018 who were born in their previous country of residence. The data for Poland, for instance, shows that the overwhelming majority (over 95%) of migrants coming from Poland to the Netherlands were born in Poland, and that this share has increased. So, official data suggest there has been very limited secondary migration from Poland to the Netherlands, although workers deployed for short terms (and undocumented workers) may not be detected here, as short stayers (under 3 months) do not have to register and may thus not show up in municipal registry data. However, the data for Spain and, particularly, Italy give strong evidence of secondary migration. About 50 percent of migrants from Spain to the Netherlands were not born in Spain, while in Italy, the proportion is much larger, at nearly 75 percent. This shows that secondary migration is significant, possibly indicating that migrants using such countries as a ‘port of entry’ to migrate to their eventual destination.

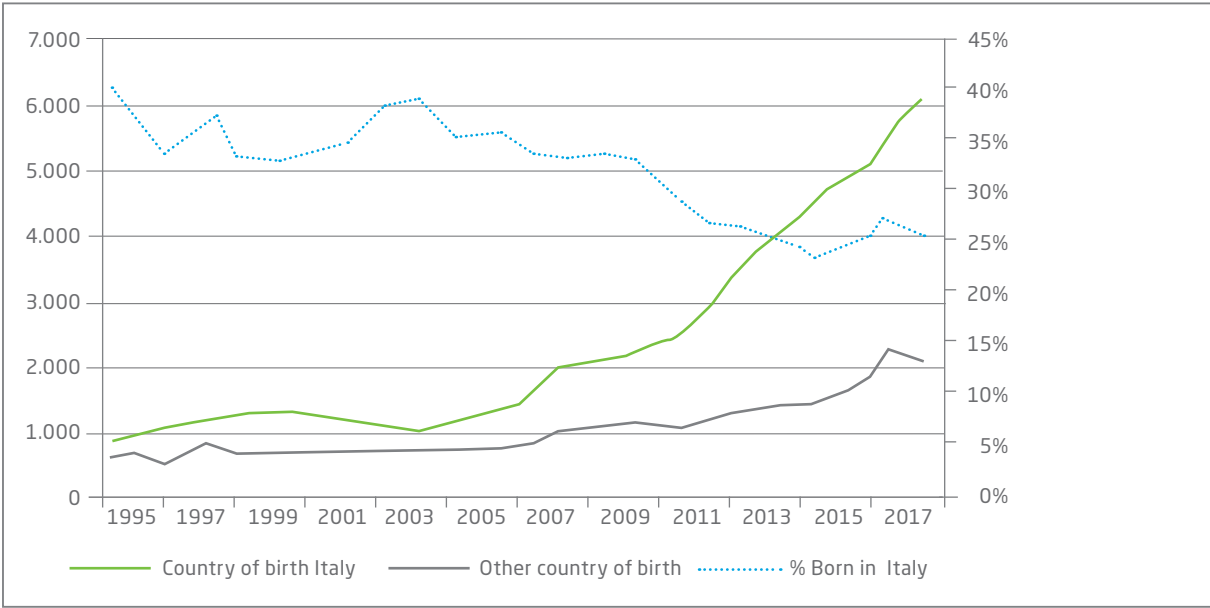
Figure 11 Immigration from Poland to the Netherlands, 1995 to 2018



Source: Author's calculations based on CBS Netherlands, accessed 24 February 2020

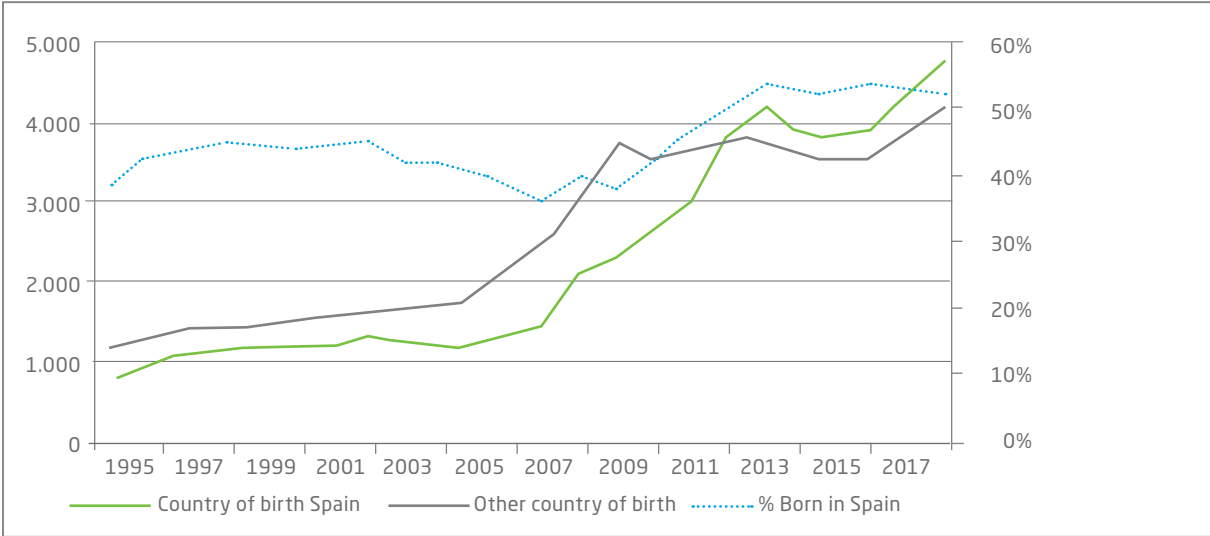


**Figure 12** Immigration from Italy to the Netherlands, 1995 to 2018



Source: Author's calculations based on CBS Netherlands, accessed 24 February 2020

**Figure 13** Immigration from Spain to the Netherlands, 1995 to 2018



Source: Author's calculations based on CBS Netherlands, accessed 24 February 2020

This data, however, cannot tell to what extent this type of secondary movement within Europe is related to the migration of workers from South Asia or other TCNs because there are no further breakdowns by country of origin or main reason for migrating. One data source that could provide such an indication is administrative data on posted workers. Non-EU migrant workers being posted to work temporarily in another EU country are required to notify government authorities. In the Netherlands, for instance, official government data between 2015 and 2019 suggest that South Asian workers have not used this route in considerable numbers. The vast majority of posted workers to the Netherlands in this period come from Croatia, Turkey and Ukraine while the Philippines top the list among countries in Asia.

**Table 2** Number of posted workers in the Netherlands, by nationality, 2017-2018

<b>Country</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Ukraine	79	266	476	1067	3852
Turkey	507	650	792	926	1866
Bosnia-Herzegovina	216	574	401	531	1339
Serbia	259	313	234	368	947
Philippines	1190	117	161	465	924
Russia	33	25	31	60	229
Azerbaijan					193
Morocco		13	34	58	140
Belarus				55	124
India	26	32	30		123
Croatia	581	1438	1409	513	
Macedonia	23	15	34	60	
South Korea	34	18	22		
Kosovo			22	60	
Tunisia		37	21		
Syria			21		
Sri Lanka		8	21	52	
Montenegro		23			
Indonesia	26	79			
Syria		15			
China	40	13			
Georgia		12			
Kazakhstan		9			
Brazil		9			
Romania		8			
United States of America	8				
Australia		6			
Latvia		6			
N.D.	26				
Others	201	95	164	430	1135
<b>Total</b>	<b>2170</b>	<b>3789</b>	<b>3873</b>	<b>4645</b>	<b>10872</b>

Source: Tweede Kamer der Staten-Generaal, Kamervragen zonder Antwoord. KV-TK-2020Z15480. Beantwoording vragen van Jasper van Dijk (SP) aan de minister van Sociale Zaken en Werkgelegenheid over premieshoppen (ingezonden 3 september 2020) <https://zoek.officielebekendmakingen.nl/kv-tk-2020Z15480>

# III. THE NEPAL-POLAND LABOR MIGRATION CORRIDOR: A CASE STUDY

As the previous section shows, available statistics and administrative data suggest an increasing prominence of South Asian migration to the EU. While these statistics give a fairly good idea over the magnitude, type and direction of these emerging migration trends, they do not provide a clear explanation of *why* these types of movements are occurring. Second, they do also not show how do these migrations occur in practice, including the institutions and actors involved, and particularly the *recruitment process* itself.

In order to answer these important questions, this section explores in more detail the cross-border movements in one particular corridor connecting South Asian workers to the EU—the labor migration of Nepalese workers to Poland. As noted in the previous section, Nepal is one of the fastest growing origin countries in South Asia while Poland has been a key destination country, and possibly an emerging transit country within the EU.

## A. OVERVIEW ON MIGRATION TRENDS

An analysis by Poland-based Center of Migration Research suggests that the number of work permits issued in Poland has been on a steady rise since 2014, but particularly accelerated over the past three years, with a 40 percent increase in 2018 (almost 329 thousand), and 66 percent increase in the first half of 2019 (233 thousand). While Ukrainians represent an overwhelming majority of work permit recipients, with 72 percent of the total in 2018, the second highest number of work permits was given to Nepalese workers, with 22,336 recorded work permits in 2018, or 6 percent of the total work permits issued that year.<sup>14</sup>

But the issuing of work permits is only the beginning of the recruitment process – it does not guarantee that the migrant worker will actually use the work permit issued and occupy the job he or she has been recruited for.<sup>15</sup> The work permit only indicates that the Polish company entrusts the execution of work to a particular worker, as well as the type of work to be performed. Interviews with Nepalese migrants and key informants<sup>16</sup> conducted to inform this study suggest that the process of recruiting migrant workers from Nepal can be quite lengthy and can take up to 18 months before a migrant worker can fill a vacant position. Informants have noted too that some migrants arrive in Poland with working permits about to expire. In short, work permit data only captures the intent to which Polish companies intend to hire Nepalese workers, but not the actual movement that follows. As Florczak, in her case study of Poland notes, there is a huge discrepancy between the high number of work permits for Nepalese nationals and the relatively low number of border crossings.<sup>17</sup>

Indeed, an analysis of three additional administrative data sets<sup>18</sup>—two compiled in Poland and one in Nepal—suggests that the actual numbers of Nepalese workers in Poland is most probably significantly lower than work

---

<sup>14</sup>Pawel Kaczmarczyk, "Recent Trends in International Migration in Poland." Typescript, Center for Migration Research, Poland, November 2019

<sup>15</sup>According to the Polish Office for Foreigners, a work permit is essentially a "decision of the competent authority entitling a foreigner staying in Poland legally to work under the conditions specified in the content of the permit. The document is issued at the request of the entity delegating work performance to a foreigner by the competent Voivode due to his place of business or place of domicile." <https://udsc.gov.pl/en/cudzoziemcy/obywatele-panstw-trzecich/chce-pracowac-w-polsce/>

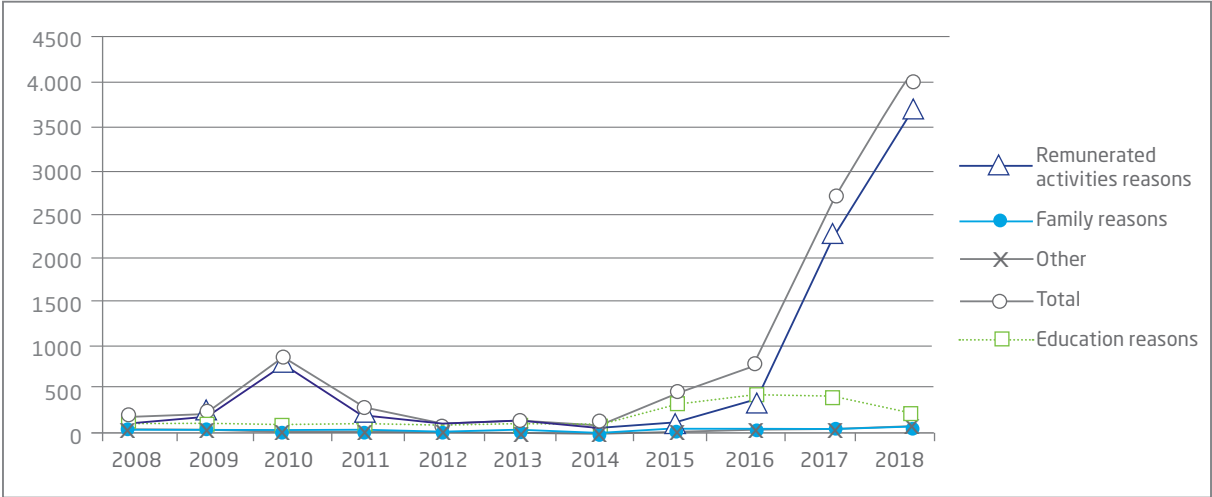
<sup>16</sup>The Encyclopedia of Survey Research Methods defined a key informant as the "person with whom an interview about a particular organization, social program, problem, or interest group is conducted. In a sense, the key informant is a proxy for her or his associates at the organization or group. Key informant interviews are in-depth interviews of a select (nonrandom) group of experts who are most knowledgeable of the organization or issue...Key informants are chosen not because they are in any way representative of the general population that may be affected by whatever issue is being studied, but because they are believed to have the most knowledge of the subject matter." See Sage Publications, inc, & Lavrakas, P. J. (2008). Encyclopedia of Survey Research Methods. SAGE Publications, Inc.

<sup>17</sup>Izabela Florczak, "Situation of migrants workers from Nepal on the Polish labour market," Report submitted to FNV to inform this study, February 22, 2020.

<sup>18</sup>The three databases are: (1) First permits by reason, length of validity and citizenship (migr\_resfirst), Eurostat, Available at [https://ec.europa.eu/eurostat/web/products-datasets/product?code=migr\\_resfirst](https://ec.europa.eu/eurostat/web/products-datasets/product?code=migr_resfirst); (2) Entry data compiled by the Polish Border Guard as cited in "Situation of migrants workers from Nepal on the Polish labour market," Report submitted by Izabela Florczak to FNV, February 22, 2020; (3) Labour approval records, 2014-2019, Ministry of Labor, Employment and Social Security, Nepal.

permit numbers may imply. Data on first work-related residence permits and border crossings recorded in Poland suggest that there are most probably around 6000 Nepalese workers who arrived in Poland between 2017 and 2018, a much lower volume compared to work permit data but still quite significant given the drastic rate of increase. Figure 14 shows data on first work-related residence permit issued in Poland between 2008 and 2018. In 2018, 4024 residence permits were given, of which an overwhelming majority, 92 percent, were issued for work-related purposes. There is clearly an increasing trend, particularly in 2017, where 2272 work-related first permits were issued, up from just 340 a year earlier, or nearly a 600 percent increase. Data on border crossing recorded by the Polish Guard show roughly similar numbers. In 2017, 2,275 Nepalese citizens were recorded entering Poland, while another 4,432 entered in 2018.

**Figure 14** First work-related residence permit issued to Nepalese Nationals in Poland, by reasons, 2008-2018

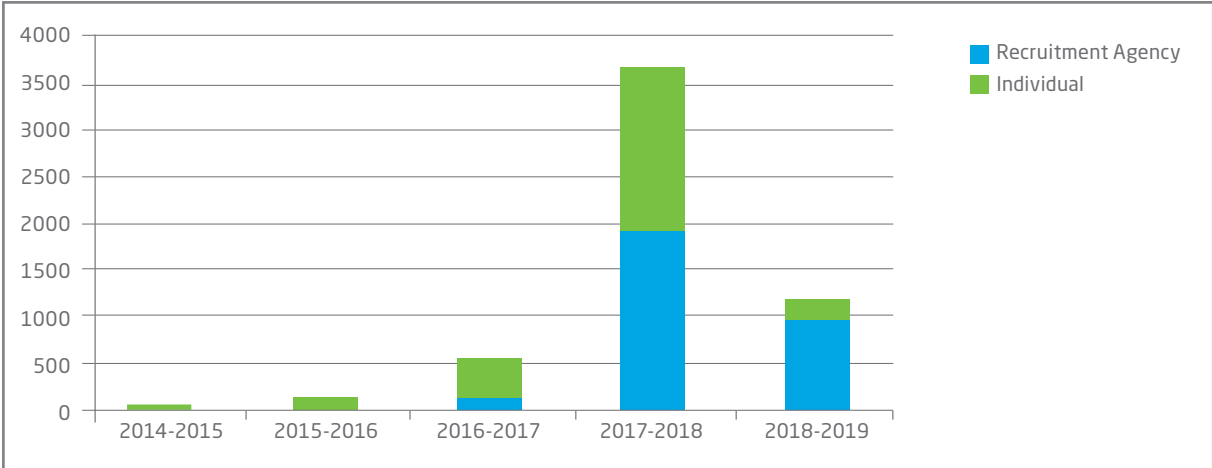


Source: Author's calculations based on Eurostat, accessed 9 March 2020

The number of labor approvals issued by Nepalese authorities also indicated a rapid increase of migration to Poland. Labor approval data captures the number of migrant workers who have received permission from the Nepalese government to work in the country of destination. As will be discussed at length later, the Nepalese government implements a border exit policy to ensure that only migrant workers meeting government regulations can work abroad. Given that the labor approval is issued closer to end of the recruitment process, only after the migrants have met all government requirements, there is a larger probability that those who actually received the labor demand would end up using it.

There has been a marked increase in labour approval to Poland from nearly zero in 2014-2015 fiscal year to almost 500 in 2016-2017 fiscal year. The number of labour approvals peaked in 2017-2018 at over 3500 labour approval issued, or nearly 600 percent increase from the previous fiscal year, which is interestingly the same rate of increase recorded in first residence permits issued in Poland in 2017. (see Figure 14 above)

**Figure 15** Labor approvals issued to Poland, 2014-2019



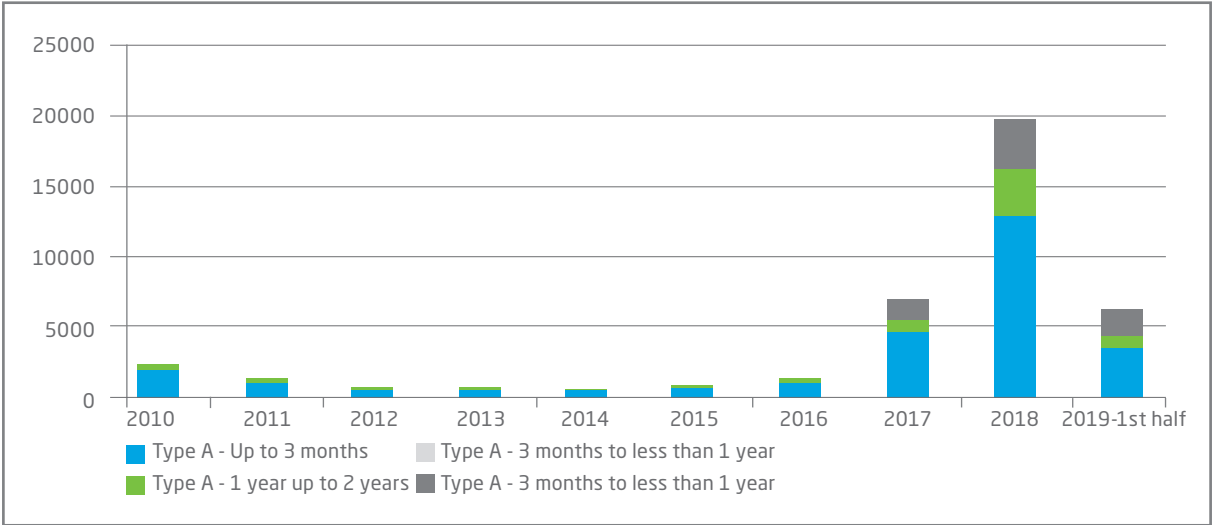
Source: Author's calculations based on Ministry of Labor, Employment and Social Security, Nepal, accessed 15 March 2020

**DECLINING EMIGRATION FROM NEPAL**

Nepalese labor approval data gives further evidence that labor migration from Nepal to Poland has started to decrease. In the 2018-2019 fiscal year, the number of labor approvals began to decline to 1100 - a nearly 70 percent decrease.<sup>19</sup> The Polish border guard entry data from January to September 2019 seems to add evidence to this observation. In this time period, 3755 Nepalese citizen entered Poland, which is less than what was recorded at the same time a year earlier.

Work permit data in Poland also shows a declining trend. After decreasing between 2010 and 2014, the number of work permits began to increase in 2015, from 400 to 600 workers, or a 50 percent increase. This increasing trend only intensified over the next two years: doubling to 1200 workers in 2016, and increasing by nearly 500 percent in 2017, with over 7000 work permits issued to Nepalese workers. Although the number of issued work permits reached an all-time high in 2018, the rate of increase actually begun to decrease that year (see Figure 16). Indeed, data on the first half of 2019 show that a smaller proportion of work permits issued compared to same time last year signalling decreasing interest among Polish companies for hiring Nepalese workers, following huge spikes just a few years earlier. As the next section will analyse, possible reasons why this maybe the case include the difficulty in meeting Nepalese government regulations and the role of recruitment agencies in quickly diverting recruitment channels to other more efficient and profitable destinations.

**Figure 16** Number of Type-A Work Permit issued to Nepalese Nationals, by Duration, 2010-2018



Source: Author's calculations based on Ministry of Family, Labor and Social Policy, Poland, accessed 15 February 2020

<sup>19</sup>Author's analysis of database on labour approval record,2014-2019, Ministry of Labor, Employment and Social Security, Nepal. As of this writing, there is no public data available yet on first work related residence permits issued in Nepal for the 2019-2020 fiscal year.

A closer analysis of work permit data between 2010 and first half of 2019 also offers three additional insights on Polish companies' changing preferences with respect to Nepalese workers. First, an increasing proportion of work permits issued to Nepalese worker have longer term contracts. Although majority of work permits are still three months or less, an increasing proportion of contracts are of one to two years and between two and three years is evident. (See Annex) This may reflect preference of employers to retain the Nepalese workers already in Poland in light of the difficulty of hiring new workers directly from Nepal. This could possibly herald a phase of increasingly long-term settlement of Nepalese labor migrants.

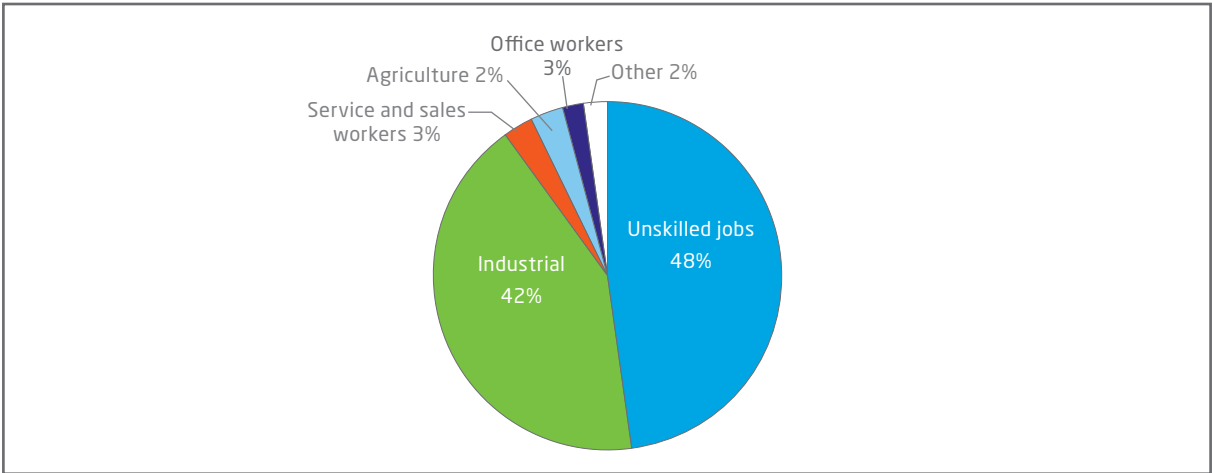
Second, there seems to be an increasing predominance of lower skilled workers, particularly in the last few years<sup>20</sup>. Figure 17 shows that up unto 2016, there are as many unskilled workers as opposed to IT specialists, but a shift in 2017 to unskilled or mid-skilled work can be noticed. New occupations became more prominent. In 2017 and 2018, nearly half of Nepalese workers were in the category of "workers performing simple jobs" while another 40 percent or so are either industrial workers or craftsmen or machine and device operators and assemblers (all classified as 'industry' in Figure 18). These three occupational categories represent nearly 90 percent of workers from Nepal.

**Figure 17** Proportion of Work Permits issued to Nepalese Nationals by category, 2008 to 2019



Source: Author's calculations based on Ministry of Family, Labor and Social Policy, Poland, accessed 15 February 2020

**Figure 18** Proportion of Work Permits issued to Nepalese Nationals by sector, 2017 to first Half of 2019

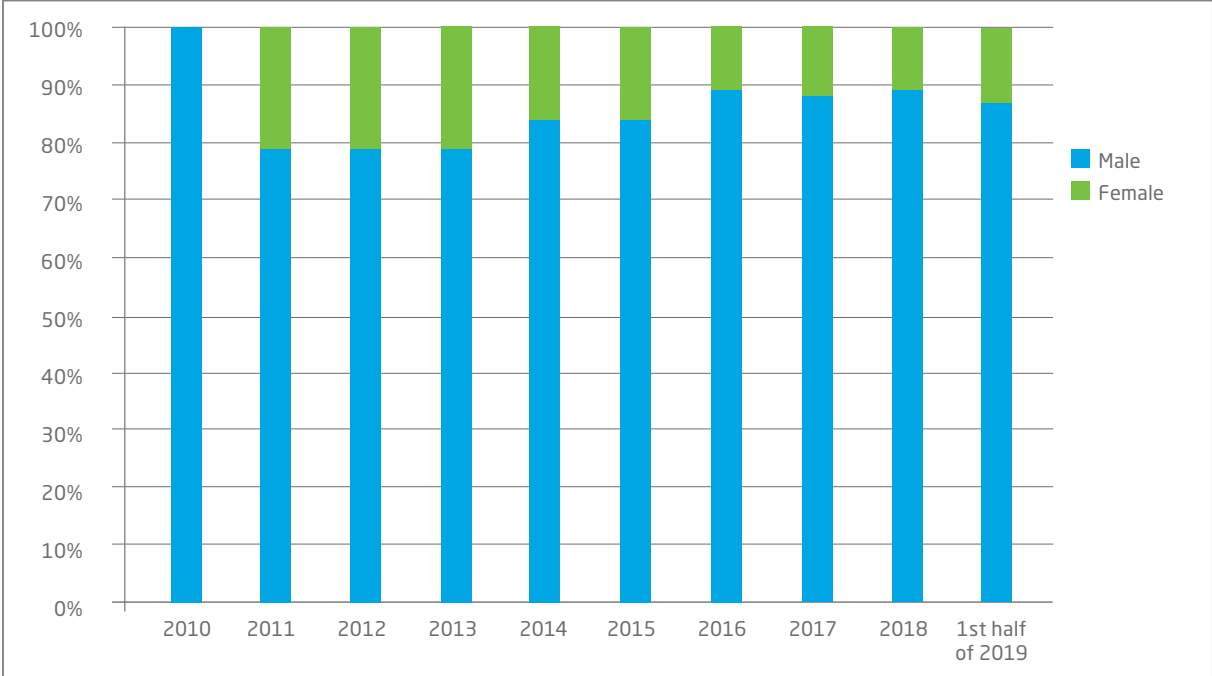


Source: Author's calculations based on Ministry of Family, Labor and Social Policy, Poland, accessed 15 February 2020

<sup>20</sup>Lower skilled sector migrant workers include farmers and gardeners, industrial workers and craftsmen, machine and device operators and assemblers but detailed data was not available for all years included, particularly before 2017.

And lastly, there is a continued preference for young and male migrants. Men make up nearly 90 percent of Nepalese workers in 2018 while more than two-thirds are between the age of 18 and 34, a trend that has not changed much since 2010 (see Figure 19). This may reflect the type of jobs Nepalese workers occupy in Poland, such as in industrial work and machine and device operation and assembly.

**Figure 19** Proportion of Work Permits Issued to Nepalese Nationals, by sex, 2010 to 2019 (1st half)



Source: Author’s calculations based on Ministry of Family, Labor and Social Policy, Poland, accessed 15 February 2020

**B. REASONS BEHIND THE SHIFTING MIGRATION PATTERNS**

There are three interrelated reasons that could explain the dramatic increase and now the beginning of decline of recruitment of Nepalese workers to Poland all in a span of a few years: (1) higher aspirations among Nepalese workers for better salary, safer working conditions and opportunity for settlement and family reunification; (2) Poland’s shifting labor market marred by decreasing unemployment and chronic labor shortages anticipated to only worsen over time; and (3) the active presence of middlemen, particularly recruitment agencies (RAs) in Nepal, and temporary work agencies (TWA) and RAs in Poland, who find and connect prospective Nepalese migrants to Polish employers.

**1. Higher aspirations**

Migration from Nepal to Poland is generally not a migration driven out of desperation but a deliberate search for better opportunities benefiting not just the migrants but also his or her family. The interviews and focus group discussions conducted for this study indicated that, in making the decision to migrate, prospective and current migrants from Nepal tend to carefully weigh the benefits of moving to Poland as opposed to staying put in Nepal or moving to other destination countries. As will be discussed at length later, long-distance migration to European countries such as Poland is a family investment requiring significant resources. Individuals who are motivated to migrate all the way to Poland, and bypass geographically closer or more popular destinations, such as Saudi Arabia, UAE and Malaysia, are not just looking for a job per se, but are looking for a better job and long-time prospects for their families.



Many of the migrants interviewed for this study actually had jobs in Nepal, with some even running their own small businesses or studying in the university. One person interviewed migrated to Poland while still a professional athlete representing Nepal in international competitions.<sup>21</sup> Some of the migrants interviewed for this study have even worked abroad before, primarily to countries in the Middle East and in Malaysia, and found the opportunities there as not sufficient to improve their way of life and especially of the families they left behind in Nepal. The salary is usually not high enough to allow accumulation of savings or to start a business.<sup>22</sup> As one prospective migrant to Poland who have already worked in the Middle East explains: "We could not save enough money. It was still a challenge to arrange money for our children's education while also meeting our daily essential expenses."<sup>23</sup>

There is also a perceived higher chance of facing exploitative working conditions in the Middle East and other Asian destinations. Poland, given its location in the EU, is seen as safer destination offering better working conditions. A Nepalese migrant who now lives in Poland explains his decision to migrate: "We didn't want to go to Dubai. Every day around 10 Nepalese people die there and no one cares. We didn't want to work in bad conditions."<sup>24</sup> It is interesting to note that data collected by the Nepalese government suggest a lower number of deaths ranging from between 3 and 4 migrant workers.<sup>25</sup>

However, the greatest motivation to migrate to Poland, or any other country in Europe for that matter, is not a higher salary or safer working conditions, but the long-term opportunity for settlement and family reunification. Nearly every prospective and return migrants interviewed in Nepal for this study mentioned the importance of migrating with the family in tow.<sup>26</sup> As one migrant notes in a focus group discussion held in Nepal among prospective migrants: "People from our area who have gone to Europe are doing very well and having a decent lifestyle...They are earning a lot of money and are able to take their family in Europe to be settled there. We also wanted to have similar life and wanted to go to Europe."<sup>27</sup>

Indeed, migrant interviews conducted in Nepal suggest that Poland primarily attracts first time as well as seasoned migrants who wanted to migrate to any country in the EU. These are migrants who would not have probably migrated otherwise or not again except to another country where there is also a prospect of permanent settlement. Migrants in the Middle East have no chance of getting a permanent residence or citizenship regardless of length of stay. High skilled migrants, or those earning a certain income, could generally bring families but without a prospect of permanent settlement. As one focus group participant in Nepal explains: "We never thought to go to the Gulf states or Malaysia. But we would have gone to another country if it is in the EU. The reason is that we would have an opportunity to take our family to be settled there."<sup>28</sup> The United States and Canada are also attractive destinations for Nepalese workers but are considered out of reach due to the prohibitive cost involved in migrating there. As one migrant puts it: "Going to USA or Canada is beyond our capacity."<sup>29</sup>

In short, Nepalese labor migrants heading to Poland see themselves as future EU citizens, and not just temporary migrant workers. Migrants interviewed for this study left Nepal expecting that their temporary job contracts would lead to a

---

<sup>21</sup>Focus group discussion 3 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandu, Nepal on March 13 2020; In-depth interview 5 with a Nepalese migrant worker in Poland convened by Izabela Florczak in Warsaw, Poland on February 15, 2020; In-depth interview 2 with a Nepalese migrant convened by Rameswar Nepal in Chitwan, Nepal on March 14, 2020; Focus group discussion 4 with Nepalese return temporary labour migrants convened by Rameswar Nepal in Itahari, Sunsari, Nepal on March 15 2020.

<sup>22</sup>Focus group discussion 4 with Nepalese return temporary labour migrants convened by Rameswar Nepal in Itahari, Sunsari, Nepal on March 15 2020

<sup>23</sup>Focus group discussion 2 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandu, Nepal on March 16, 2020; Focus group discussion 4 with Nepalese return temporary labour migrants convened by Rameswar Nepal in Itahari, Sunsari, Nepal on March 15 2020

<sup>24</sup>In-depth interview 6 and 7 with Nepalese migrant workers in Poland convened by Izabela Florczak in Gądko, Poland on January 19, 2020; Data collected by the Nepalese government suggest that between 3 and 4 Nepali migrant workers die.

<sup>25</sup>Rameswar Nepal, correspondence with author, August 15, 2020

<sup>26</sup>This conclusion is based on interviews with prospective and return migrants in Nepal. The interviews conducted with Nepalese migrants already in Poland did not cover the topic of migrant's expectations of the return process, including the expected length of stay in Poland, and when they expect to return, if at all.

<sup>27</sup>Focus group discussion 3 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandu, Nepal on March 13 2020

<sup>28</sup>Focus group discussion 3 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandu, Nepal on March 13 2020; Focus group discussion 1 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandu, Nepal on March 12, 2020

<sup>29</sup>Focus group discussion 4 with Nepalese return temporary labour migrants convened by Rameswar Nepal in Itahari, Sunsari, Nepal on March 15 2020

permanent resident card (PR) after two years, which would then allow them to petition for their family to also live in Poland.<sup>30</sup> As one migrant about to depart for Poland explains: “We have seen our relatives and fellow villagers take their family to the EU. We thought the opportunity has come to our door too. Once we have the PR, we can take our family too.”<sup>31</sup>

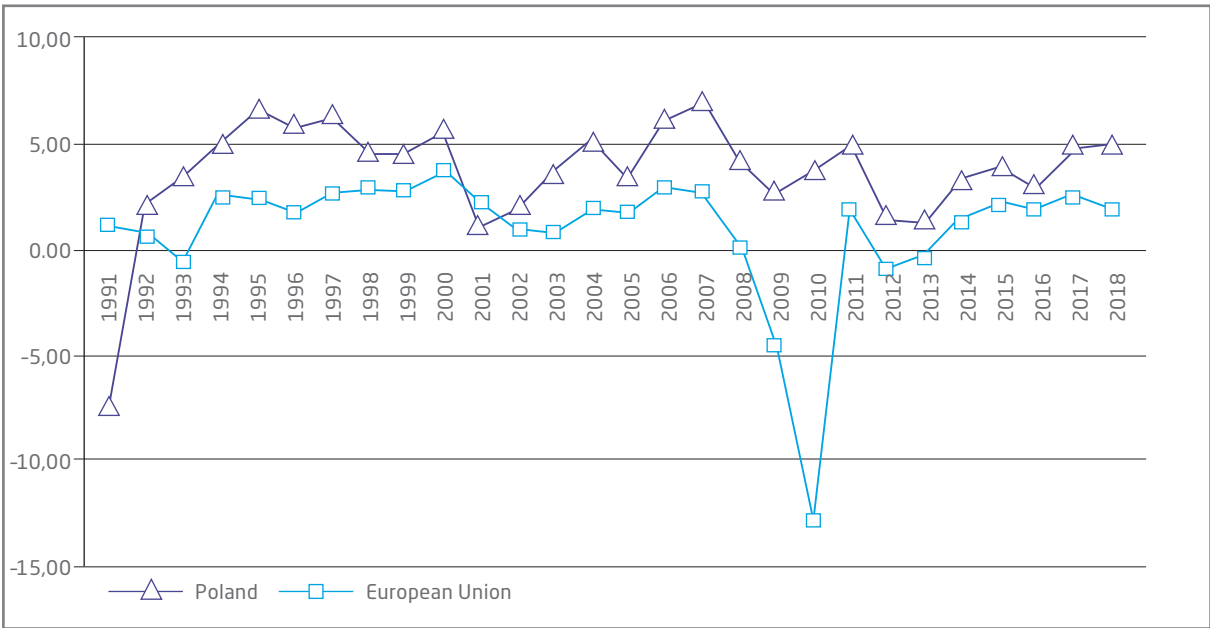
**2. Labor shortages**

Nepalese migrants’ higher aspirations to settle in the EU has found its way in Poland’s shifting labor market characterized by deepening labor shortages that both experts and practitioners alike anticipate to only worsen over time.

**FAST-PACED GROWTH**

Since joining the EU, the Polish economy has been growing at an average rate of 4.10 percent per year, and has continued posting positive growth even during the height of the global financial crises that began in 2007, even defying, as figure 20 shows below, EU-wide trend.

**Figure 20** Annual GDP per capita growth, Poland and EU

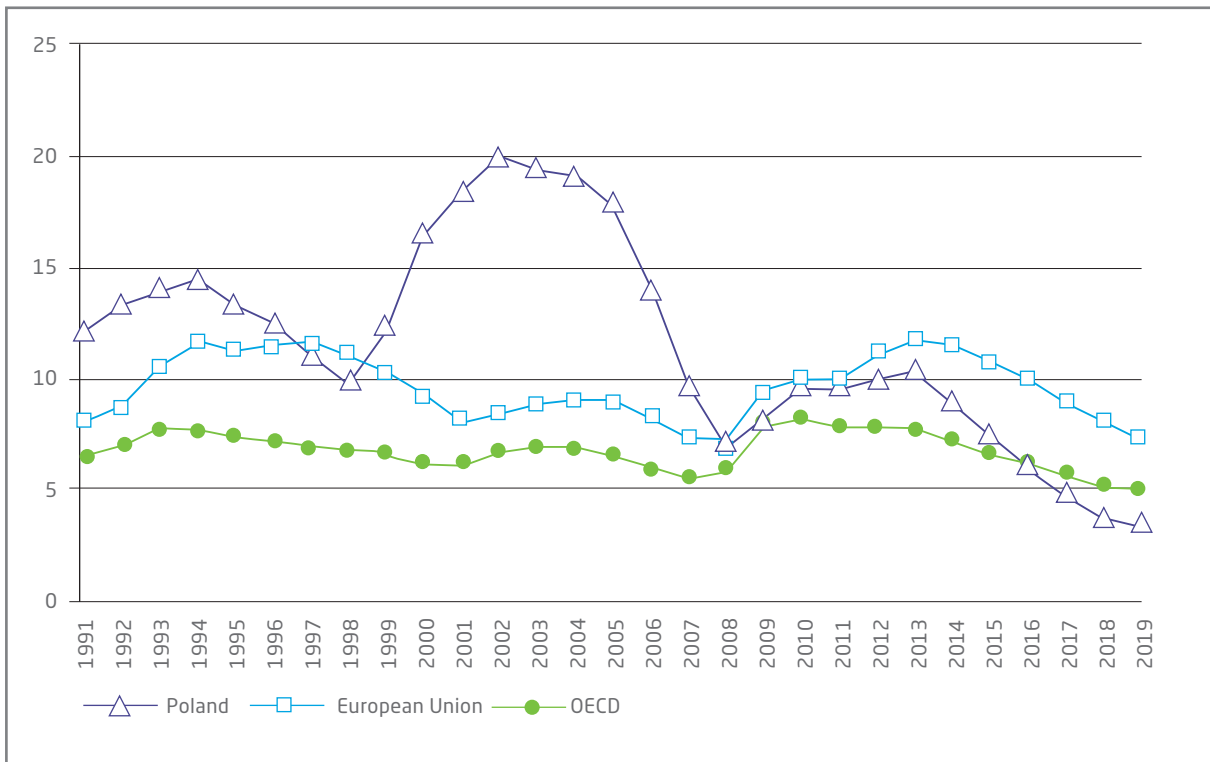


Source: Author’s calculations based on World Development Indicators database, World Bank

If an analysis of consulting firm Pricewaterhouse Coopers is to be believed, Poland needs 1.5 million more workers by 2025 to power its booming economy.<sup>32</sup> Indeed, the unemployment rate has declined drastically from 20 percent just before it joined the EU in 2004 to less than 4 percent in 2018. This rate is half than the average unemployment rate recorded by countries in the Euro area in the same period and even lower than the average of OECD countries (see figure 21).

<sup>30</sup>Focus group discussion 3 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandhu, Nepal on March 13 2020; Focus group discussion 1 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandhu, Nepal on March 12, 2020; Focus group discussion 2 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandhu, Nepal on March 16, 2020  
<sup>31</sup>Focus group discussion 2 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandhu, Nepal on March 16, 2020  
<sup>32</sup>Maria Wilczek , “Poland struggles to find workers as unemployment hits 28-year low , Aljazeera, August 29, 2019. <https://www.aljazeera.com/ajimpact/poland-struggles-find-workers-unemployment-hits-28-year-190829195115010.html>; The full report in Polish can be accessed here: <https://www.pwc.pl/pl/media/2019/2019-01-22-luka-rynek-pracy-2025-pwc.html>; For an earlier analysis, on the Polish labor market, see also Bogdan, Wojciech, et al Poland 2025: Europe’s new growth engine, Report, Mc Kinsey and Company, January 2015 [https://www.mckinsey.com/~media/mckinsey/business%20functions/economic%20studies%20temp/our%20insights/how%20poland%20can%20become%20a%20european%20growth%20engine/poland%202025\\_full\\_report.ashx](https://www.mckinsey.com/~media/mckinsey/business%20functions/economic%20studies%20temp/our%20insights/how%20poland%20can%20become%20a%20european%20growth%20engine/poland%202025_full_report.ashx)

**Figure 21** Unemployment rate of Poland, Euro area and OECD, 1991-2019



Source: Author's calculations based on World Development Indicators database, World Bank (unemployment as % of total labor force; modeled ILO estimate)

According to a 2018 report by the Polish Social Ministry of Family, Labor and Social Policy, there will be continued labor deficits on what it calls “lowly paid and unattractive jobs” particularly in the construction and manufacturing sectors (e.g. carpenters, bricklayers and plasterers, tailors and garment trade workers); the restaurant industry, (chefs, cooks and pastry makers), health care (nurses and midwifery professionals, home-based personal care workers), transport (heavy truck and lorry drivers, bus drivers) and services (hairdressers, car mechanics).<sup>33</sup> These are essentially the same sectors and jobs Nepalese’s workers are recruited to do, based on the work permit data described earlier.

### REPLACEMENT MIGRATION

To some extent, increasing migration of TCN workers *towards* Poland may reflect a pattern of ‘replacement’ migration with foreign workers taking up vacancies left by Polish workers who migrated to Western Europe. In the years around EU accession in 2004, Poland initially saw a rapid increase in emigration as Poles took advantage of higher wages available in wealthier economies of the EU, thus adding to growing labor shortages in Poland. According to Eurostat flow data, nearly 230,000 long-term Polish emigrants left in 2009, up from just around 30,000 a year before, or nearly a 700 percent increase. Every year since then and until 2018, an average of 240,000 Polish citizens are estimated to be emigrating annually. In the same period, around 200,000 long-term immigrants from abroad are immigrating to Poland from countries such as Ukraine and Belarus.

These estimates, of course, does not include shorter-term movements of less than one year involving cross-border workers, seasonal migrants and posted workers. Polish workers also leave Poland for other EU countries on shorter-term basis, primarily to take jobs in the EU’s core such as the United Kingdom, Netherlands and Germany. In turn, during the high season, for instance, Poland hosts between 1.5 to 2 million seasonal workers, higher than all seasonal migration to the rest of the EU. Around 80 percent of those migrants are from Ukraine, who are allowed to

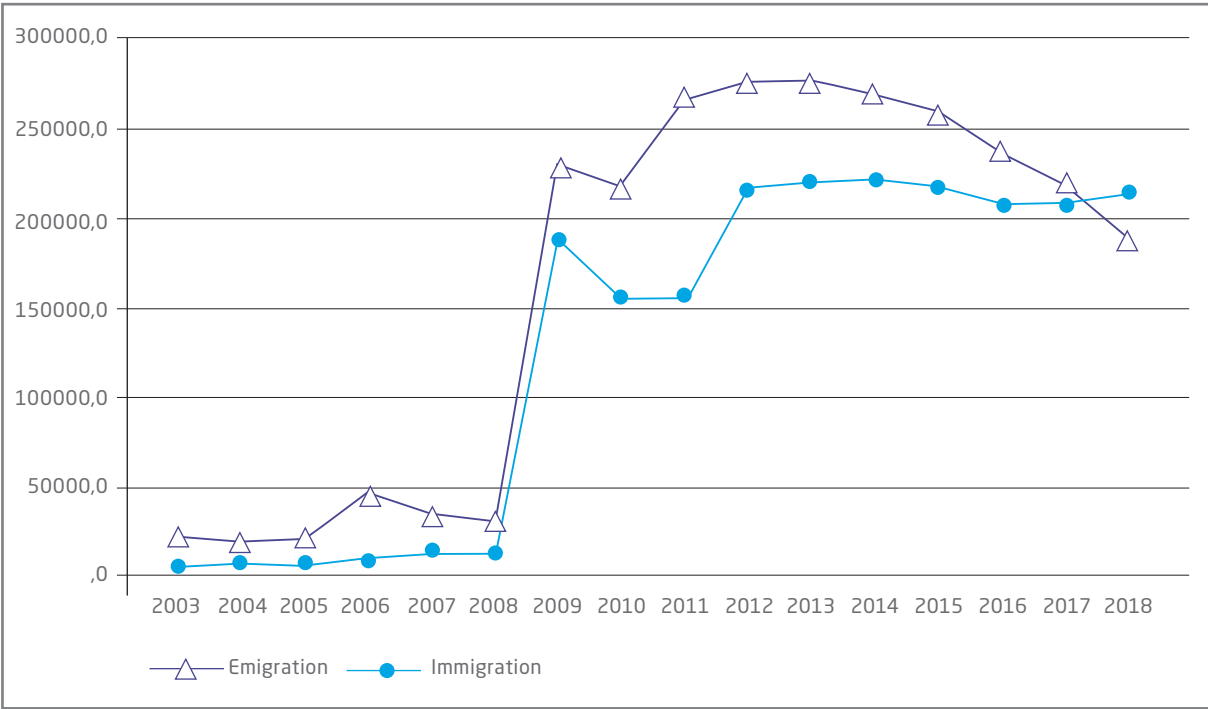
<sup>33</sup>Regional Labour Office in Cracow, Occupational Barometer 2018, Regional Labour Office in Cracow: Krakow, 2017

work in Poland for up to six months in a year without applying for work permits.<sup>34</sup> Officials at the National Bank of Poland declared in 2019 that Ukrainians were a key engine driving Polish economic growth and estimated that they added around 2.5 percent to the country's GDP.<sup>35</sup>

**POLAND'S TRANSITION AS A DESTINATION COUNTRY**

Although remaining strong, short-term outmigration from Poland is beginning to decrease. The EC estimates that since 2018, there was a 6 percent drop in the number of Polish citizens moving on a short-term basis within the EU. The number recorded in 2018 is 1.4 million, or 80,000 less than in 2017. Although this new trend reflects the decrease of Polish citizens recorded in the UK, the study notes that this net decrease also coincides with strong growth in GDP in Poland of 5.1 percent. Data on long-term emigration from Poland has actually begun its decline in 2015 and three years later, in 2018, immigration, for the first time, outnumbered emigration, cementing Poland's status as a net country of destination in the EU<sup>36</sup>.

**Figure 22** Annual emigration from and immigration to Poland, 2003-2018



Source: Author's calculations based on <http://ec.europa.eu/eurostat/web/products-datasets/-/tps00176>

**ESCALATING COMPETITION FOR WORKERS**

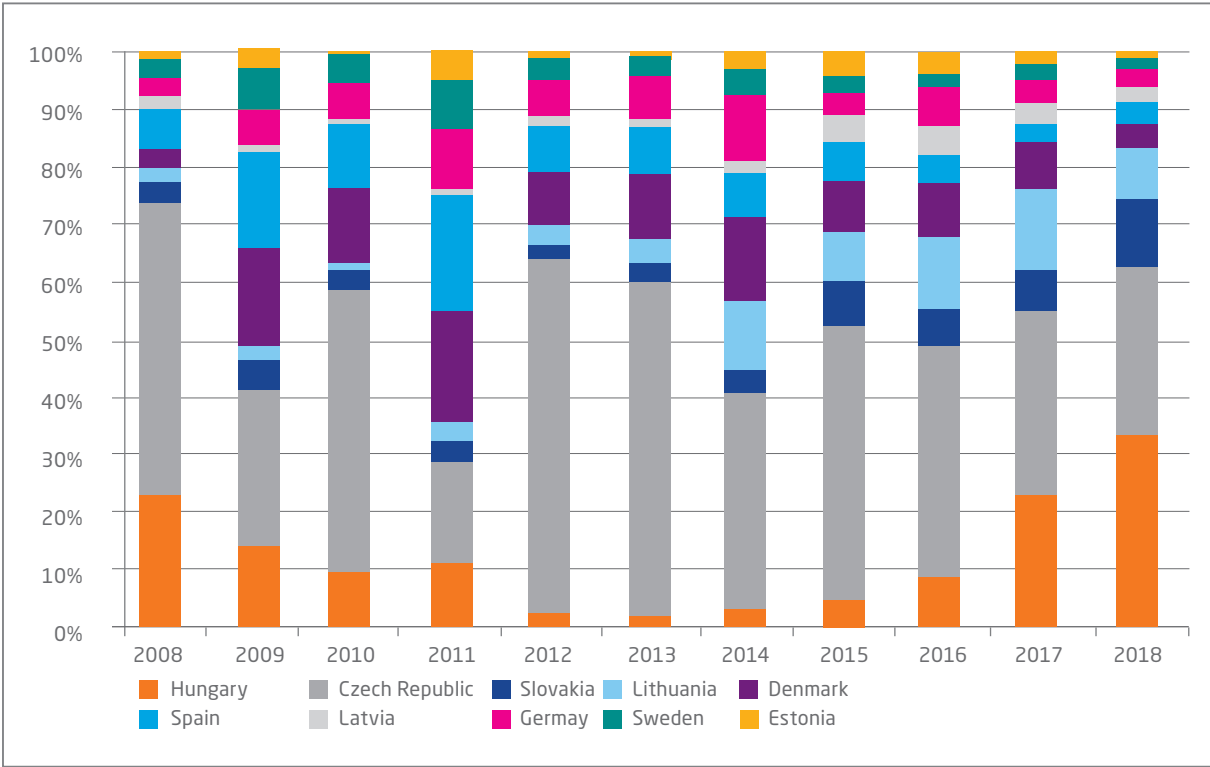
Indeed, if the economy keeps on growing on its present or at least moderate rates, and given already Poland's unfavorable demographics characterized by an ageing population and low fertility, the labor shortages could only grow more substantial in the coming years. Adding to this concern is that Poland may not be able to supplement its labor force the way it had over the last decade by recruiting workers from neighboring countries, primarily from Ukraine and to a lesser extent, Belarus, which may increase its dependence on non-European sources of labor, such as Nepal.

In 2017, the European Union approved visa-free travel for Ukrainian citizens for tourism, family visits and business reasons of up to 90 days. Although this visa waiver does not give Ukrainians the right to work in the EU, this freedom of short-term mobility increases their chances of exploring opportunities and finding a job. Indeed, the number of Ukrainians moving to other EU countries, excluding those going to Poland, more than doubled in 2018.

<sup>34</sup>Interview with Pawel Kaczmarczyk convened by author via phone on February 27, 2020  
<sup>35</sup>Alexander Khrebet, "Germany and Poland compete for Ukrainian migrant workers," March 3, 2020 <https://www.atlanticcouncil.org/blogs/ukrainealert/germany-and-poland-compete-for-ukrainian-migrant-workers/>  
<sup>36</sup>Immigration is a combination of Polish returnees and actual immigrants from elsewhere. So, the combination of increasing returns of Polish workers and increasing immigration of TCNs seems to explain this trend. More research is need to explore this further.

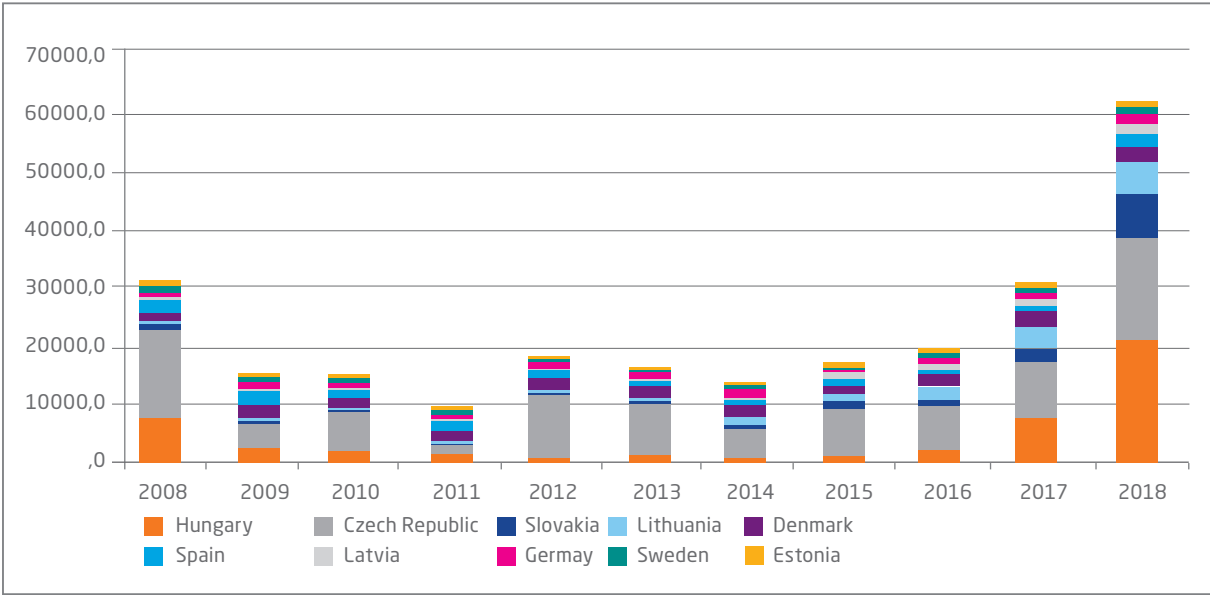
Although majority of Ukrainians move to neighboring countries, particularly Hungary, Czech Republic and Slovakia, other EU countries also registered an increasing number of Ukrainian workers. For instance, in 2018, there are 12 countries in the EU that doubled the number of permits issued to Ukrainians, including Malta, Portugal and Sweden.

**Figure 23** Number of First Related Work Permits Issued to Ukrainians, top ten countries, excluding Poland



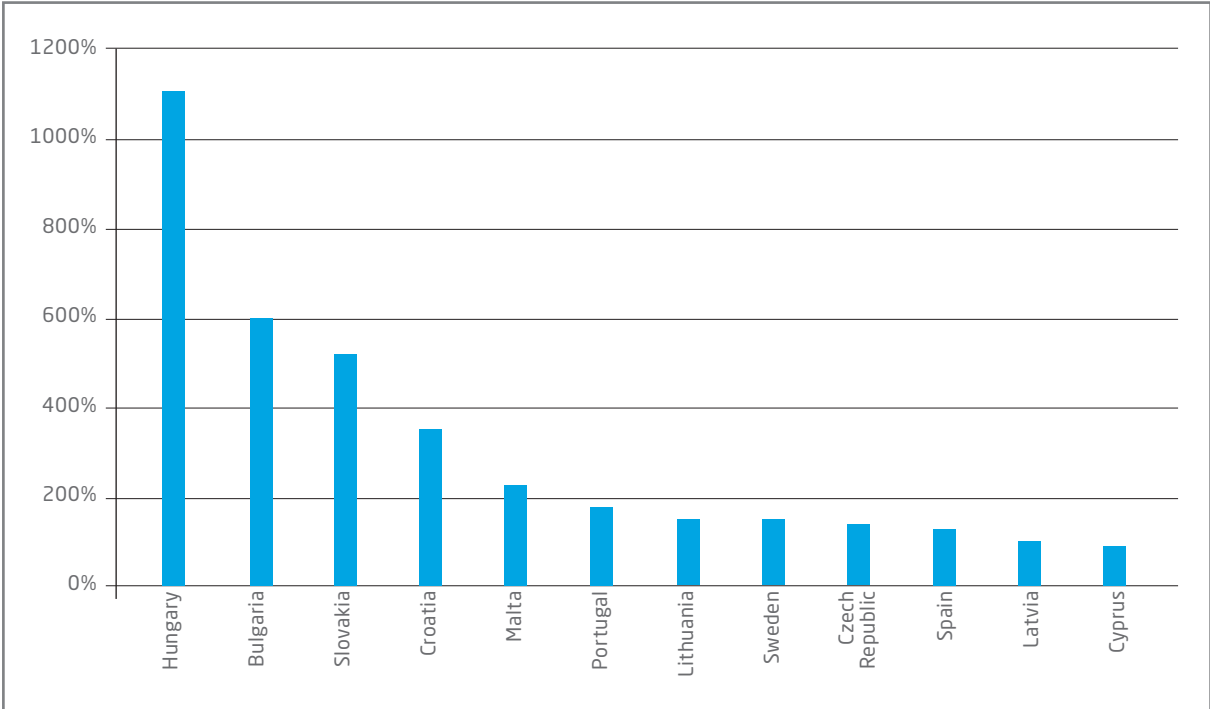
Source: Author's calculations based on Eurostat, accessed 9 March 2020

**Figure 24** Number of First Related Work Permits Issued to Ukrainians, top ten countries, excluding Poland



Source: Author's calculations based on Eurostat, accessed 9 March 2020

**Figure 25** Percent change between 2017 and 2018 in First Work-related Permits Given to Ukraine, highest increase



Source: Author's calculations based on Eurostat, accessed 9 March 2020

For Poland, the main competitor for the Ukrainian workforce is Germany, the EU's largest economy. Like Poland, Germany, according to some estimates, needs to fill over one million vacant jobs in the country.<sup>37</sup> While Poland has benefited from its proximity to Ukraine, Germany can offer significantly larger salaries, better working conditions, and generally higher living standards. Indeed, a survey conducted by Netherlands-based international employment services company Otto Work Force found that 70 percent of Ukrainians who expressed an interest in working abroad identified Germany as their preferred destination. If countries like Germany will be able to attract growing numbers of Ukrainians and other European TCN nationals, it may increase the need for Polish employers to recruit workers in countries further afield such as in South Asia.

On March 2020, Germany has officially introduced new and much anticipated labor regulations for non-EU citizens, making it more likely for Ukrainians to be legally employed in the country. This includes positions ranging from doctors and physiotherapists to IT specialists and construction workers. Under the new regulations, German employers no longer have to check the availability of Germans to fill vacancies before hiring non-EU citizens. However, some restrictions remain including a significant command of the German language.<sup>38</sup>

Aside from Germany, Poland's future reliance on the Ukrainian workforce could ultimately be undermined by the improving Ukrainian economy itself. Ukrainian salaries have never been more competitive after two consecutive years of GDP growth at above three percent. In 2019, real wages rose by ten percent.<sup>39</sup>

**3. Creating the middlemen: Flexible labor market and deregularization of the recruitment process**

Migrant aspirations and labor shortages alone don't create new migration corridors or adequately explain shifts within corridors through time. It also important to consider the active presence of middlemen, particularly recruitment agencies (RAs) in Nepal, and temporary work agencies (TWA) and RAs in Poland, who find and connect

<sup>37</sup>Ulf Sommer and Frank Specht, "No end in sight to German employment boom" Handelsblaatt, January 30, 2019 <https://www.handelsblatt.com/today/companies/job-vacancies-no-end-in-sight-to-german-employment-boom/23927196.html?ticket=ST-4328623-Nqb-pkE3QbBAarTgyZzzZ-ap5>

<sup>38</sup>Alexander Khrebet, "Germany and Poland compete for Ukrainian migrant workers," Atlantic Council, March 3, 2020 <https://www.atlanticcouncil.org/blogs/ukrainealert/germany-and-poland-compete-for-ukrainian-migrant-workers/>

<sup>39</sup>Ibid

prospective Nepalese migrants to Polish employers. In general, RAs only deal with job placement, although in Poland, they also offer personal consultancy and career counseling agencies. TWAs, on the other hand, are not just recruiters but essentially act as employers as well. Employers in Poland outsource their workforce to TWAs, which place locals as well as migrants.

Indeed, conservative estimates suggest that it may take Ukraine two decades to catch up with Poland’s wage and standard of living and it is conceivable that Germany, given its inability to drop its onerous German language proficiency requirement, may not attract as many Ukrainians as Poland fears. Yet businesses in Poland, via the RAs and TWAs they hire, have already started to look further afield to plug potential or imagined labor gaps. For instance, Personnel Service, a Polish recruitment agency, is reported to be opening an office in Singapore to manage workers from Asia. Another agency, Work Service, declared 2019 as “Year of the Asian Migrants.”<sup>40</sup>

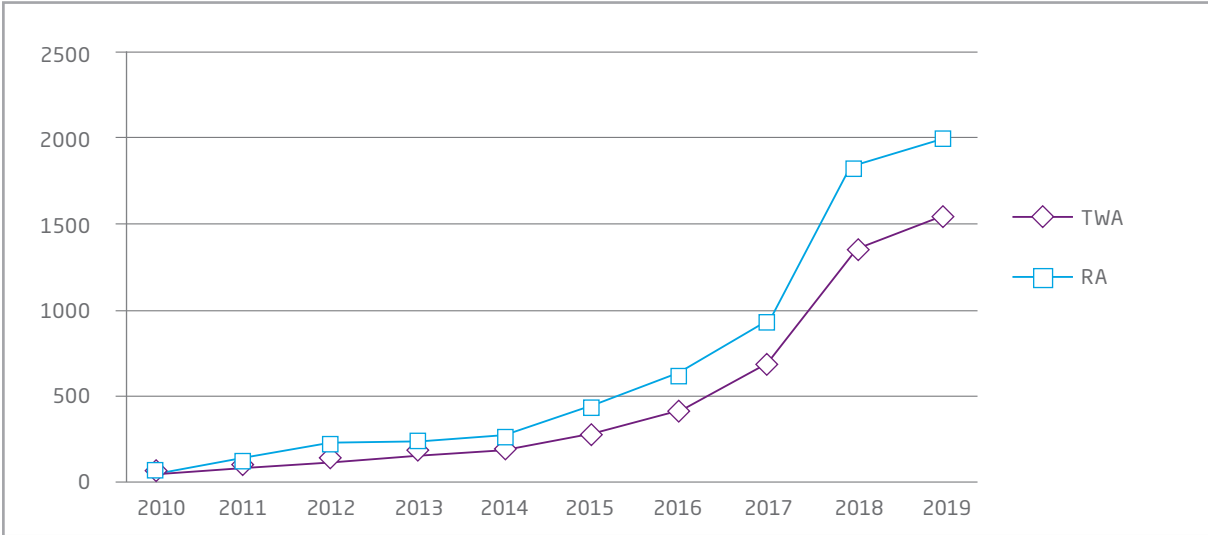
The recruitment of Nepalese workers to Poland occurs in a framework of an increasingly ‘flexible’ labor market where the governments in both countries essentially left the recruitment and hiring of migrant workers, as well as locals, largely to the hands of the private sector and reducing the government role to regulators.

There are two important insights about TWAs and RAs operation that influence the shifts in labor migration within the Nepal-Poland migration corridor: (1) their expanding and pervasive presence in matching workers with employees and (2) their operation in multiple migration corridors.

**EXPANDING AND PERVASIVE PRESENCE**

Confirming the increasing role of intermediaries in migration to Poland, and reflecting general trends in the EU, the number of registered TWA and RAs in Poland has increased from less than 100 in 2010 to over 3500 by 2019. The numbers have consistently increased through the years, with the largest increase recorded in 2018, with numbers nearly doubling compared to a year earlier.

**Figure 26** Number of registered Recruitment Agencies (RA) and Temporary Work Agencies (TWA) in Poland, 2010-2019



Source: National Register of Employment Agencies, Poland.

Interviews with key informants working in the Polish recruitment industry suggest that the TWAs and RAs actively seek employees in Nepal initiating the whole process and primarily looking for English speakers and those with low expectations of work and living employment conditions. As a Polish TWA official interviewed for this study explains: “We were not the first one to do so. Many other agencies and employers were looking for a work force. We, Polish

<sup>40</sup>Based on google translation of the report of Work Service, “Migracje zarobkowe cudzoziemców z Ukrainy i Azji do Polski,” Report, <https://www.workservice.com/pl/Centrum-prasowe/Raporty/Raport-Migracyjny/Migracje-zarobkowe-cudzoziemcow-z-Ukrainy-i-Azji-do-Polski#top>



companies, had to find people who spoke English and were willing to come to Poland, where working conditions are not as good as in Western Europe.”<sup>41</sup>

Echoing precisely what migrants interviewed for this study has expressed, TWAs and RAs in Poland are well aware that citizens from these countries are leaving their country to find better life. They also know that Poland is a particularly attractive destination given its location within the EU.<sup>42</sup>

A Polish government official interviewed for this study shared similar insights, noting that recruitment from Nepal was never a deliberate government policy and was largely driven by initiatives in the private sector to search for employees in countries with a high level of unemployment and fertility. As this official, who has expertise on migration policy and labor markets, explained: “Countries like Nepal, India or Bangladesh never were a direction for Polish migration policy. It is more up to Polish employers, mostly temporary work agencies, that those directions became important.”<sup>43</sup>

There is no available administrative data and statistics in Poland that could precisely indicate the extent of TWAs’ and RAs’ involvement in employment of Nepalese citizens. The only data that can be obtained are data illustrating the number of work permits issued to Nepalese citizens under the sector “administrative and support service activities”<sup>44</sup> which includes, but is not limited to, work provided through TWAs. In 2018, nearly 9,000 Nepalese nationals were recorded under this category, which is about 43 percent of all Nepalese workers who received work permits that same year. Compared to other nationalities, Nepalese workers seems to be overrepresented in this category, given that, as noted earlier, Nepalese workers only represent six percent of all foreign workers issued with work permits that same year.

In Nepal, it is much more straightforward to identify how many Nepalese workers have used the services of RAs since the Nepalese government actually records labor permits issued for abroad differentiating between labor permission issued in individual basis, and those through the recruitment agencies. It is clear from the data that RAs are heavily involved in the recruitment process.

RAs entered the Nepal-Poland market in the fiscal year 2015-2016, when labor approval was less than 200. One year after RAs entered the recruitment market, the number of labor approval increased to 500, and then peaked in 2017-2018 to over 3500. By that year, over 50 percent of labor approval were issues through RAs. Interviews with migrants in Nepal suggest that RAs may also be involved in recruiting workers under the individual labour permit but did not declare their involvement to government authorities. Thus, RAs could possibly well be responsible for the recruitment of even larger proportion of Nepalese workers to Poland. This is not surprising given that RAs have always played a large role in deployment of Nepalese migrant workers and are constantly looking for new destinations and markets to keep their business afloat. Indeed, interviews with Nepalese migrants already in Poland confirms that the prevalence of Nepalese agencies actively looking for workers making Poland a relatively easier destination to reach compared to other EU countries. RAs are “helping” people to come to Poland, as one migrant put it. In many cases such agencies contacted them directly.<sup>45</sup>

---

<sup>41</sup>Key informant interview 7 convened by Izabela Florczak in Lodz, Poland on February 2, 2020

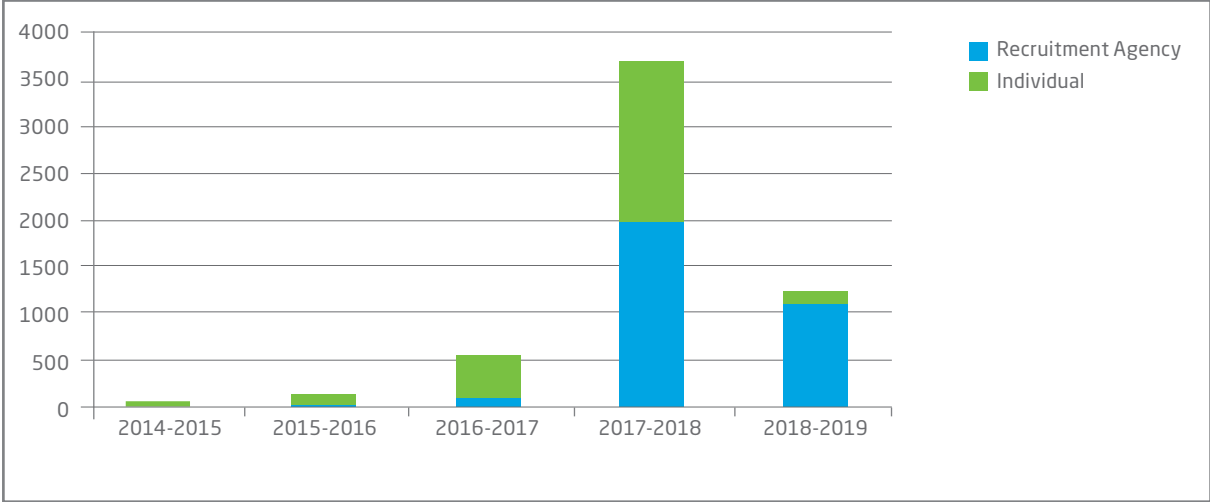
<sup>42</sup>Ibid

<sup>43</sup>Key informant interview 5 and 6 convened by Izabela Florczak in Warsaw, Poland on January 14, 2020

<sup>44</sup>In Polish: Działalność w zakresie usług administrowania i działalność wspierająca

<sup>45</sup>Focus group discussion 5 with Nepalese migrant workers in Poland convened by Izabela Florczak in Poland on February 2, 2020

**Figure 27** Number of Labor Approval for Nepalese workers to Poland, Recruitment Agency vs Individual route, absolute, 2014-2019



Source: Author's calculations based on Ministry of Labor, Employment and Social Security, Nepal, accessed 15 March 2020

**OPERATIONS ON MULTIPLE CORRIDORS**

Aside from their increasing number and involvement in finding and matching workers with employers, RAs and TWAs also operate on multiple corridors. TWAs and RAs in Poland turned their interest into Nepal, but also equally to other South Asian countries such as India, Pakistan and Bangladesh. Likewise, RAs in Nepal sending migrants to Poland are also equally active in other destinations in the EU such as Romania, Cyprus and Portugal.

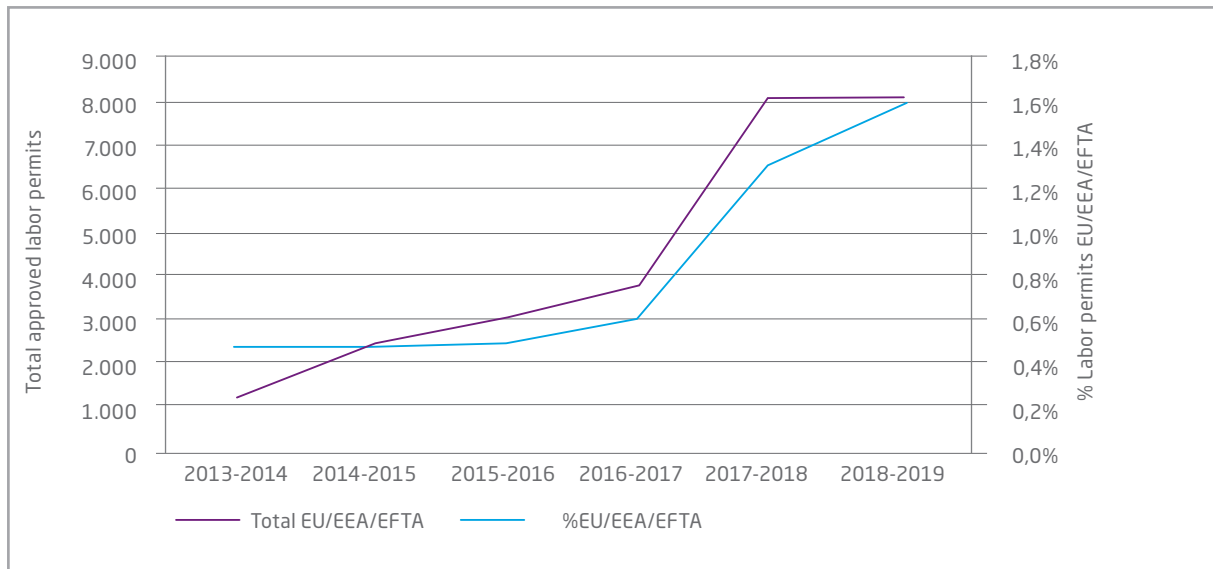
The Nepalese government meticulously records the number of migrants each recruitment agency deploys per destination. The data from 2017-2018, for instance, shows that all RAs that services the Nepal-Polish corridor also operated in other corridors, recruiting Nepalese migrants not just to other EU destinations but also to countries the Middle East.

There is no comparable administrative data in Poland so it is harder to determine the extent to which TWAs service multiple corridors. A preliminary review of advertisements TWAs and RAs in Poland posts in Polish websites, such as Lento.pl conducted to inform this study suggest that agents recruiting from Nepal are the same agents recruiting from other origin countries such as Ukraine, India and Bangladesh.

Indeed, agencies in both countries are part of an interconnected network of parallel labor migration corridors. Agencies divert flows to specific corridors depending on what is from their perspective most efficient, fastest and ultimately, most profitable. What determines the efficiency, speed and profitability of a specific corridor then depends on various factors, foremost of which are existing government regulations and requirements, specifically how they are implemented, and the actual demand and supply of labor as dictated by the labor market. RAs and TWAs are quite responsive to changes in the labor market and in government regulations, and on those basis support existing corridors or create new ones as needed. If there are problems in specific corridors, such as difficulty in getting an entry or work permit, RAs and TWAs will move to different corridors.

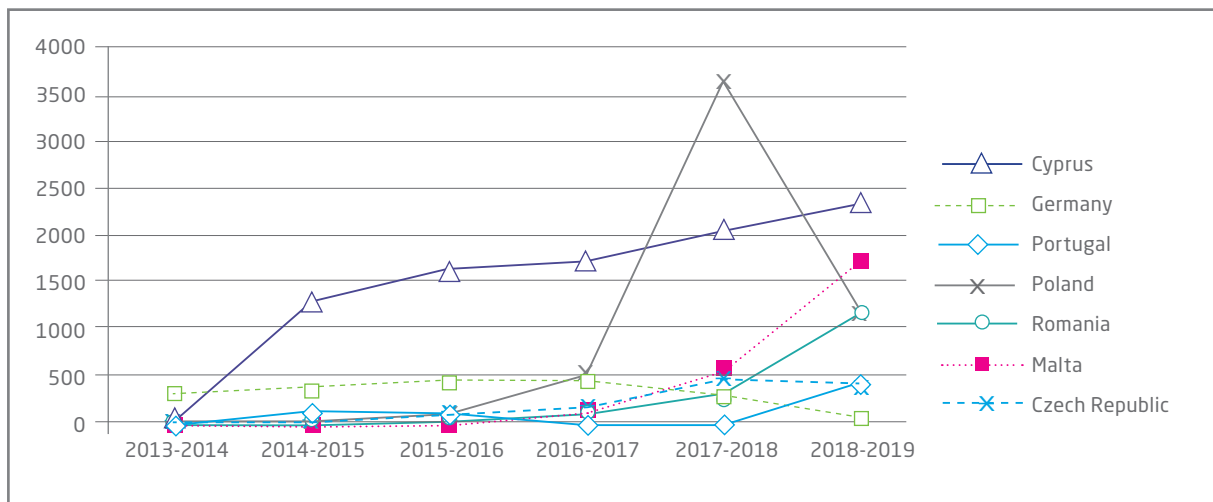
Indeed, an analysis of data on labour approval in Nepal from countries other than Poland is already giving evidence of such a shift. As noted earlier, there is decrease in labor approval in Poland recorded in 2018-2019, but this decrease is counterbalanced by a similar increase in labor approval to other destinations in the EU, which offers comparable benefits in terms of access to permanent residency. As Figure 29 below shows, labor approval issued to Cyprus, Malta, Romania and Portugal increased in 2018-2019 by 2,763 while Polish numbers declined by roughly the same amount, at 2,450.

**Figure 28** Labor approvals for Nepalese works, 2013-2019



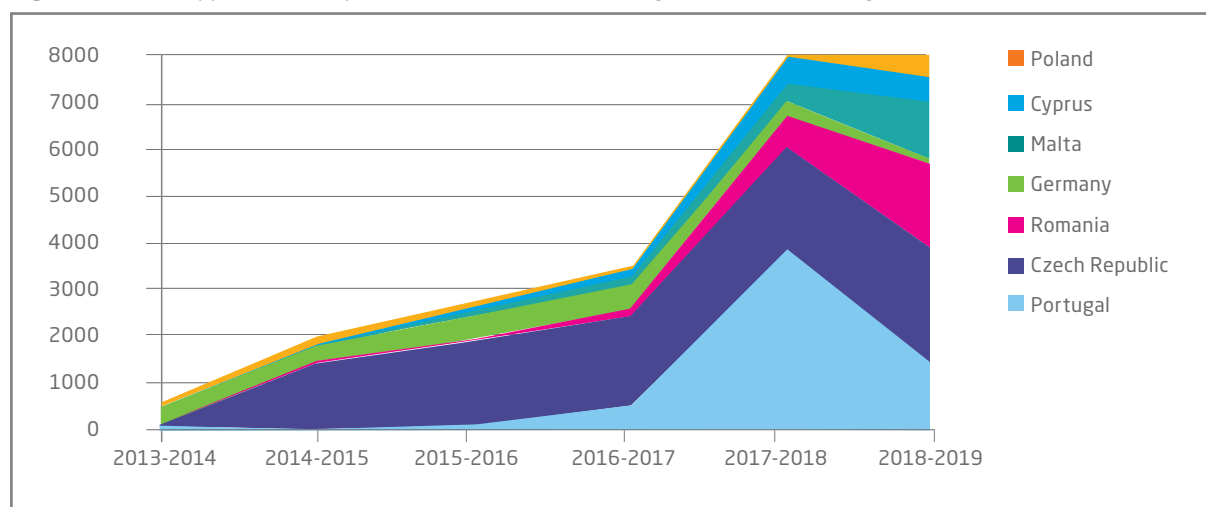
Source: Author's calculations based on Ministry of Labor, Employment and Social Security, Nepal, accessed 15 March 2020

**Figure 29** Labor approvals for Nepalese workers, 2013-2019, by destination country, absolute



Source: Author's calculations based on Ministry of Labor, Employment and Social Security, Nepal, accessed 15 March 2020

**Figure 30** Labor approval for Nepalese workers, 2013-2019, by destination country, relative



Source: Author's calculations based on Ministry of Labor, Employment and Social Security, Nepal, accessed 15 March 2020

Interviews with key informants in Nepal and Poland confirm the beginning of a shift to these other corridors, particular to Romania. A review of more recent vacancies RAs posted on Nepalese job vacancy websites also confirm this insight, with more and more job advertisements for other EU destinations than Poland, such as Romania, Cyprus and Malta, but also to countries neighbouring the EU, such as Turkey.

It is important to recognize, however, that the power of RAs and TWAs, and the labor market needs and the government regulations to which they respond, diminishes as the number of migrants in any given destination increase. As migrants establish a stronger foothold in any particular destination, their social networks—family, friends, acquaintances—would be able to support the continuing increase of migration despite detrimental labor market situation and policies. Since the Nepalese-Poland corridor is still at the beginning stage, RAs and TWAs plays a stronger role in diverting employers and migrants out of that corridor. That influence, however, will only diminish over time.<sup>46</sup>

### C. THE RECRUITMENT PROCESS ON PAPER: TWO COUNTRIES, TWO SYSTEMS

Many governments worldwide that send and receive significant numbers of migrant workers have created regulatory regimes and administrative systems, of varying sophistication and complexity, to govern the hiring and recruitment of migrant works as they cross international borders. Poland and Nepal are no exceptions. Both countries implement their own set of rules and regulations describing how migrant workers can be recruited from abroad, including the terms and conditions of their employment. These rules are not coordinated bilaterally and implementation is problematic, creating a convoluted recruitment system that by design increases migrant workers reliance on middlemen, along with their chances of exploitation.

In Nepal, citizens intending to go to Poland for work must obtain a labor approval, which is essentially a permission from the Nepalese government to leave the country to work abroad. Nepal, like many other countries in Asia that send migrant workers to work abroad, introduced exit requirements with the intention to protect its own migrant workers from abuse and exploitation by ensuring that only those with legitimate jobs abroad can leave the country. A labor approval is required not just for Poland but for all destinations except India.

<sup>46</sup>For an earlier iteration of this process, see Michael J. Piore, *Birds of Passage: Migrant Labor: Migrant Labor and Industrial Societies* (Cambridge: Cambridge University Press) 1979; see also Massey, D. S. 1990. Social structure, household strategies, and the cumulative causation of migration. *Population Index*, 56, 3-26.

There are essentially three types of labor approvals issued in Nepal: an (1) individual permit for citizens who found employment abroad on his/her own initiative; an (2) institutional permit for those who use the services of an RA; and (3) a Government to Government (G to G) permit for migrant workers who are migrating under a temporary work scheme managed directly by the government of Nepal with particular destination countries through a bilateral agreement (BA) or Memorandum of Understanding (MOU).

Since Nepal does not have a G to G BA or MOU with Poland, Nepalese workers bound for Poland can only apply for an institutional or an individual labor permit to leave the country legally. There are various steps and requirements that must be fulfilled to get the labor permit to exit Nepal. At the same time, the Polish government also has its own processes that must be fulfilled before migrants can enter and stay in Poland.

Since there is no coordination between Poland and Nepal on streamlining and coordinating both of these processes—Nepal's exit policy and Poland's entry and stay policy—Nepalese migrants and Polish employers must learn to navigate a disjointed and onerous long-distance cross border recruitment system involving multiple steps, actors and institutions located not just in Nepal and in Poland, but also in India and Germany since some key requirements would require the approval of the Polish embassy in New Delhi and Nepalese embassy in Berlin.<sup>47</sup>

Figures 31 and 32 below attempt to map the recruitment process by piecing together information from various Polish and Nepalese government regulations. The number of actual steps would vary depending on the whether the individual or institutional route is used. Migrants and employers opting forgo the use of recruitment agency in Nepal would have go through 14 steps, while an agency mediated migration would have 19 steps, following a different order.

Both steps begin with the employer fulfilling Poland's labor market test requirement. This test must confirm that there are no eligible Polish or EU nationals who could be employed in a given position.<sup>48</sup> If there are no available Polish citizens suitable for the position, the labor office issues an appropriate confirmation to the employer in writing. The labor market test does not need to be carried out if the work is included in the list of occupations which are in great demand, as specified by the local Voivode. As of August 2018, the labor market test requirement has been waived for 197 jobs.<sup>49</sup>

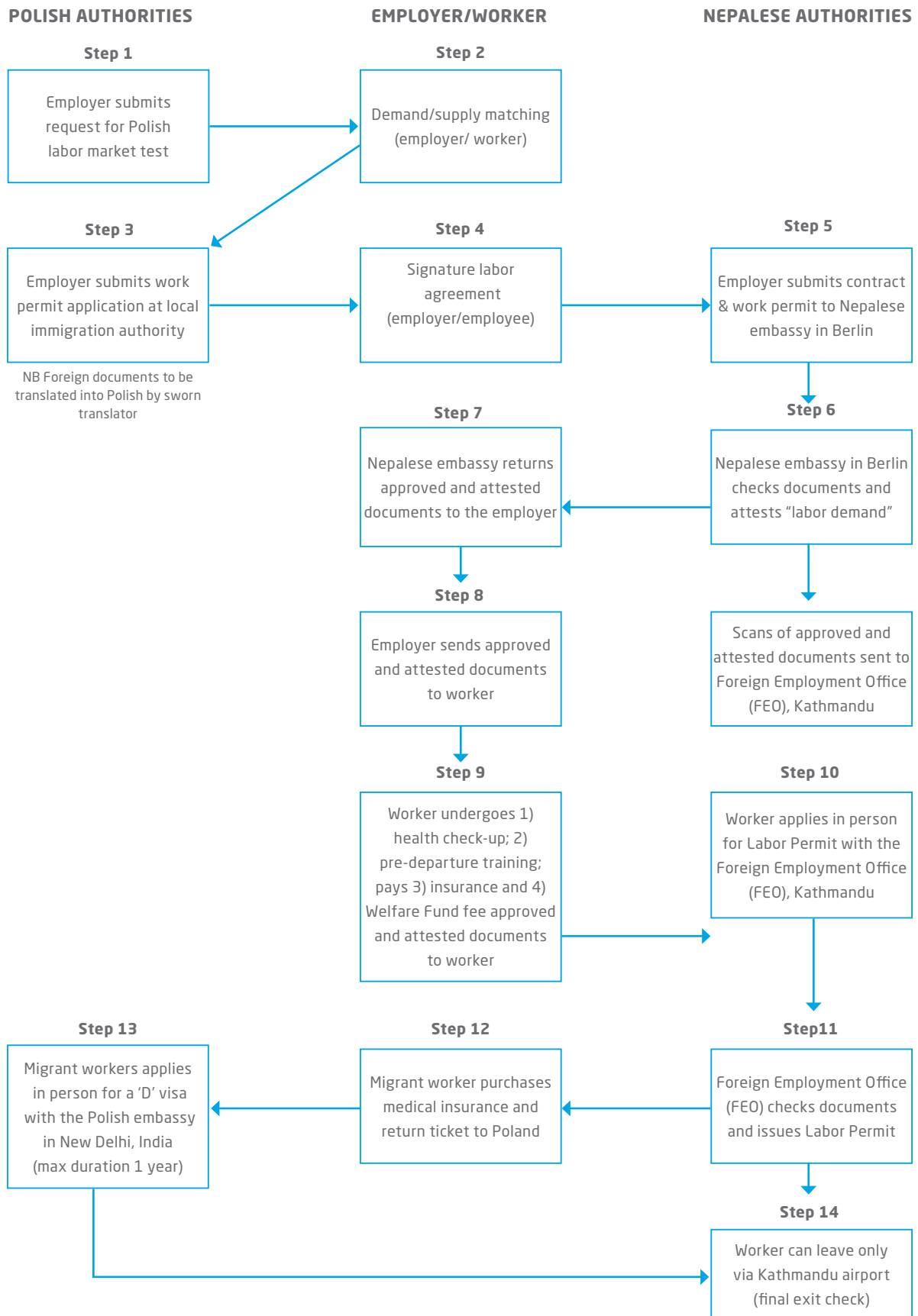
---

<sup>47</sup>There is no Polish embassy in Nepal and no Nepalese embassy in Poland.

<sup>48</sup>Employers first submit a notification of vacancy to the County Labor Office. The Labor Office then analyses the records of all unemployed people and job seekers. If the analysis determines that there are sufficient persons meeting the job requirements, the Labor Office will undertake its own recruitment among these individuals. Remuneration proposed by the employer is compared to the remuneration that could be obtained in the same or similar position for similar work by the Labor office. These sums must be similar.

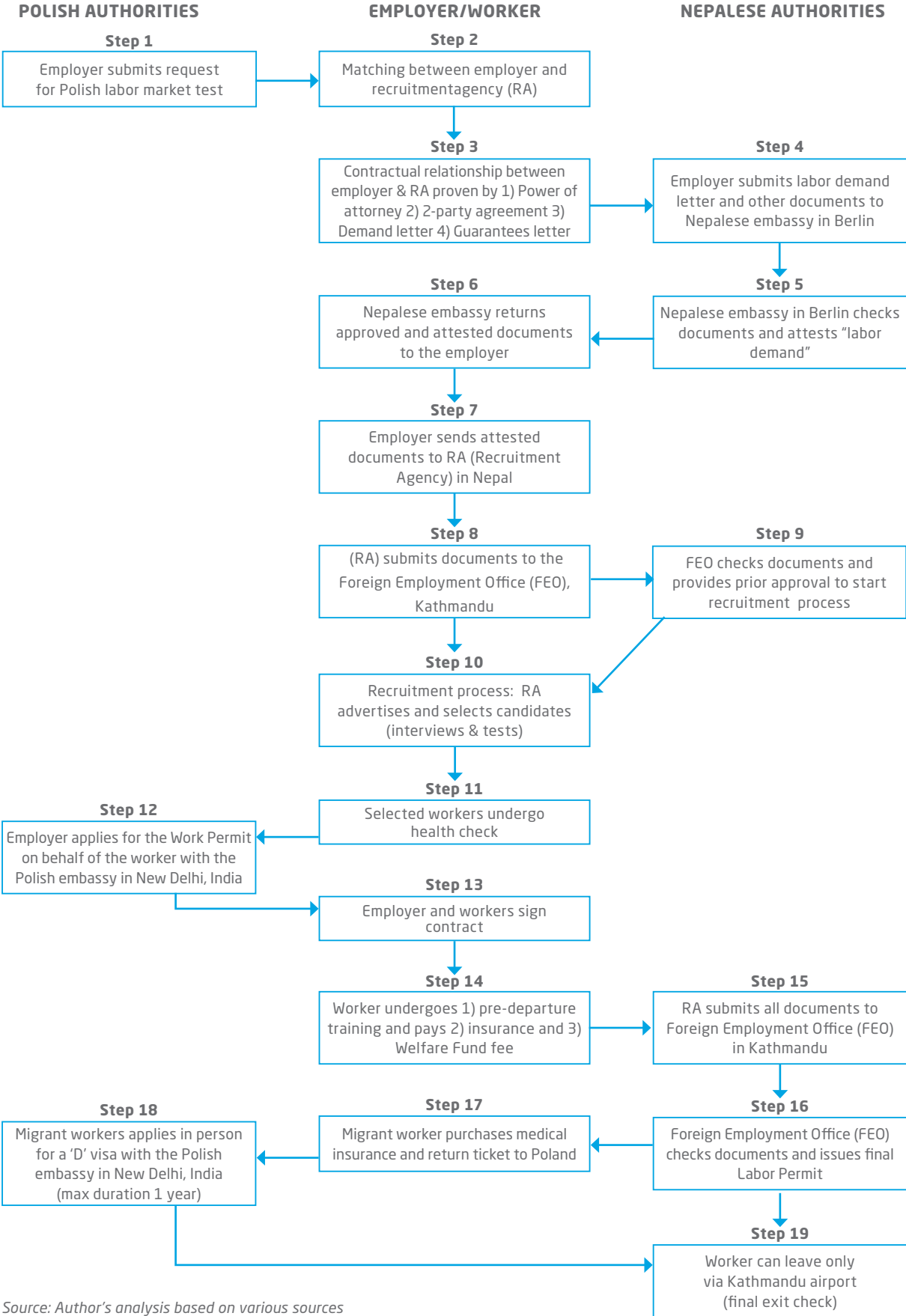
<sup>49</sup>European Commission, Poland: Easy job access for foreigners in nearly 200 new professions August 8, 2018 <https://ec.europa.eu/migrant-integration/news/poland-easy-job-access-for-foreigners-in-nearly-200-new-professions>

Figure 31 Administrative steps required in individual recruitment process



Source: Author's analysis based on various sources

Figure 32 Administrative steps required in agency-mediated recruitment process



Source: Author's analysis based on various sources

## 1. Individual Route: Direct Recruitment

After fulfilling the labor market test requirement (Step 1) the steps differ depending on whether the individual or institutional route is taken. A Polish employer choosing to hire directly without the assistance of a recruitment agency in Nepal must find the Nepalese worker it plans to hire. The matching phase (Step 2) could be particularly difficult because there is no existing platform easily linking employers and employees. Due to immigration restrictions in Poland, aspiring labor migrants from Nepal cannot easily visit come to Poland to look for an employer. Finding workers would require some presence of employers in Nepal.

Once there is a match, the employer in Poland applies for a Work Permit for the Nepalese worker at the local immigration authority, particularly at the immigration section of the voivodeship office where the company is located. (Step 3). In the work permit application, the employer is obliged to provide documentation regarding its entity, personal details of the foreign national, the details of the passport document and, if needed, information on the foreign national's qualifications and professional experience. Furthermore, the employer must specify the proposed post in Poland, the intended period of employment, and the legal basis of employment (e.g., employment agreement, service agreement). All documents submitted to the Polish immigration authorities must be in Polish. Therefore, certain documents, such as the foreign national's certificates and diplomas, will have to be translated into Polish by a sworn translator.

After submitting the application form, the voivode examines the application in view of the local labor market situation, taking into consideration the confirmation from the district labor office. In case the confirmation from the district labor office shows that there are no Polish candidates on the local labor market fulfilling the employer's criteria and the application fulfills all the formal requirements, the voivode issues the work permit. According to the legal rules, the work permit may be granted for a period not exceeding three years. Having completed all the formalities, the employer signs an agreement with the Nepalese worker it intends to hire (Step 4) for the time specified in the work permit (or the integrated permit for residence and work). The contract should strictly reflect conditions in the permit in regard to time, place of work, position, etc. Change of workplace requires immediate notification to the voivode. The contract also needs to be in a language that both the employee and employer can understand. It must be noted too that the contract must also fulfil the requirements of the Nepalese government since it will also be subject later to Nepalese inspection.

Once the work contract is signed, the employer must submit necessary papers including a copy of employment contract and work permit to the Nepalese Embassy in Berlin (Step 5). This is a way for the Nepalese government to ensure that its migrant workers are being offered legitimate and valid employment in Poland. The Nepalese embassy checks all the documents submitted, attests their veracity (step 6), emails the scanned copy of the attested documents to the Foreign Employment Office, Kathmandu and returns the original to the employer (Step 7). The employer then sends the original copy of attested documents to the prospective migrant worker in Nepal. (Step 8) To fulfil Nepalese regulations, the prospective worker would then have to undergo a health check-up from an accredited medical institution in Nepal, attend a government accredited Pre-Departure Orientation Training, avail insurance and pay the fee for the Welfare Fund, a government-managed trust fund for migrant workers. (step 9)

Once the health, training and other requirements are fulfilled, the prospective migrant worker has to submit in person an application for the Labor Permit to the FEO in Kathmandu bringing along original copies of the attested documents from the Nepalese Embassy in Berlin, certificate of health check-up, certificate of attending orientation training, a copy of insurance paper and receipt of payment of welfare fund. (Step 10) The FEO then cross-checks the attested documents submitted by the migrant against the email received from the Nepalese Embassy in Berlin and if there no discrepancies, the FEO would issue the labor permit (Step 11).

The migrant must then purchase an adequate and valid travel medical insurance valid in Poland for at least 3 months, and make a flight reservation of a return ticket to Poland (Step 12) and bring these documents to the Polish embassy in New Delhi, India to apply for a national "D" Visa, the permit needed to enter and stay in Poland. (Step 13) It can be issued for the period of stay corresponding to the period indicated in the work permit, but no longer than one year. To get the visa, the migrant must submit the original work permit as well as original copies of relevant work experience, educational certificates, and a CV or bio-data. After receiving this visa, the Nepalese migrant can leave for Poland but only via the Kathmandu airport following Nepalese regulations. (Step 14)



## 2. Recruitment with the assistance of recruitment agency in Nepal

Polish employers opting to work with a recruitment agency in Nepal must follow a different process since the Nepalese government put additional checks in the system to ensure that the recruitment agency in Poland has the required license and follow Nepalese regulations.

The process also begins with fulfilling the necessary labor market test requirements in Poland (Step 1) and the matching (Step 2) between the RA in Nepal and the Polish employer. Once a Polish employer finds an RA in Nepal and vice versa, the Nepalese government requires that both parties enter a contractual relationship (Step 3), as evidenced by concluding the following three documents:

- 1) A Power of Attorney authorizing the RA in Nepal to recruit and supply workers on its behalf;
- 2) A Two-Party Agreement delineating the terms of the recruitment agreement between the RA and the Polish employer; and
- 3) A "demand letter" outlining information on the number and gender of workers the employer needs from the RA, as well as the terms and conditions of employment it will offer to the migrant worker, including working hours, basic salary, working days, food allowances, accommodation, transportation, medical insurance, workmen's compensation insurance (for injury and death), free return ticket, cost of visa and other benefits.

A "Guarantees Letter" from the employer is also required confirming that the worker(s) will not be asked to work in a company not specified in the contract and will not be sent out of Poland if the company is a multinational. The letter also "assures" the safety and security of female workers. The employer must also prepare a sample Employment Contract for each job type, category or position containing basic salary and information about other benefits such as food allowance, medical insurance, accommodation, workmen's compensation insurance, working days and hours, annual holidays, transportation, visa cost, two-way air ticket, cost of medical test, training guarantee of the job, and so on.

The employer then submits the labor demand letter, along with the other documents, to the Nepali embassy in Berlin, Germany along with copies of its Trade License, a company profile and copy of the RA's recruitment license issued by the government of Nepal. (Step 4). As in the individual route, the Nepalese embassy checks all the documents submitted. If the documents and their contents meet Nepalese government regulations, the embassy "attests" the labor demand and uploads the scanned copy of the attested papers on Nepal government's online system and gives the original copy to the employer (Step 5). The employer must then send the original copy of the attested documents to the RA in Nepal. (Step 6).

The recruiter in Nepal brings the original attested documents to the Foreign Employment Office (FEO) in Kathmandu, and applies for Pre-approval to start the recruitment (Step 7). In the pre-approval process, the FEO cross-checks these documents against what has been uploaded by the Nepalese embassy online. If there are no discrepancies, the FEO provides prior approval to the RA to begin the process of recruitment (Step 8).

The RA then publishes the advertisement for workers' recruitment in a national newspaper following Nepalese government guidelines (Step 9). Once the advertisement has been published, the RA can begin the worker selection process (Step 10). Normally interview and practical tests are done. If the labor demand is for the skilled work, for instance, then the worker must submit a skill certificate and workers must undergo a skills test. Just like in the individual route, successful candidates must pass a health check-up (Step 11).

Once the worker has been chosen by the RA in Nepal, the employer in Poland then applies for the Work Permit on behalf of the worker (Step 12). The employer and the worker then sign a work contract for the time specified in the work permit (or the integrated permit for residence and work) (Step 13). Workers using the agency mediated route also must attend the pre-departure orientation training) pay for the insurance and the Welfare Fund fee (Step 14). The process after this step is more or less the same as the direct recruitment process. The only difference is that the RA submits all the related papers (employment contract, copy of visa, health check-up certificate, insurance paper, certificate of orientation training, receipt of payment of welfare fund etc.) to the FEO for final inspection (Step 15) and only then will the FEO issue the "final labor permit" (Step 16).

The RA then hands over the passport and the labor permit to the worker (Step 17). As in the direct recruitment process, the migrant worker applies in person for the national “D” visa at the Polish embassy in New Delhi, India and once that visa is received (Step 18), only then can he/she leave Nepal for Poland, also departing via the Kathmandu airport, following Nepalese regulations (Step 19).

This analysis highlighted the complexity of the recruitment process. As we will see in the following section, this evidently creates incentives both for employers and employees to circumvent the formal process.

## **D. THE RECRUITMENT PROCESS IN PRACTICE: PARALLEL CORRIDORS IN A THREE-TIERED LABOR MIGRATION SYSTEM**

The real functioning of cross-border recruitment systems often differs from the theoretical, “on-paper” design. The system, as just described, were not coordinated bilaterally. An interview with a key Nepalese government official conducted to inform this study suggests there has been an informal conversation between the government of Nepal and Poland to conclude a Memorandum of Understanding on recruitment of migrant workers. The Nepalese government has drafted a “generic draft” but this has yet to be shared with the government of Poland.<sup>50</sup>

The lack of formal coordination channels between the two governments makes implementation even more problematic than stand-alone systems, thus creating a convoluted recruitment process that, by its very design, increases migrant workers reliance on intermediaries, along with their chances of exploitation. As one Nepalese migrant in Poland notes: “You can make all the procedures on your own, but I don’t know anyone who did it without help from agent.”<sup>51</sup>

Interviews with migrants and key informants points to three key issues that make full implementation of the already cumbersome system increasing difficult: (1) existence of many layers of agents and actors; (2) limited connections between employers and employee and; (3) limited capacity of governments to implement the regulations and to monitor that actors abide by the rules.

### **MANY LAYERS OF AGENTS AND ACTORS**

First, there are many layers and actors on the ground than government regulators care to include and recognize in their regulations. The process as outlined in the previous section identify only three main actors: the migrant, the employer in Poland and, for those taking the recruitment agency-mediated route, the recruitment agency in Nepal. In reality, though, there are more actors involved in the migration process, creating additional layers of intermediaries.

Interviews with migrants suggest that those who taken the individual route have generally used informal agents to find employers in Poland. Usually, these informal agents are Nepalese workers who have stayed in Poland long enough to have knowledge about the recruitment process, and have a more or less a secure immigration status that allows them to travel freely between Poland and Nepal.<sup>52</sup> Interviews with migrants suggest that these “agents” help in finding employers and in collecting and the actual filing of the required documentations. Migrants also seem to know that these agents have no formal qualifications or legal status to offer such services.<sup>53</sup>

Similarly, RAs in Nepal rarely work on their own, but also use a host of mostly informal sub-agents or brokers to find prospective migrants. Since the RAs are based mostly in Kathmandu, prospective workers who living in regions outside of the capital rarely have direct contact with them. Essentially the middleman for the middleman, sub-agents are not formally connected to the RAs they work with and are rarely accountable to the agencies or the migrants they eventually help to deploy. They are more accessible to prospective migrants because they usually live in origin communities. As one of the migrants interviewed for this study explained:

---

<sup>0</sup>Key informant interview 4 convened by Rameswar Nepal in Kathmandu, Nepal on March 16, 2020

<sup>51</sup>In-depth interview 5 with a Nepalese migrant worker in Poland convened by Izabela Florczak in Warsaw, Poland on February 15, 2020

<sup>52</sup>In-depth interview 5 with a Nepalese migrant worker in Poland convened by Izabela Florczak in Warsaw, Poland on February 15, 2020

<sup>53</sup>In-depth interview 6 and 7 with Nepalese migrant workers in Poland convened by Izabela Florczak in Gądko, Poland on January 19, 2020

We contacted a sub-agent who has arranged sending a number of people that we know to EU state through the Recruitment Agency (RA). We have seen a number of people he recruited from our area are doing well. We never heard any bad thing from those people rather we have been hearing many good things. So, we thought to contact him. We asked him whether he can recruit us and how much will be the charge, what work it will be. He gave us the information that we wanted to get.<sup>54</sup>

Indeed, most migration from Nepal to Poland began with meeting a sub-agent usually referred by someone in the migrant's immediate social network, such as by the migrant's direct family members, friends and neighbours. Some of the migrants interviewed in Poland even reported never meeting the RA in Kathmandu at all because they transacted mainly with the sub-agent.<sup>55</sup>

### LIMITED DIRECT CONTACT BETWEEN EMPLOYERS AND EMPLOYEE

Second, interviews with migrants also suggest that they have limited contact, if any, with the employer in Poland. Majority of those interviewed either do not remember the name of their employer or not having met their employer in the first place. A migrant in Nepal who have returned from Poland explains: "My agent chose an employer for me. I don't know him - I've never been in his company."<sup>56</sup> Another group of migrants in Poland highlights that agents generally explained more or less about how the procedure would look like, including each step, and that they never had contact with the employer at all.<sup>57</sup> Some migrants reported being told what the type of company they would be working with but not the actual name of the company.<sup>58</sup>

Many companies in Poland also outsource the hiring of temporary workers, who are hired directly by the agency and sent out on temporary assignments to different companies, as well as longer-term workers, who are hired directly by a single company. This outsourcing serves to find workers, prepare the documents, organize the travel and even to train the workers in preparation to take up vacancies.<sup>59</sup> Nepalese migrants in Poland interviewed for this study who have worked via a TWA confirm signing a work contract in Nepal with an employer for which they never worked directly. Technically, they do work for the company, but in practice, they work through different temporary agencies hired by the company.<sup>60</sup>

It is interesting to note that having a connection to an employer is often even casted in a negative light because it connotes lack of freedom to find a job that you really want. One group of migrants interviewed in Nepal, for instance, encountered problems with getting their labor demand attested at the Nepalese embassy in Berlin and thus the labor approval process can't be completed. The recruiter, then suggested the alternative option of travelling on a tourist visa. One migrant explained: "While saying so, he said, we may get even better job as we will not bound to any employer."<sup>61</sup>

### STRAINED CAPACITY TO IMPLEMENT AND MONITOR ACTORS

Lastly, any recruitment system, particularly one that is convoluted and onerous, requires investment in governments' implementation capacity. Otherwise, the system cannot be fully implemented creating backlogs. For instance, Nepal's embassy in Berlin has begun to limit the number of attested labor demand in response to a new guideline

---

<sup>54</sup>Focus group discussion 3 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandu, Nepal on March 13 2020

<sup>55</sup>Statement of a Nepalese migrant worker in Poland assisted by La Strada Foundation; Focus group discussion 4 with Nepalese return temporary labour migrants convened by Rameswar Nepal in Itahari, Sunsari, Nepal on March 15 2020; Focus group discussion 1 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandu, Nepal on March 12, 2020; Focus group discussion 3 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandu, Nepal on March 13 2020; Focus group discussion 4 with Nepalese return temporary labour migrants convened by Rameswar Nepal in Itahari, Sunsari, Nepal on March 15 2020

<sup>56</sup>In-depth interview 5 with a Nepalese migrant worker in Poland convened by Izabela Florczak in Warsaw, Poland on February 15, 2020

<sup>57</sup>In-depth interview 6 and 7 with Nepalese migrant workers in Poland convened by Izabela Florczak in Gądkki, Poland on January 19, 2020

<sup>58</sup>Focus group discussion 4 with Nepalese return temporary labour migrants convened by Rameswar Nepal in Itahari, Sunsari, Nepal on March 15 2020

<sup>59</sup>Marta Kucharska, "Despite the anti-immigrant rhetoric, Poland receives more migrant workers than anywhere else in the world," Equal Times, October 11, 2019 <https://www.equaltimes.org/despite-the-anti-immigrant?lang=en#.XqBBM9MzZUM>

<sup>60</sup>Focus group discussion 5 with Nepalese migrant workers in Poland convened by Izabela Florczak in Poland on February 2, 2020

<sup>61</sup>Focus group discussion 4 with Nepalese return temporary labour migrants convened by Rameswar Nepal in Itahari, Sunsari, Nepal on March 15 2020

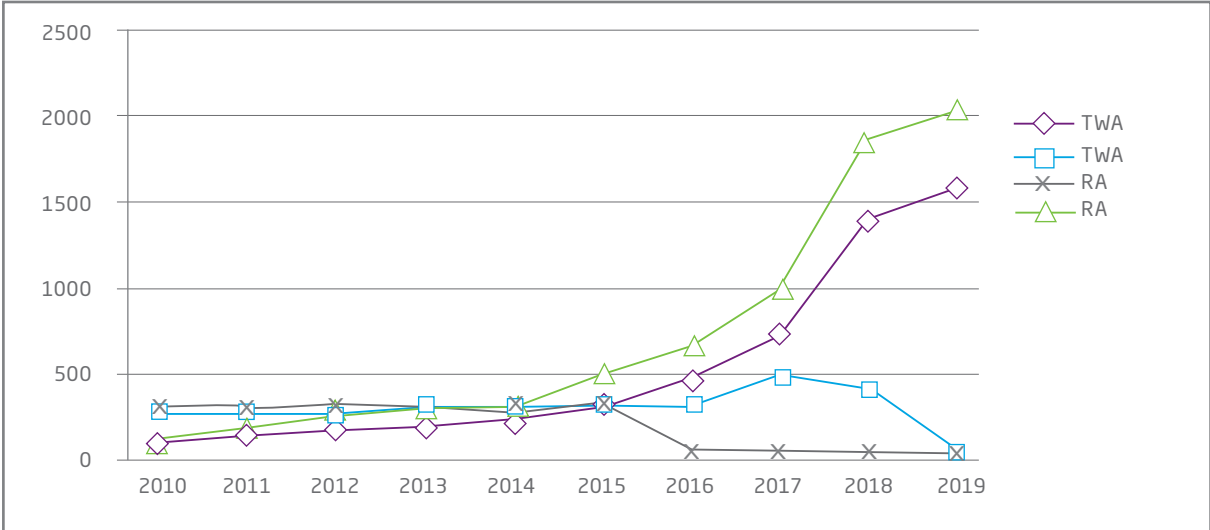
introduced in 2018 by the Nepalese government. The new guideline requires embassy staff to visit the employer and to observe the working and other conditions there or meet the employer and assess whether the workers will be deceived either in terms of types of work, level of payment, and other benefits. The embassy argued in its formal response to the regulation that it does not have resources, both financial and manpower, to undertake such rigorous assessment.<sup>62</sup>

Further, interviews with migrants and informants also suggest that the processing of the national “D” visa at the Polish Embassy in New Delhi is suffering from a serious backlog, which is not surprising given the drastic and sudden increase of visa applications from Nepal. The embassy in New Delhi also process visa applications from India, Afghanistan, Bangladesh, Bhutan, Maldives, and Sri Lanka. The problem reached a point where TWAs have considered collating money together to donate to the embassy so that they can hire more workers. There were also observations that RAs in Nepal and India have been asking for bribes to facilitate the visa approval process. One key informant noted that agents in Nepal or India are undertaking “mafia-like activities” asking 200 USD in exchange for appointment at the Polish embassy.

These accusations are hard to verify, but what is clear is that the numbers of migrants arriving from Nepal is much lower than the work permits approved that same year, which indeed shows that a serious backlog of some sort exists somewhere in the recruitment process. As noted earlier in this report, data on first work-related residence permits and border crossings recorded in Poland suggest that there are most probably around 6000 Nepalese workers who arrived in Poland between 2017 and 2018, a much lower volume compared to work permit data which registered over 23,000 Nepalese workers in 2018—a fourfold difference. The backlog in Poland, on the other hand, is confirmed in a 2019 audit report by the Supreme Audit Office (NIK), a Polish government entity. The audit shows the difficulties government offices in Poland face in managing the increasingly burdensome administrative aspect of immigration particularly over the last four years. For instance, in 2018 it took 206 days on average to legalize a foreigner’s temporary stay in Poland, up from 64 days in 2014.<sup>63</sup>

Maintaining the integrity of the system also requires capacity in the form of effective monitoring systems that ensure that actors abide by the rules. As the number of actors increase, the more difficult the inspection process becomes. For instance, in Poland, although there has been an increase in agencies controlled by national labor inspection, from 227 to 360, this number is very small compared to the overall increase of agencies in Poland. Between 2010 and 2014, the numbers converge. By 2016, the inspection begins to diverge and inspection failed to catch up by 2017.

**Figure 33** TWAs and RAs controlled by Labor Inspectors (Nepal)



Source: National Register of Employment Agencies, Poland.

<sup>62</sup>Rameswar Nepal, Research Note submitted to FNV to inform this study, March 7,2020

<sup>63</sup>Government of Poland, Report of the Supreme Audit Office, Warsaw, Poland, August 2019

Inspection is even more important in cases where breaking the rules could be quite profitable and advantageous to some actors. For instance, key informant and migrant interviews in Nepal suggest that licensed RAs are recruiting workers using the individual route which is not allowed. According to Foreign Employment Act of 2007, licensed RA cannot recruit workers in personal basis, and if found so the RA will be punished (Article 52, FEA). Some of the migrants interviewed for this study were processed by the RA in 'individual' route and some even under a tourist visa. Some migrants do not understand the difference between these various routes and assume that because they are working directly with an RA in Nepal, the process that they have taken must be the institutional route.<sup>64</sup> There are even cases where agents take migrants, particularly female domestic workers, to the Gulf states and Africa by traveling first to India in order to circumnavigate Nepalese government regulations banning the deployment of domestic workers.<sup>65</sup>

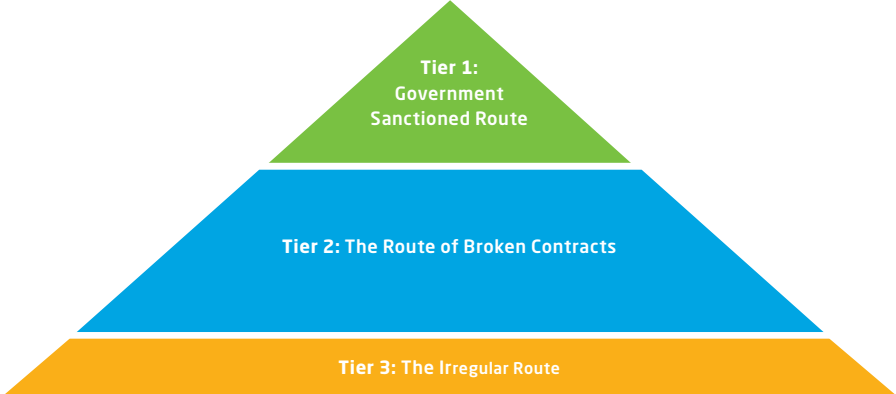
The incentive for RAs in engaging in this fraudulent activity is clear: they want to minimize the risk in their business if problems later arise. Workers processed via the "individual" category would not have the name of the RA in government records. That will protect them from any legal action in the future if the worker ended up in difficult situation in Poland and chose to file a complaint.<sup>66</sup>

Inspection is even made more difficult as introductions to agent and subsequent transactions move into the internet, particularly via social media. For instance, one recent case of fraudulent transaction recorded in Nepal, involved eleven prospective migrant workers, who were contacted via social media by an individual claiming to be running a restaurant in Poland. The migrants explained that the individual kept contacting and trying to convince them to start the migration process by sending constant messages via popular text and voice messaging platforms used in mobile phones, particularly IMO and WhatsApp. They explain: "When we began the conversation, he started telling many good things about the job in Poland. We then started to trust him."<sup>67</sup> This individual ended up taking NPR 800,000 (6,000 EUR) per person.

**2.Parallel Corridors in a Three-Tiered Labor Migration System**

These fundamental gaps governing migrant worker recruitment within and across borders have created a three-tiered labor migration system. The top tier is an organized labor migration flow based on contracts that follow to the letter the regulatory guidelines of both origin and destination countries. Lurking just beneath it, however, is a much larger second tier where movements are based on "broken contracts" characterized by many irregularities including a lower wage than legally allowed or stated in the contract, a different job, and reduced or foregone benefits. The third tier includes those who bypass the regulated labor migration channel altogether and travel using other admission routes, both regular and irregular, such as the use of tourist visas and smugglers. Labor migrants on the third tier may save on the monetary and other costs associated with the regulated channel migration but they also forego the protection that the regulated channel, at least on paper, provides.

**Figure 34** A Three-Tiered Labor Migration System



*Source: Author's rendition.*

<sup>64</sup>In-depth interview 1 with a Nepalese prospective temporary labour migrant to the European Union convened by Rameswar Nepal in Dang, Nepal on March 2, 2020  
<sup>65</sup>Email correspondence with Rameswar Nepal by author, June 14, 2020.  
<sup>66</sup>Rameswar Nepal, Research Note submitted to FNV to inform this study, March 7,2020  
<sup>67</sup>Focus group discussion 2 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandhu, Nepal on March 16, 2020

These routes are not exclusive as many actors, including migrants, using routes, either simultaneously, or one after the other with the goal of taking advantage of the opportunity structures present. As will be discussed in the next two sections, although migrants on broken contracts found themselves in difficult situations, many would try to find a way to improve their working and living situations by continuously moving on, leaving one job after another within Poland, trying to make their way up within the system or, abandon that particular corridor altogether by choosing to move to another country in the EU.

## E. THE ROUTE OF BROKEN CONTRACTS

Interviews with migrants and key informants suggest that Nepalese migrants in this route face six key problems while in Nepal and upon arrival in Poland: (1) prohibitive recruitment costs and expensive pre-departure loans; (2) staggered payments; (3) different or non-existing jobs; (4) weak contracts; (5) underpayment and (6) uncertain access to long term residency.

### 1. Prohibitive recruitment costs and expensive pre-departure loans

As can be discerned from the recruitment process outlined in the earlier section, there are many expenses related to fulfilling the multiple requirements imposed both in Poland and in Nepal, including the placement fee or service charge migrants pay to agents as well as direct costs such as the airfare to Poland, health exam fees, travel insurance costs and entry visa fee. Since the migrant has to go to the Polish embassy in New Delhi to apply for an entry visa, migrants also incur extra transportation and lodging costs to India. Migrants living outside of Kathmandu also incur significant local transportation and accommodation expenses.

The Nepalese government has put limits on how much RAs can charge migrant and this limit differs per destination. For Poland, the government set the maximum allowed amount at NPR 80,400 (606 EUR). Interviews with migrants and key informants suggest that recruiters generally ask around NPR 940,000 (7,085 EUR) or 12 times more than the maximum allowed fee. Some migrants also reported paying less or more than this amount with the lowest and highest amount reported at NPR 133,000 (1,000 EUR) and NPR 1,460,000 (11,000 EUR.) Even the lowest reported amount paid is above the Nepalese government mandated maximum fee.<sup>68</sup>

To understand the magnitude of the recruitment cost, it is important to recognize that the Gross Domestic Product per capita of Nepal adjusted for Purchasing Power Parity in 2018 is 3,089 USD (2,743 EUR), which means that the average Nepalese migrant heading to Poland is paying 258 percent more than Nepal's Annual GDP Per capita. To bring this amount in the European context, this would be the equivalent of a citizen from the Netherlands paying around 139,000 EUR in recruitment fees.<sup>69</sup>

Interviews suggest that migrants are generally aware the fees are way above what is considered legal, but many choose to pay anyways because of the considerable long-term benefits they see in migrating to the EU. Migrants even reported receiving instructions from their agents to lie to government authorities about the actual fees they paid the agent. As one migrant explains: "He has instructed that, "If anyone asked you how much you have paid, tell them you paid all the necessary expenses from airfare, insurance to visa. In addition, you may say you have paid NPR 50 or 60 thousand (377 to 452 EUR) as service charge to the recruiter".<sup>70</sup>

---

<sup>68</sup>In-depth interview 5 with a Nepalese migrant worker in Poland convened by Izabela Florczak in Warsaw, Poland on February 15, 2020; Focus group discussion 2 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandu, Nepal on March 16, 2020; Focus group discussion 3 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandu, Nepal on March 13 2020; Statement of a Nepalese migrant worker in Poland assisted by La Strada Foundation Date, Place; In-depth interview 6 and 7 with Nepalese migrant workers in Poland convened by Izabela Florczak in Gądko, Poland on January 19, 2020

<sup>69</sup>Taking the GDP per capita of the Netherlands as a benchmark. GDP per capita, PPP (current international USD) in 2018 was 3,089 USD for Nepal and 56,329 USD for the Netherlands (source: World Development Indicators database, World Bank, accessed 5 May 2020). Using an average conversion rate of 0.888 over 2018, this is the equivalent of 2,743 EUR and 50,030 EUR respectively.

<sup>70</sup>Focus group discussion 3 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandu, Nepal on March 13 2020

Interviews also suggest that migrants eyeing for particular destinations are aware of the ongoing “market rate” per destination, and that they are willing to pay as long as the rate quoted by the recruiter is within what is seen as an acceptable range. They would compare how much other migrants have paid for similar destinations and would haggle with recruiters to get a better price. One group of interviewed migrants reported being able to bring down the agreed recruitment cost from NPR 1,100,000 (8,300 EUR) to “only” NPR 1,000,000 (7500 EUR).<sup>71</sup>

Migrants are willing to pay considerable sums of money to be able to migrate to Europe. Indeed, the group of migrants interviewed in Poland who paid the relatively lower fee of 1,000 EUR find the fee not high at all despite the fact this amount represents one third of Nepal’s annual GDP per capita<sup>72</sup>, or about 16,700 EUR if translated into the Dutch context.

It is important to note that agents asking for fees way above what is legal is not unique to migrants going to Poland but is a more common problem affecting destinations of Nepalese migrants elsewhere. For instance, Nepalese regulations bar recruiters from charging any fees at all to workers going to six GCC countries and Malaysia under the guise of protecting workers from exploitation. However, a study conducted by the Nepal-based National Human Rights Commission found that Nepalese migrants still normally pay between NPR 70,000 (527 EUR) to NPR 210,000 (1582 EURO).<sup>73</sup>

In comparison, the market rate fee to Poland is about five to 13 times higher than in the GCC countries and Malaysia reflecting its value as a destination. As noted earlier, Poland does not only promise a job but also access to permanent residency to the EU. Indeed, interviews suggest strongly that migrants rationalize the huge recruitment cost by considering perceived benefits of migration to Poland, particularly the opportunity to bring family and settle in the EU coupled with the belief that the recruitment costs, no matter how high, can be easily recouped by future salaries. As one migrant explained:

Look, the money we paid was huge. No one expect to pay that huge amount of money. But what do we do? After listening to the promises made by the recruiters who said many good things about the job, the facilities, the opportunity to take our family there, we agreed to pay that huge amount.<sup>74</sup>

Informant interviews in Poland suggest that TWAs hiring Nepalese workers are aware of the huge recruitment costs the Nepalese migrant workers they hire incur before they can even set foot in Poland. However, interviews suggest as well a lack of awareness from TWAs of why do Nepalese migrants pay this much money to begin. One informant, for instance, wonders:

Nepal is a poor country and its citizens are willing to come Poland, which I personally do not understand. They pay a lot of money for the agent’s service and for the plane ticket. With that amount of money, they are for sure be able to open their own business in Nepal. But they prefer to come to Poland.

Clearly, this type of reasoning shows lack of recognition that Nepalese workers pay these massive recruitment fees to get permanent residency and the ultimate reward that goes with it: to be able to take the family they left behind in Nepal. As one migrant explains: Though the amount is not a small one, it is within what you can expect in exchange for an employment and an EU residence card.<sup>75</sup>

---

<sup>71</sup>bid

<sup>72</sup>Focus group discussion 5 with Nepalese migrant workers in Poland convened by Izabela Florczak in Poland on February 2, 2020

<sup>73</sup>National Human Rights Commission, Research-Report on The Situation of the Rights of Migrant Workers Recruitment Practices and Access to Justice of Migrant Workers, Report, Lalitpur, Nepal, November 2019

<sup>74</sup>Focus group discussion 4 with Nepalese return temporary labour migrants convened by Rameswar Nepal in Itahari, Sunsari, Nepal on March 15 2020

<sup>75</sup>Focus group discussion 3 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandu, Nepal on March 13 2020



## HUGE RECRUITMENT FEES EQUAL HUGE DEBTS

To be able to pay these huge recruitment fees, many migrants borrow money from relatives, friends and money lenders while others sell property and other valuables. A father of one of the migrants interviewed in Poland took a loan from the bank, sold his house and lived on rented property together with his other children. Interestingly, the loans were made not solely by pure altruism. Although some family members provide interest free loans, others do not. As one migrant puts it bluntly: "I borrowed from the family. You always borrow with interest. Otherwise no one will borrow you money."<sup>76</sup>

Indeed, what is clear from the interviews is the important role family members play in raising the funds needed for migration. A migrant interviewed in Poland explains the motivation behind the support he receives from relatives: They all wanted me to go to Europe as they knew I will not earn a lot of money if I stay in Nepal."<sup>77</sup> This migrant eventually managed to pay back the loans from his relatives, a proportion of it was paid back with interest. This corroborates that, more often than not, migrants see their migration as an investment in the long-term wellbeing of their families.

### 2. Staggered Payments

What is even more troubling than the cost of recruitment is the staggered way migrants pay these fees. Given the prohibitive recruitment fees, migrants rarely cannot and would not want pay in full upfront. Agents usually ask for an advance fee to start the recruitment process. This upfront fee ranges in price between NPR 200,000 (1,507 EUR) to NPR 500,000 (3,767 EUR). Migrants then pay more as the process progresses, with the final payment typically due just before departure to Poland.

Table 3 below outlines the fees paid by two groups of migrants interviewed in Nepal for this study. Although the total recruitment fee is about the same—around NPR 940,000 or about 7,000 EUR— the timing of payment is different. The first group paid a higher proportion of the agreed recruitment cost at the beginning of the process and just before departure to Poland while in group two, the payment scheme is more staggered.

**Table 3** Recruitment Cost to Nepal

Expenses	Group 1	Group 2
Advance fee paid to recruiter to start the process	NPR 450,000 (3,400 EUR)	NPR 300,000 (2,263 EUR)
Health check-up	NPR 4,500 (34 EUR)	NPR 5,000 (38 EUR)
Food and accommodation in New Delhi	NPR 35,000 (264 EUR)	(Covered by the advance fee)
Flight to New Delhi	(Covered by the advance fee)	NPR 32,000 (242 EUR)
Payment before going to New Delhi	(none)	NPR 300,000 (2,300 EUR)
Final payment made to recruiter before departure for Poland	NPR 450,000 (3,400 EUR)	NPR 300,000 (2,300 EUR)
<b>Total payments made to the RA</b>	<b>NPR 939, 500 (7,085 EUR)</b>	<b>NPR 937,000 (7,070 EUR)</b>

*Source: Focus group discussion 4 with Nepalese return temporary labour migrants convened by Rameswar Nepal in Itahari, Sunsari, Nepal on March 15 2020.*

Agents promote this "pay-as-you-go" system because they wanted to be seen as honest or know that migrants who have put down some money will have a lower chance of backing out or finding the services of another recruitment agency. On the other hand, migrants also agree to such an arrangement because it buys them time to raise the needed funds. Staggered payments also mean that migrants only pay as and if the recruitment process moves along, thus lowering the monetary risks involved.

<sup>76</sup>In-depth interview 5 with a Nepalese migrant worker in Poland convened by Izabela Florczak in Warsaw, Poland on February 15, 2020; Focus group discussion 5 with Nepalese migrant workers in Poland convened by Izabela Florczak in Poland on February 2, 2020; Focus group discussion 3 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandu, Nepal on March 13 2020; Focus group discussion 4 with Nepalese return temporary labour migrants convened by Rameswar Nepal in Itahari, Sunsari, Nepal on March 15 2020; Focus group discussion 1 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandu, Nepal on March 12, 2020

<sup>77</sup>In-depth interview 4 with a Nepalese migrant worker in Poland convened by Izabela Florczak in Warsaw, Poland on February 1, 2020



Interviews with migrant workers suggest, however, that a key problem with the staggered pay-as-you-go system is that it becomes easier for the recruiter to ask for more money than initially agreed or even to introduce new arrangements at the last minute. For instance, one set of migrants interviewed for this study were told by the recruiter that they could not get a labor approval because the Nepalese embassy in Berlin has stopped doing attestations. The recruiter then suggested to start the process of getting a tourist visa instead, to which the migrants reluctantly agreed to after a heated argument with the recruiter. One migrant explains: "We had already paid a large amount of money. We ended up accepting their proposal despite knowing (that it is outside the) formal process of labor migration abroad." They know that backing out and asking for the advance fee would take even more resources and time. In these situations, migrants would tend to cut their losses and take the offer that could get them closer to the goal of reaching the country of destination.<sup>78</sup>

The pay-as-you-go system also leads to a problem where agents hold on to documents until agreed or extra payments. Migrant interviews suggest that agents would ask for money at critical points in the recruitment process where migrants felt that there is no turning back, such as a few hours before a scheduled flight. One migrant interviewed in Nepal shares his experience with a recruiter:

He met us at the airport. But he asked for NPR 70,000 (527 EUR) in cash saying that the amount needs to be exchanged to US dollars. He asked for the money just before our flight. He said that the money will be deducted from the total sum agreed to be paid by us. Since he had our passport and we would not be able to fly without it, we decided to give the NPR 70,000 (527 EUR). We had already paid large amount of money to the recruiter and for the air ticket.<sup>79</sup>

In cases where the migrants don't have the money, practice of withholding documents delay the arrival of migrants. An informant in Poland who has noticed a lag between the time when all the formalities have been completed and the arrival of the migrant in Poland explains the problem:

At the beginning of our cooperation with Nepalese workers, I thought that maybe they just need a lot of time to say goodbye etc. But then I realized that they are probably paying the agent in installments and the agent does not want to give the documents to the worker until he gets all his money. As the amounts seems to be rather significant it probably takes time. Once we had a situation when a lady from Nepal arrived at the time her working permit was almost expired.<sup>80</sup>

### 3. Non-existing or Different Jobs

For some of the migrants, the problems continue well upon arriving in Poland. Some of the migrants interviewed, particularly those who work under a TWA, had no jobs upon arrival. They technically have an employer on paper, which is the TWA, but the TWA still had to find actual jobs for them to do. And without a job, migrants do not get paid.

Interviews with migrants and informants suggest that while the TWA look for jobs, migrants stay in shared accommodations or hostels arranged by the agent but paid for by the migrant. One migrant waited for a week,<sup>81</sup> while others waited for months without regular pay. The agents, during that time, would bar migrants from leaving their place of accommodation.<sup>82</sup>

For others, waiting became so unbearable that they started to look for jobs on their own, at least to have some money to temporarily pay for food and accommodation. One migrant living in a shared room with five other Nepalese migrants describes his experience:

---

<sup>78</sup>Focus group discussion 2 with Nepalese prospective temporary labour migrants to Poland convened by Rameswar Nepal in Kathmandu, Nepal on March 16, 2020

<sup>79</sup>Ibid

<sup>80</sup>Key informant interview 7 convened by Izabela Florczak in Lodz, Poland on February 2, 2020

<sup>81</sup>In-depth interview 5 with a Nepalese migrant worker in Poland convened by Izabela Florczak in Warsaw, Poland on February 15, 2020

<sup>82</sup>Statement of a Nepalese migrant worker in Poland assisted by La Strada Foundation Date, Place

It was a long time for me to just sit and do nothing so I started to look for a job. I was going from one restaurant to another asking for a job. But no one wanted to hire me. The rest of people who were living with me were not looking for a job. They were just waiting for the agent's actions. But I didn't want to wait. Finally, I found a job at the restaurant as a helper. I was working 2 to 3 days a week. That was not a lot, but better than nothing. Thanks to this work, we all had food.<sup>83</sup>

One group of migrants tried to contact the employer mentioned in their contracts and was shocked to find out that the employer does not even know who they are. One migrant explained: "We were very worried. We didn't know anything. We started to look for a job on our own. We were very desperate. We went together to Pabianice. There we find separate jobs. I went to Zduńska Wola and work in a restaurant."<sup>84</sup>

Those who managed to get jobs through the TWA reported from moving from one short-term job to another, with little or with no pay. The following declaration written by a Nepalese worker who sought assistance from La Strada Foundation, a Polish NGO, shows in stark details what it is like for a migrant worker to arrive in Poland with no secure job or income and to be passed on from one temporary job to another. He wrote:

Once in a while, we were sent for a "trainee" for construction workers, although that was not the work we were promised. It lasted about 2.5 months; we never received a salary. I also did not receive any food (like about 10 other Nepalese citizens who came with me). I had about 250 euros with me, so somehow, we managed shopping, unfortunately even this money began to run out.

Since I had a guitar with me and the agent noticed it, one day he sent me with another Nepalese to an Italian restaurant. I thought I would play for dinner there, but it turned out that they needed someone for two days to work in the kitchen. However, after 2 days we were unnecessary. Then for the first time the chef in this restaurant made me realize that we were probably cheated and will never get a job, and he certainly doesn't need new employees in his pub.

After returning, we spent another month at the hostel without any work. One day our agent called, hired a taxi, which took us from the city of southern Poland to Warsaw and accommodated us in a private hostel where four Ukrainians lived in addition to us. The next day he sent us to work at the construction site. I have not had any experience in this type of work except those few times when I "learned" how I should work.

After one overworked day, the agent sent us to another hostel, where we waited for work again for several days. The worst part was that he kept telling us that there was no work for us and we had to wait, and yet he would not pay us just for sitting and doing nothing. After a few days, we were sent to another place where we worked in the piston factory for about 7/8 days, then the broker sent us to another place, where we had to work planting trees.

After 2 days I protested. I was tired, I literally got 1 zloty (1 PLN) from what I brought, so I started to ask why we are still doing other work than in the work permit and why only for a few days and without payment. Because we no longer had the money, we collected cabbage leaves in a field close to the tree plantation. One day an elderly woman saw us and gave us food and offered to pay us for minor renovation services (painting the fence and the door).<sup>85</sup>

#### 4. Weak contracts

Other migrants interviewed for this study arrived in Poland with an employer but under contracts that still do not provide job security and are designed in a way to circumnavigate government regulations without technically breaking the law.

---

<sup>83</sup>In-depth interview 4 with a Nepalese migrant worker in Poland convened by Izabela Florczak in Warsaw, Poland on February 1, 2020

<sup>84</sup>In-depth interview 6 and 7 with Nepalese migrant workers in Poland convened by Izabela Florczak in Gądko, Poland on January 19, 2020

<sup>85</sup>Statement of a Nepalese migrant worker in Poland assisted by La Strada Foundation

Interviews with migrants and key informants suggest that civil law contracts, a special category of atypical contracts increasingly used to contract labor in Poland, is being used to hire Nepalese workers. Civil law contracts are by definition temporary as the date of completion of a task has to be specified. Since they are based on the civil law, and not the labor code, the contracts do not offer standard protections against dismissal nor other benefits such as paid leave, thus offering very unfavorable terms to migrant workers.<sup>86</sup>

For instance, a group interview with 30 Nepalese migrant workers in a poultry farm just outside of Warsaw, found that nearly all migrants in this one farm have signed a contract for services (*umowa zlecenia*), a type of a civil law contract, and not a direct employment contract. The contract for services does not guarantee critical employee rights such as the right to overtime time, paid annual leave and additional payment due to night shifts etc. One of migrants interviewed has been working on the basis of such a contract for services for 9 years.

A background report for this study by Izabela Florczak concluded that the contracts are “written in a very cunning way” as they do not indicate place in which the work will be performed. She further notes that they do not reveal that the worker will be working in designated hours. Both determining the place and time of work is an indication of the employer’s management, which shows that an employment contract should have been concluded. But, according to the Polish law, not only the contents of the contract are relevant, but also conditions in which the work is being performed. Those conditions are enough to make it necessary to sign an employment contract instead of contract for services.<sup>87</sup>

An interview with a key informant in the recruitment industry in Poland confirms that Nepalese migrants do take this contract arrangements but argues that migrants actually prefer civil law contracts because it allows them to work longer hours and thus to make more money. The informant contends:

They come to Poland with a plan to make as much money as possible. From this reason they accept really a lot. First of all, they accept working beyond employment contract, on the basis of civil law contract. Work on the basis of civil law contract do not guarantee minimum rest periods, so they can work long hours. They do not want to spend a lot of money on their housing, so they accept really poor living conditions. They seem to be very determined when it comes to generating their financial capital.<sup>88</sup>

It is debatable whether this is indeed the case, but migrant interviews suggest that Nepalese workers are most probably not fully aware of the difference between the two types of contracts in the first place, and that indeed the most important consideration for them is the total remuneration they eventually receive. This is not surprising considering the huge recruitment-related debts they have incurred in migrating to Poland. Working long hours is not considered necessarily as a problem for most of the migrant workers interviewed for this study if it results to a higher take home pay.<sup>89</sup>

## 5. Underpayment

Migrant and informant interviews also suggest that Nepalese migrants receive a lower salary than what was promised in Nepal as well as reduced or foregone benefits. For instance, one group of migrants who was interviewed in Nepal soon after returning from Poland was promised work in a metal company with a salary of NPR 150,000 (1,130 EUR), an 8-hour work day, free, employer-provided accommodation, food allowance and opportunity to work overtime for extra pay. Instead, upon arrival in Poland, they worked in a restaurant and earned PLN 2,000 to 2,200 PLN (440 to 485 Euro) per month, or less than half of their expected salary. Accommodation was not provided by the employer and only one meal a day was provided for free. They also reported working on average of 22 days per month for 12 hours per day.<sup>90</sup>

---

<sup>86</sup>Piotr Lewandowski, “Case study: Gaps in access to social protection for people working under civil law contracts in Poland” European Commission: Brussels. 2018

<sup>87</sup>Izabela Florczak, “Situation of migrants workers from Nepal on the Polish labour market,” Report submitted to FNV to inform this study, February 22, 2020

<sup>88</sup>Key informant interview 8 convened by Izabela Florczak in Warsaw, Poland on February 6, 2020

<sup>89</sup>Focus group discussion 5 with Nepalese migrant workers in Poland convened by Izabela Florczak in Poland on February 2, 2020

<sup>90</sup>Focus group discussion 4 with Nepalese return temporary labour migrants convened by Rameswar Nepal in Itahari, Sunsari, Nepal on March 15, 2020

Table 4 below itemizes their monthly living expenses, which totals to about 950-1050 PLN (209 EUR to 232 EUR). The migrants reported subsisting on 45 EUR per month for food and sharing an accommodation with four other people to minimize rent expenses.

**Table 4** Monthly expenses of a migrant living in Poland, circa 2018

Monthly Expenses	Amount
Shared accommodation with four other people	400 PLN (88 EUR)
Food	200 PLN (45 EUR)
Local transportation	150 PLN (34 EUR)
Mobile	100 PLN (22 EUR)
Miscellaneous	100 to 200 PLN (22 to 44 EUR)
<b>Total</b>	<b>950-1050 PLN (209 EUR to 232 EUR)</b>

Source: Focus group with Nepalese return temporary labor migrants convened by Rameswar Nepal in Itahari, Sunsari, Nepal on March 15, 2020

With their meager salary, migrants explain that that they still tried to save money as much as they can to support their families back home and to pay back the recruitment fees. One migrant described with frustration:

We could hardly save PLN 1,000 (220 EUR) to PLN 1,2000 (264 EUR) every month...You can imagine whether this amount is sufficient to cover the cost of living of family in Nepal and to pay back the recruitment loan. Then how can we save money for the future?<sup>91</sup>

An informant from the recruitment industry in Poland confirmed that migrants generally expect a much higher wage than they would actually receive even noting that in some cases agents have promised they will be paid in Euro. The informant explains: "When they come here, they are surprised that we do not have Euro in Poland and that their remuneration is not 2600 EUR but 2600 PLN."<sup>92</sup>

Migrant and informant interviews also suggest that sharing accommodation with other workers is quite common, with some agencies turning into landlords themselves, especially in places where there are limited housing options for migrants. The rent for a small room of between 12 and 20 square meters is about 2100 PLN, or nearly a month's worth of the migrant's salary. Migrants reported sharing the hefty rent with 5 other people costing each migrant about 360 PLN (80 EUR) per person per month.<sup>93</sup>

## 6. Uncertain access to long-term residency

Finally, interviews with migrants and informants suggest that the biggest source of concern revolves around legalization of stay and work in Poland. There is a concern among migrants that employers are not doing enough to translate their temporary work and residence contract into a more permanent arrangement that could eventually lead to permanent residency. As noted in the previous section: permanent residency is a main motivation driving Nepalese migration to the EU.

Some migrants complain that agents continuously apply for a 3-month residence permit extension because it keeps them dependent on the agent. Without a longer-term residency permit, it is more difficult to move to another job or location. The agency also makes money for every extension because migrants reported paying agents about 700 PLN (154 EUR), or nearly two months' worth of rent, each time an agent represents them at the immigration office.<sup>94</sup>

An even larger concern is that migrants are not sure if their agents or employers are actually filing the appropriate documentation to keep their immigration status in Poland legal. The procedure of getting the temporary residence card (TRC) takes extremely long time. Migrants reported that some agents would refuse to provide update on the

<sup>91</sup>Ibid

<sup>92</sup>Key informant interview 7 convened by Izabela Florczak in Lodz, Poland on February 2, 2020

<sup>93</sup>In-depth interview 6 and 7 with Nepalese migrant workers in Poland convened by Izabela Florczak in Gądko, Poland on January 19, 2020

<sup>94</sup>Focus group discussion 5 with Nepalese migrant workers in Poland convened by Izabela Florczak in Poland on February 2, 2020

status of their TRC application and even threaten deportation if continually asked. As one migrant explained: “We asked them for the work permits each day. One day we told them we are leaving and that they give us papers. But we didn’t want to work for them. We knew they are using us.”<sup>95</sup> Another migrant quoted an agent saying: “I have nothing to tell you. If you call me once again, I will take your papers from the office and you will have to go back to Nepal.” For this reason, they prefer not to ask.<sup>96</sup>

One interviewed migrant has been waiting for the TRC decision for 3 years. Others reported receiving e-mails from Polish authorities asking for additional documents or that a decision will be available by a certain date. In both instances, migrants are not aware whether the agents ultimately delivered the requested documents or whether the TRC application was approved or not. One migrant received a letter that his TRC application was denied because the agent failed to provide proof that he has no tax obligations in Poland. After receiving this negative decision, he did not hear from the agent again, although he remains working under the same agency. He does not know if the agent appealed against this decision.<sup>97</sup> If the agent did not send an appeal, it could mean that this particular migrant’s stay is now illegal and he may be deported.<sup>98</sup>

Given that Nepalese migrants primary motivation in coming to Poland is to get permanent residency and to ultimately petition for their family, an insecure and unclear immigration status is particularly extra difficult for migrants to endure. One interviewed migrant captures the frustration of having an unclear immigration status in Poland:

We are not free people here. We cannot move. We cannot change our employer as the employer we have do not inform us about our status. Even if we had our TRC, we still cannot move and change work because we have to ask for a new work permit. Our situation is very bad and we do not see any hope to change it. We also cannot leave Poland without a TRC. We cannot visit our families if something happens there.<sup>99</sup>

It is important to pause and note that the current set of rules and practices essentially tying Nepalese workers to their employers and making it harder to change employers are practices which are not fundamentally different from recruitment practices of Gulf states.

## F. A VALIANT QUEST FOR PERMANENCE MEANS MOVING AGAIN

Interviews with migrants and informants suggest that migrants who found themselves holding these ‘broken contracts’ eventually would try to find a way to improve their working and living situations not by staying within the same employer or filing a complaint with government authorities but by continuously moving on: leaving one job after another until either their money, patience, luck or faith runs out. Others would eventually leave Poland for another EU country to start all over again. For these migrants, the goal remains as clear as when they left Nepal: gaining a permanent residency anywhere in the EU.

The paths to permanent residency are as many as there are migrants, and so are the outcomes. Some would eventually meet employers who are willing to offer jobs and living arrangements Nepalese migrants expect while providing a clear path to permanent residency. For instance, one migrant interviewed for this study eventually found a new job at a restaurant working on a fixed term contract as cook. He explains how much his situation has improved after finding a new employer:

I like my job...I get paid monthly to my bank account. There are no deductions other than taxes. I don’t want to change my job. I like it here. My contract at the restaurant was in Polish and English. I could understand it. My employer hired me directly. I work 6 days a week. I live in a 2-room flat with 3 other Nepalese people.<sup>100</sup>

---

<sup>95</sup>In-depth interview 6 and 7 with Nepalese migrant workers in Poland convened by Izabela Florczak in Gądko, Poland on January 19, 2020

<sup>96</sup>Ibid

<sup>97</sup>Ibid

<sup>98</sup>Ibid

<sup>99</sup>Ibid

<sup>100</sup>In-depth interview 5 with a Nepalese migrant worker in Poland convened by Izabela Florczak in Warsaw, Poland on February 15, 2020

Another interviewed migrant also found a job at another restaurant also as a cook earning 4500 PLN per month net (994 EUR). This higher salary allows him to rent a bigger apartment with 3 friends. He observes: "When I look through my life in Poland, I see a huge progress. Now I have a good, decent job and I live in good conditions."<sup>101</sup> Others also found better arrangements with a TWA. One interviewed migrant ultimately got a job at a magazine company through a chance meeting with a TWA employee. He and his friend received a contract in Polish and in English with no extra-legal deductions. He remarked: "The only deductions are for social security. We don't have to pay tax as we are below 26. That is good for us!"<sup>102</sup> They reported earning as much as 4000 PLN (883 EUR) per month if they work long hours:

But we don't work that much. We work two weekends a week. Sometimes 8 hours. We want to enjoy life. We watch movies. Sometimes, we go to the cinema. We don't want to work all the time. We pay for the bus and buy some clothes. Around 70 percent of our salary we send to Nepal...Here at the village people are nice. When we tell "Dzień dobry"<sup>103</sup> they smile.<sup>104</sup>

Others would not be as lucky and would eventually choose to leave Poland and return to Nepal burdened with an enormous debt. One migrant describes the circumstances leading to a decision to return after leaving his initial employer:

My visa was still valid, so I decided to find a job in Warsaw, where I lived with my friend. For almost 3 months I was looking for another job, I mainly went to restaurants for interviews...My visa was about to end, nobody wanted to hire me. Because my friend started demanding payment for a rented room, about PLN 3,000 (662 EURO for three months), I knew that I had to go back to Nepal and earn money to be able to give it back to him... I went to the airport where the guards stamped my passport with a stamp: COMMITMENT TO RETURN.<sup>105</sup>

Some of these migrants would choose to file complaints to the Nepalese government against the individuals and recruitment agencies. Data compiled at the Department of Foreign Employment in Nepal recorded 313 complaints between January 2018 and December 2019, of which nearly a third are lodged against recruitment agencies. The most common complaints are on monetary related problems such as demand for refund and due compensation.

**Table 5** Number and Types of Complaints filed by Nepalese migrant workers related to migration to Poland, January 2018-December 2019

<b>Complaints against individuals</b>	
Demand of arranging to return amount and passport	1
Demanding the money to be refunded and compensations	29
Demanding action against perpetrator and arrange returning amount	33
Demanding action against perpetrator, and money and passport be returned	4
Foreign employment related fraudulent	26
<b>Sub-Total</b>	<b>93</b>
<b>Complaints against recruitment agencies</b>	
Action against perpetrators, compensation and arranging to return passport	48
Compensation	130
Compensation and action against perpetrators	37
Foreign employment related fraudulent	3
Rescue and action against perpetrators	1
Rescue and compensation	1
<b>Sub-Total</b>	<b>220</b>
<b>Overall Total</b>	<b>313</b>

Source: Ministry of Labour, Employment and Social Security Nepal, Department of Foreign Employment, Individual and Institutional Complaint List, January 2018-December 2019

<sup>101</sup>In-depth interview 4 with a Nepalese migrant worker in Poland convened by Izabela Florczak in Warsaw, Poland on February 1, 2020

<sup>102</sup>In-depth interview 6 and 7 with Nepalese migrant workers in Poland convened by Izabela Florczak in Gądko, Poland on January 19, 2020

<sup>103</sup>"Dzień dobry" is good day in Polish.

<sup>104</sup>In-depth interview 6 and 7 with Nepalese migrant workers in Poland convened by Izabela Florczak in Gądko, Poland on January 19, 2020

<sup>105</sup>Statement of a Nepalese migrant worker in Poland assisted by La Strada Foundation Date, Place

While still more will have the resources to finance their move from Poland to another country in the EU to find better options. One interviewed migrant, who arrived in 2004, well before the country became a popular destination, only stayed for six months in Warsaw. He lived without documentation in Germany and Belgium until finally settling in Italy and receiving in 2009 a temporary residence permit. Five years later, in 2013, he received the permanent residence permit which allowed him to finally be able to bring his family to Italy. He describes the first five years in the EU as a “struggle phase” when he took various odd jobs including manning street stalls, washing cars and working in various restaurants. It was only after receiving the TRC in 2009, when he reported finally receiving what he considers a “decent wage.”<sup>106</sup>

Migrant and informant interviews suggest that today, Nepalese migrants intending to leave Poland in search for better jobs and higher chance for gaining permanent residency are likely to go to Portugal.<sup>107</sup> An informant working in the recruitment industry explains:

Once I even received a photo and greetings from a Nepalese couple who abandoned our agency. When they move to Portugal usually, from the very beginning, they work illegally but then they eventually legalize their status. In my opinion, for Nepalese workers Poland is usually just a transfer country. The majority of them want to move to other EU countries, mainly Portugal.”<sup>108</sup>

Indeed, the rerouting to Portugal shows a more general trend in which migrants constantly scan the horizon for better opportunities to get permanent residence in the EU.

## G. THE ROLE OF TRADE UNIONS

Trade unions have taken note of these issues, particularly in Nepal, where a number of activities targeting migrant workers have been implemented. For instance, the Building and Wood Workers’ International (BWI), a global federation of unions representing workers in the building, building materials, wood, furniture production, and forestry sectors have, through the BWI-Nepal Affiliates Committee (BWI-NAC) reported recruiting 451 migrant workers and integrating 88 migrant workers into the unions’ leadership structures.<sup>109</sup>

The BWI-NAC, with the support of the Trade Union Solidarity Centre of Finland (SASK), also conducted pre-departure orientations for migrant workers as well as trainings on law, leadership development and database for union cadres. FNV also supported the BWI-NAC in conducting a thematic meeting on the issue of skill testing for returnee migrants. An evaluation of the activities of BWI-NAC concluded that it has also strengthened its cooperation with the Nepal Association of Foreign Employment Agencies. For instance, the BWI-NAC convened a two-day conference on ethical recruitment which also includes FNV and SASK representatives.<sup>110</sup>

However, in Poland, Florczak, in her report submitted to FNV to inform this study, notes that social partners, including trade unions, “do not pay enough attention to the problems of migrant workers.” She further notes that “Nepalese workers are not aware of the fact, that they can get help from such institutions.”<sup>111</sup>

---

<sup>106</sup>In-depth interview 2 with a Nepalese migrant convened by Rameswar Nepal in Chitwan, Nepal on March 14, 2020

<sup>107</sup>Statement of a Nepalese migrant worker in Poland assisted by La Strada Foundation Date, Place

<sup>108</sup>Key informant interview 7 convened by Izabela Florczak in Lodz, Poland on February 2, 2020

<sup>109</sup>Jin Sook Lee, Annual Report to FNV, 2019

<sup>110</sup>Ibid

<sup>111</sup>Izabela Florczak, “Situation of migrants workers from Nepal on the Polish labour market,” Report submitted to FNV to inform this study, February 22, 2020; For a comprehensive analysis of the relationship between trade unions, immigration and migrant workers across eleven European countries in the period between the 1990s and 2015 see Marino, S., Roosblad, J., & Penninx, R. (Eds.). (2017). Trade unions and migrant workers: New contexts and challenges in Europe. Cheltenham: E. Elgar. [https://www.ilo.org/global/publications/books/wCMS\\_591484/lang--en/index.htm](https://www.ilo.org/global/publications/books/wCMS_591484/lang--en/index.htm)



## IV. FUTURE MIGRATION SCENARIOS

It is impossible to predict the future, certainly with regards to future patterns and trends of migration. Fundamentally, many of the economic and political factors and processes in origin and destination countries that drive migration are difficult to predict. As the current 'Covid-19 outbreak' highlights, change often comes unexpected. However, it is possible to outline what developments seem rather plausible and which seem less plausible, based on our knowledge of trends and drivers of migration to the EU.

In thinking about the future of migration, it is important to distinguish between cycles and longer-term trends. For instance, the Covid-19 outbreak could be the onset of an economic recession followed by economic recovery as part of a 'normal' business cycle model. This is the common, and most likely, scenario, as what happened after the 2008 Global Economic Crisis. That crisis, despite its wide-ranging economic effect did not fundamentally alter the factors driving labour migration to the European Union. Immigration of TCNs to the EU from Africa, former Soviet States and Asia rebounded to pre-crisis levels as soon as the economic growth picked up essentially due to increasing labour shortages in sectors at various skill levels.

Thus, it is dangerous to jump to conclusions by extrapolating short-lived events, such as an economic recession created by the Covid-19 outbreak, into the future, without seriously considering first whether and how it is likely to affect the long-term structural drivers of labour migration. Indeed, in order to better assess what the future of European labour migration, and particularly of migration of TCNs to the EU, may look like, it is useful to first recognize the past trends and plausible future developments in relation to long-term structural drivers of labour migrations three of which are particularly important: labour demand, demographic change and migrant aspirations linked to origin country development. Beyond these structural drivers, however, it is also important to factor in government policies, and their implementation as well as the role of recruiters and social networks in starting and perpetuating migration processes.

Long-term structural drivers give invaluable insights as to *where* would current and future migrants most probably come from and go while policies and recruitment practices have a major influence on *when* actual movements will occur, how they would take place in terms of both its magnitude and geographical directions.

### A. LONG-TERM STRUCTURAL DRIVERS OF LABOUR MIGRATION

#### 1. Labour demand

There is widespread consensus in the research literature that destination country labour market demand for lower and higher skilled workers is the main driver of labour migration<sup>112</sup>, as evidenced by the high correlation between economic growth, unemployment and levels of immigration.<sup>113</sup> Because of a combination of demographic ageing, increasing education levels, increasing formal labour participation of women as well as status motives, native workers have been decreasingly available and willing to do various low-status jobs, such as in agriculture, food processing, industry, cleaning, food, hotels, delivery, domestic work and various other service jobs in the formal and informal sector. In Western Europe, this has been a long-term trend that started in the 1960s and which is likely to continue in the future. As Box 1 below highlights, improvement of wages, job security, and labour conditions of local lower skilled workers is desirable and can have positive effects on domestic labour supply<sup>114</sup>, but such effects are limited

<sup>112</sup>See Ambrosini, M. 2013. Irregular Migration and Invisible Welfare, Basingstoke, Palgrave Macmillan; Massey, D. S. & Pren, K. A. 2012. Unintended consequences of US immigration policy: Explaining the post-1965 surge from Latin America. *Population and Development Review*, 38, 1-29; Castles, S. (2013). The forces driving global migration. *Journal of Intercultural Studies*, 34(2), 122-140.

<sup>113</sup>At the same time, there is no evidence that immigration causes a downward pressure on wages or increases unemployment among local workers, further showing that immigration is primarily a response to labor shortages. See for instance Frédéric Docquier, Çağlar Özden, Giovanni Peri, The Labour Market Effects of Immigration and Emigration in OECD Countries, *The Economic Journal*, Volume 124, Issue 579, 1 September 2014, Pages 1106-1145

<sup>114</sup>See Ruhs, M., & Anderson, B. (Eds.). (2010). *Who needs migrant workers?: labour shortages, immigration, and public policy*. Oxford: Oxford University Press.



and are unlikely to structurally decrease lower- and higher-skill job shortages in various sectors<sup>115</sup>. So, unless the current Covid-19 induced crisis devolves in a long-term economic recession or depression or a major political crisis, it is likely that the demand for migrant workers will rebound after the crisis, and that some of that demand, particularly in 'vital' sectors such as agriculture, industry and delivery will persist or even increase.<sup>116</sup>

### Box 1: 'Cheap labor' or Cheap jobs?

As this study, as well as others have shown, many migrants work at what economist Michael Piore has called the 'secondary sector' of the economy characterized by temporary employment, easier entry and relatively low wages and difficult working conditions.<sup>117</sup> Migrants essentially take the jobs in the secondary sector that native workers will not accept, prompting many observers from both ends of the political spectrum to suggest that migrant workers are essentially 'cheap labor.'

From this point of view, the continued hiring of migrant workers for low-paid and low-status jobs essentially reflects the unwillingness on behalf of the employers to pay more for labor costs such as by increasing wages, offering better working conditions and long-term contracts. As the argument goes, the presence of this 'cheap labor' supports a 'race to the bottom' in relation to labor costs and working conditions. It enables employers to keep wages low and working conditions poor. Another connected assumption is that restrictions in the entry of migrant workers would force the hands of employers to improve labor conditions and upgrade the industry via investment in technology and creation of higher-value jobs. It is also commonly believed that restricting the entry of migrant workers would free enough jobs for native workers and therefore alleviate unemployment, an argument that remains as popular today as forty years ago.<sup>118</sup>

This characterization of migrant workers as 'cheap labor' is problematic because it fails to recognize an important distinction: Migrants are not in essence 'cheap labor', it is the jobs that they take that are 'cheap'. And these jobs are not made 'cheap' because migrants began taking them. Some of these jobs have always been cheap and in some sectors, they have been made cheap because of economic deregulation that swept through in varying intensities all over North America and the Europe starting in the 1980s. The effect of these policies can also be seen in jobs and sectors not dominated by migrants. Indeed, as numerous studies confirmed, the entry of migrant workers has only small and generally negligible effect on wages and employment. And if there is a negative impact on wage, this mainly affects previous immigrants because they are more likely to have similar skills and work in similar sectors as new incoming migrants.<sup>119</sup>

This confirms a large body of evidence that migrant workers are largely complementary to native workers and not substitutes. Migrants do not crowd out local workers. They are taking jobs that native workers do not want to take for reasons extending well beyond financial considerations. For one, as Piore and others after him have argued, people work not just to earn an income but also to maintain and accumulate social status.

<sup>116</sup>In fact, while some service sectors in which migrant workers are heavily represented have been severely hit by the current recession, other sectors, such as delivery, retail, industry, food processing and delivery, have been much less affected, or have even benefited. Migrant workers are overrepresented in these sectors. This explains why many migrant workers have not returned, and why some migrations of workers, such as from Romania to Germany and the UK, is actually continuing with government endorsement. This highlights the idea that although the crisis will have important effects on labor migration, that these effects are more likely to be temporary. However, the crisis may affect different labor sectors in different ways, and possibly lead to structural changes in the sector-specific demand for migrant labor.

<sup>117</sup>Michael J. Piore, *Birds of Passage: Migrant Labor and Industrial Societies* (Cambridge: Cambridge University Press) 1979

<sup>118</sup>Ibid

<sup>119</sup>See Borjas, G. J. (2003), "The labour demand curve is downward sloping: Reexamining the impact of immigration on the labour market", *Quarterly Journal of Economics*, vol. 118/4, pp. 1335-1374, Oxford university Press.; Card, D. (2001), "Immigrant inflows, native outflows, and the local labor market impacts of higher immigration", *Journal of Labor Economics*, vol. 19/1, pp. 22-64.; Friedberg, R. m. and J. Hunt (1995), "The impact of immigrants on host country wages, employment and growth", *Journal of Economic Perspectives*, vol. 9/2, pp. 23-44.; Hanson, G. H. (2008), "The economic consequences of the international migration of labor", NBER Working Paper Series, No. 14490; Kerr, S. P. and W. R. Kerr (2011), "Economic impacts of immigration: A survey", NBER Working Paper Series, 33, pp. 3-8. 1); Amelie Constant, "Do migrants take the jobs of native workers?," IZA World of Labor, May 2014 <https://wol.iza.org/uploads/articles/10/pdfs/do-migrants-take-the-jobs-of-native-workers.pdf>.

Jobs at the bottom of the occupational hierarchy essentially suffer from a structural limitation: these jobs can never be eliminated. There will always be a bottom. And native workers would shun these jobs and look for better opportunities that not only brings a living wage but also an acceptable social status.<sup>120</sup>

Indeed, special programs introduced across the EU to actively encourage native workers, including those who are unemployed, to take over jobs dominated by migrants have faced severe difficulties in meeting their goals or have failed completely. For instance, in the Netherlands, the municipalities of Rotterdam and Utrecht introduced a program in 2012 that requires unemployed residents on benefits to work on the Dutch greenhouse sector. Of the 175 individuals who participated in the program, only 14 retained a contract. An evaluation of the program highlights that 40 percent dropped out because of lack of motivation, while the rest cannot meet the job requirements or had medical and physical disabilities.<sup>121</sup>

The advent of the Corona epidemic led to similar and more recent attempts particularly in the United Kingdom, where nearly 90 percent of agricultural workers are migrants. Similar to the experience in the Netherlands, the uptake has been dismal. Two projects – Feeding the People and Home-Grown Land Army– had a retention rate of 0.2 percent. Another project, Pick for Britain, which has just been launched with the endorsement of Prince Charles, will most likely face similar challenges. For one, as Roxana Barbulescu and Carlos Vargas-Silva noted, harvesting fruit and vegetables requires certain set of skills including the ability to bend, carry and lift heavy object for long hours.<sup>122</sup>

## 2. Demographic trends

Combined with increasing education and economic growth, population ageing is a major factor explaining labour shortages in various economic sectors. The trends towards population ageing have been accentuated in recent decades. Strikingly, population ageing has hit EU ‘accession countries’ in Central and Eastern Europe (CEE) even harder than most West European countries. This implies that recent trends of economic growth and improvement in labour conditions (such as minimum wage) in major CEE countries such as Poland and Romania could lead to (1) decreasing emigration as well as (2) increased labour shortages and, hence, demand for migrant workers in CEE countries. This is already quite evident in increasing migration towards Poland as the previous section highlights.

While migration is no solution to ageing, it is likely that, combined with economic growth, increasing education, ageing and the associated decline of young entrants in the labour market who are able and willing to do various lower skilled jobs is likely to contribute to labour shortages in various ‘vital’ economic sectors<sup>123</sup>. Because of economic growth and demographic change, CEE countries seem to represent a decreasing potential for West European countries like Germany and the Netherlands as a source of lower skilled workers, which is likely to sustain and increase immigration from TCN workers.

It is also important to pause and recognise that traditional sources of TCNs workers, such as Ukraine, Turkey and Morocco, have gone through (or are currently going through) profound demographic transitions marked by fast decreasing birth rates and accelerated ageing. Figure 32 below shows fertility rate in selected origin and destination countries, which indicates the average number of children born per woman. Ukraine’s fertility rate in 2018 is at 1.3 which is lower than Poland, the Netherlands and Germany. It is also well below the replacement level of 2.1 children

<sup>120</sup>For an excellent summary of Michael Piore’s ideas on labor markets, see Massey, D. S., Arango, J., Hugo, G., Kouaouci, A., Pellegrino, A., Taylor, J. E., 1993. “Theories of International Migration: A Review and Appraisal.” *Population and Development Review* 19:431-66.

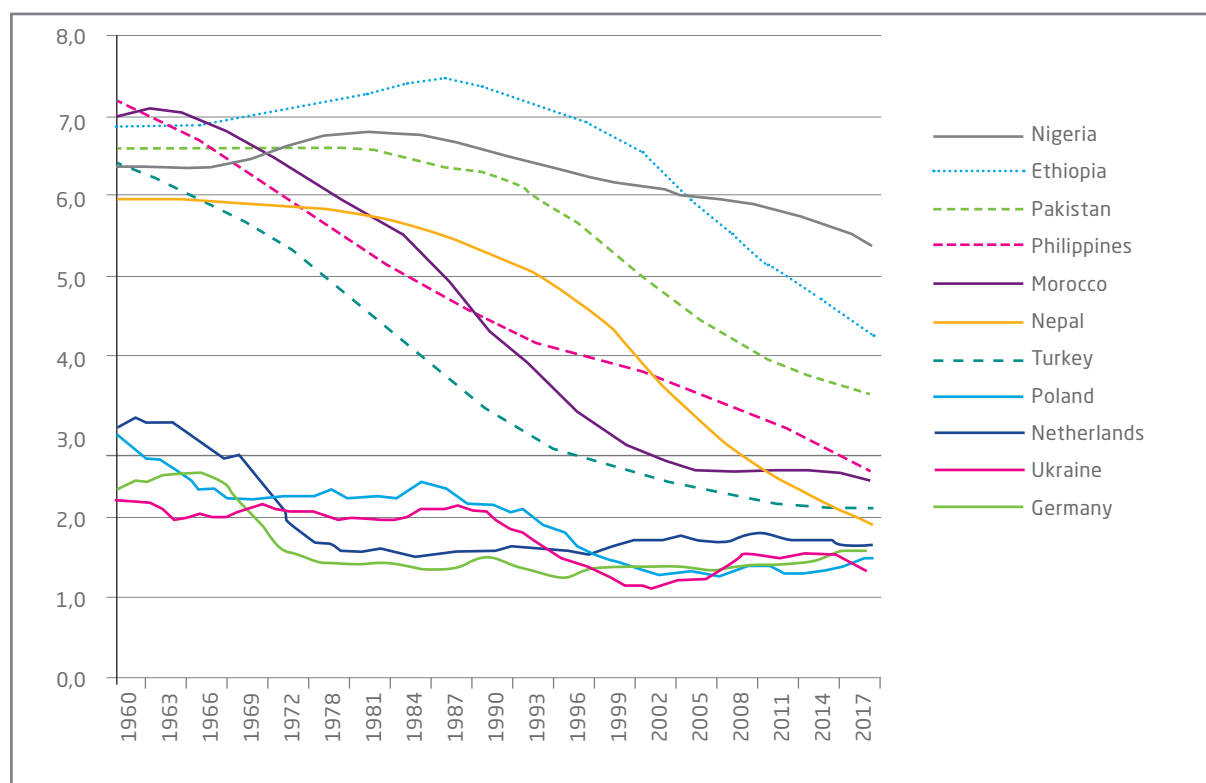
<sup>121</sup>Bastiaan Hetebrij, “Waarom Oost-Europeaanen ons vuile werk doen en niet Nederlandse werklozen,” *De Monitor*, March 24, 2019 <https://demonitor.kro-ncrv.nl/artikelen/waarom-oost-europeaanen-ons-vuile-werk-doen-en-niet-nederlandse-werklozen>

<sup>122</sup>Roxana Barbulescu and Carlos Vargas-Silva, “Seasonal harvest workers during Covid-19,” *Commentary, The UK in a Changing Europe*, June 2, 2020; Steve Jones, “Anyone who’s been laid off can pick fruit, right? It’s not that simple,” *The Guardian*, April 17, 2020 <https://www.theguardian.com/commentisfree/2020/apr/17/laid-off-pick-fruit-seasonal-workers-special-skills>; Charles Hymas, “Only 112 of 50,000 UK applicants for fruit pickers take jobs amid farmers’ fears over skills and application,” *The Telegraph*, April 27, 2020;

<sup>123</sup>See Schrijvers, E., et al. (2013). *Making Migration Work: The future of labour migration in the European Union*, Amsterdam University Press <http://library.oapen.org/handle/20.500.12657/33887>; Ambrosini, M. 2013. *Irregular Migration and Invisible Welfare*, Basingstoke, Palgrave Macmillan; de Haas, H., Castles, S., & Miller, M. J. (2020). *The Age of Migration: International Population Movements in the Modern World*. Guilford Press; Rolfe, H. (2017). *It’s all about the flex: preference, flexibility and power in the employment of EU migrants in low-skilled sectors*. *Social Policy and Society*, 16(4), 623-634; Fuchs, J., Kubis, A., & Schneider, L. (2016). *Replacement migration from a labour market perspective: Germany’s long-term potential labour force and immigration from non-EU member countries* (No. 4/2016). IAB-Discussion Paper.

per woman, the rate at which a population exactly replaces itself from one generation to the next without migration. Poland is below that rate and Turkey is exactly at 2.1 and has been consistently decreasing since the 1960s. Two other large migrant origin countries - Morocco and the Philippines— are quickly approaching replacement levels. With the decreasing emigration potential of traditional source countries, future migrant workers are increasingly likely to come from countries further afield, such as from South Asia or sub-Saharan Africa. Indeed, emerging origin countries, such as Nigeria and Ethiopia, still exhibit much higher levels fertility although also at a decreasing rate since the mid-1980s.

**Figure 35** Fertility rate (births per woman) in major origin and destination countries, 1960-2018



Source: World Development Indicators database, accessed 1 May 2020

### 3. Origin country development

The most prominent emigration countries are typically middle-income countries, in which rapid demographic, cultural and economic change typically lead to increasing migration from rural to urban areas as well as emigration abroad. Paradoxically, low-income countries tend to have relatively low levels of long-distance out-migration, principally because people lack the resources to do so. Modest increases in income, education and access information tend to increase people's desire and ability to move abroad. So, development initially tends to go along with accelerating emigration.

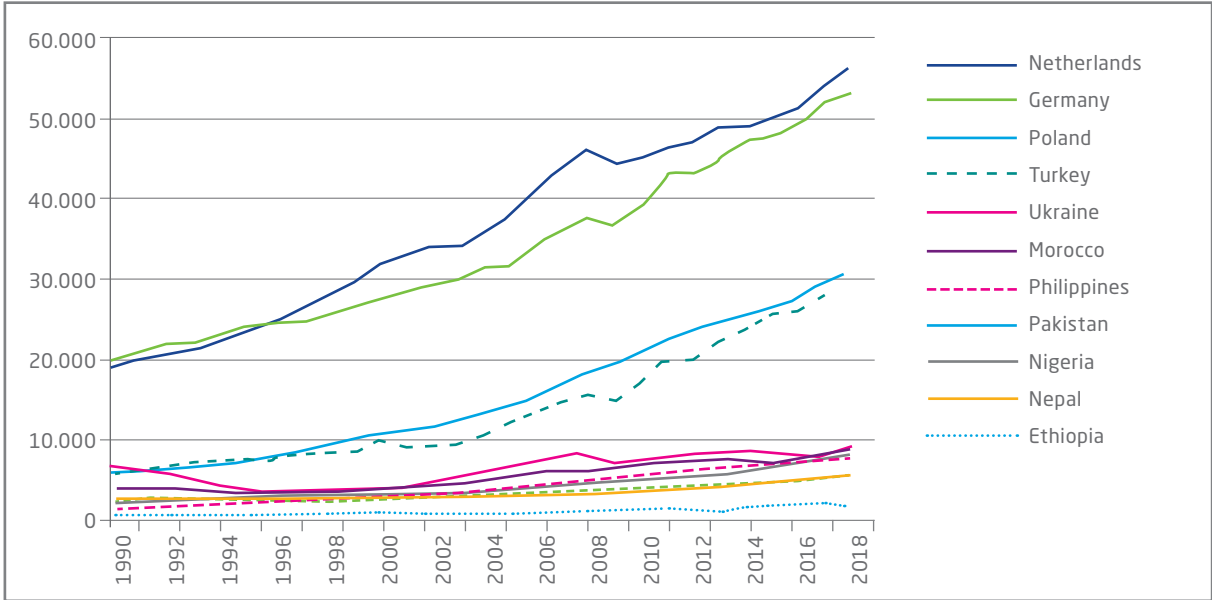
It is therefore no coincidence that middle-income countries such as Turkey, Morocco, the Philippines and (in the US) Mexico have dominated emigration. Development in lower income countries thus increases their emigration potential through the arrival on the labour market of new generations of emigration-prone youngsters. As the case of Nepal shows, migration pertains to young men. Only on the longer-term, further economic growth in combination with progressive demographic ageing tends to decrease emigration levels alongside increasing immigration levels. Applying these insights to the EU, one could say that, assuming further economic growth and some level of political stability, the long-term emigration potential of current origin countries may be declining.

Statistical studies have estimated that, on average, emigration starts to decrease if countries cross a wealth-threshold of per-capita GDP income levels of \$7,000-8,000 (corrected for purchasing power parity - PPP)<sup>124</sup>, which is

<sup>124</sup>Clemens, Michael A. 2014. Does Development Reduce Migration? Washington, DC: Center for Global Development.

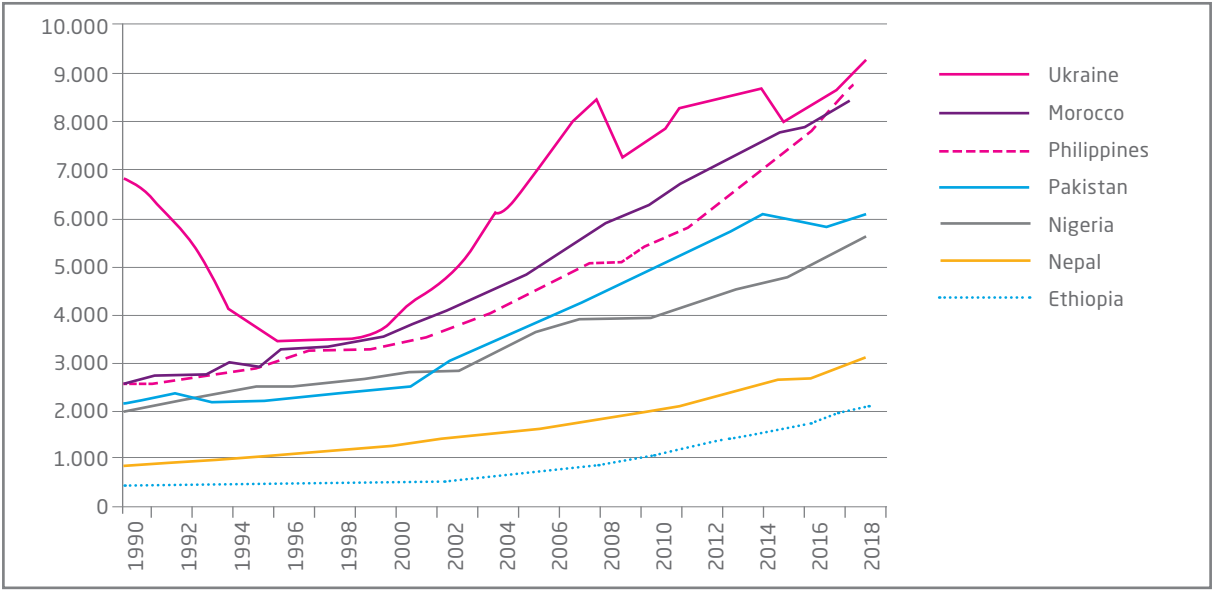
roughly the current GDP per-capita level of India, the Philippines, Ukraine and Morocco, while Poland and Turkey have long surpassed that level. From a corridor perspective, other researchers have argued that migration decreases significantly once income gaps between destination and origin countries drop below 4-5 to 1<sup>125</sup>, which would come down to roughly similar threshold values necessary for emigration to decrease.

**Figure 36** GDP per capita, PPP (current international \$), 1990-2018



Source: World Development Indicators database, accessed 1 May 2020

**Figure 37** GDP per capita, PPP (current international \$), 1990-2018



Source: World Development Indicators database, accessed 1 May 2020

At the same time, the emigration potential of low-income countries, like Nepal, Pakistan, Ethiopia and Nigeria seems to be increasing – particularly if large origin-destination income gaps are combined with still youthful populations. Economic growth as well as increasing education and skills will enable increasing numbers of people to access the resources to engage in long-distance migration. Indeed, future migrants are increasingly likely to come from lower income countries located in regions like South Asia and sub-Saharan Africa.

<sup>125</sup>Martin, Philip L. and J. E. Taylor. 1996. "The anatomy of a migration hump." In Development strategy, employment, and migration: Insights from models, edited by Edward J. Taylor, 43-62. Paris: OECD, Development Centre.

As for intra-European migration, fast economic development, increasing wages and falling unemployment in CEE countries such as Poland and Romania are likely to only further decrease their emigration potentials, while Ukrainians and citizens of other former Soviet states may be increasingly attracted to West European labour markets. Given these trends, it is likely that an increasing share of TCN immigrants will be of non-European origin, irrespective of actual levels, specific patterns, as well as business-cycle driven fluctuations in immigration flows.

## **B. RECRUITERS, MIGRATION POLICY AND THE EVOLUTION OF SOCIAL NETWORKS**

While long-term structural drivers point to most likely sources and destination of migrant, they cannot on their own indicate when would particular movements actually take place, and how, including its magnitude and directions. In fact, such factors are not a sufficient condition for significant migration flows between particular areas of origin and destination to develop. Indeed, pinpointing exactly where future non-EU immigrants will come and when and how, is difficult to predict, as this also depends on various factors. The Nepal-Poland case shows the crucial role RAs and TWAs at origin and destination play in finding and matching workers with employers especially across long-distance migration channels. Indeed, recruitment - whether or not part of bilateral agreements - is often an essential in starting migration in a particular corridor. The channels agencies foster is usually very responsive to changes in regulations and more importantly how they are applied on the ground.

Emigration policies pursued by origin countries and level of competition from other major and emerging destination countries in North America, the Gulf and East Asia are also an important factor. For instance, Germany which has been for a long time now pursuing an active policy to recruit high-skilled workers regardless of origin. The policy changes introduced in March 2020 signals the opening of Germany's borders to low and mid-skilled workers as well. Developed countries in the Asia-Pacific have also started to open their borders to low-and mid-skilled migrant workers such as China, Japan and South Korea in East Asia, Thailand in South East Asia and New Zealand and Australia in the Pacific.

Once a number of migrants have settled, however, migration tends to become more difficult to control because of the migration facilitating-role of social networks that tend to give migration their own momentum. As already noted earlier and worth repeating: the power of RAs and TWAs, and the labor market needs and the government regulations to which they respond, diminishes as the number of migrants in any given destination increase. As migrants establish a stronger foothold in any particular destination, their social networks—family, friends, acquaintances—would be able to support the continuation of migration despite detrimental labor market situation and policies. This implies that government policies play a large role in setting initial modes of migration and the position and incorporation of migration, while at later stages network effect diminish the regulatory capacity of governments. Since the Nepalese-Poland corridor is still at the beginning stage, RAs and TWAs plays a stronger role in diverting employers and migrants out of that corridor. That influence, however, will only diminish over time.

# V. RESISTING 'DIVIDE AND RULE': TOWARDS A RESEARCH AGENDA RECOGNIZING MIGRANT WORKERS AS WORKERS

To say that migration is a complex phenomenon amounts to a truism: an undoubted or self-evident truth too obvious to mention. But this is one truism worth mentioning again and again because migration practitioners and observers alike miss this point far too often. The denial of the complex dynamics and causes of labor migration is evident in frequent suggestions by politicians that migration can be stopped at the border, like a water tap that can be turned on and off at will, with the right investments on border control or via adoption of more stringent migration policies. This denial of the complexity of migration and its drivers will not stop migration but is only likely to lead to policies that are either ineffective or even counterproductive. At worst, it sets in motion the long-term marginalization of migrant workers reminiscent of experiences with 'guest-workers' over earlier decades.

This study showed the central role of labor demand in destination countries as well as the role of intermediaries and social networks in driving migration from South Asia to the EU. Now that the EU is at the early stages of the evolution of new migration corridors linking European destination with new 'labour frontier' countries in South Asia (as well as other emerging origin regions such as sub-Saharan Africa), there is a unique opportunity to set a research agenda that embraces, rather than denies, the realities and complexities of migration to the EU and builds on the insights that can be gathered from this study.

Specifically, the following four key research areas remain under-researched and require further attention.

**1. Labour Migration via EU's Periphery:** As shown in this study, available data gives evidence of increasing migration of South Asian workers to the EU entering on temporary work permits via countries that are located in the geographical periphery of Europe. This study shows that future TCN labour migrants may also increasingly come from other regions outside South Asia, such as sub-Saharan Africa. In such non-European countries, economic growth as well as increasing education and skills will enable increasing numbers of people to access the resources to engage in long-distance migration. In view of the considerable emigration potential of these regions, it would be important to understand the dynamics behind the labour movements along these emerging and interrelated corridors, including how the use of particular routes and recruitment mechanisms affects migrant workers welfare and working conditions.

**2. Secondary migration within the EU and the quest for Permanence:** The study's findings also point to the limited knowledge on the extent and nature of 'secondary migration' or onward migration within the EU, particularly on 'secondary migration' originating from the EU's periphery. As discussed, preliminary analysis suggests limited 'secondary migration' from Poland to the Netherlands while data for Spain and Italy indicate that TCNs legally enter such countries with the intention to migrate onward to the Netherlands or other West European countries. Further research is needed to know to what extent this also applies to South Asian migration, especially given the evidence in this study that migrants' primary intention is generally to enter the EU rather than targeting a specific country and more importantly to gain permanent residence. Further data and qualitative analysis focused on the Netherlands as well as other 'ports of entry' such as Portugal, Cyprus, Malta and other European countries such as France, Germany and the UK could provide useful insights on the drivers of secondary migration and its effects on migrant and local workers.

**3. "Broken Contracts" in a Three-Tiered Labour Migration System:** The study's findings also highlight how fundamental gaps governing migrant worker recruitment within and across borders have essentially created a three-tiered labor migration system, where many migrants ended up with "broken contracts" characterized by various irregularities including a lower wage than legally allowed or stated in the contract, a different job, and reduced or foregone benefits. It is therefore crucial to improve understanding of how, to what extent and under what conditions, migrants' contracts actually 'broken' in the EU, and in which ways governments and other actors, especially trade unions, can improve the effectiveness of recruitment regulations. Central to this question is achieving a better understanding of exactly how convoluted and disjointed recruitment systems increase migrant workers' reliance on

recruitment agencies, along with their chance of exploitation, as well as how it incentivizes all actors—agencies, employers, government officials and even migrants themselves—to game and undermine the recruitment system.

**4. Europe’s own version of the “Kafala” system?:** Governments in the Gulf are often criticized for their exploitative immigration system called “Kafala” which essentially binds a migrant worker to an individual sponsor, called the *kafeel*, for their contract period<sup>126</sup>. What is rarely observed, however, is that such form of immigration control, is not at all unique to the Gulf but also exist, albeit in milder form, in the Western world, including in the EU. Indeed, a key observation of this study is that while Nepalese workers moving to Poland (and the EU more in general), are not amongst the most vulnerable members of Nepalese society, if alone because of the significant resources required to migrate, the regulatory framework itself makes migrants vulnerable to exploitation *even when rules are respected*. For instance, the current set of rules and practices tying workers to employees and making it difficult to change employers are practices which are not fundamentally different from recruitment practices of Gulf states. In some cases, workers in the Gulf even enjoy better entitlements than TCNs migrants in the EU such as, for instance, the security of obtaining longer-term contracts lasting at least two years. It is critical to understand how current legal and regulatory frameworks existing in EU countries *allows* for, and to some extent even encourages, the discrimination of migrant workers and how this affects their position in destination countries. Discussions on migrant exploitation in the EU is mostly framed on how migrants are “exploited” by employers (and recruiters) but rarely highlight how the rules themselves, though legal, can be exploitative in themselves. In other words, the problem of exploitation is not always just about the implementation of the rules or situations of ‘illegality’, but it could also be the rules themselves.

Far from disjointed lines of inquiry, these four research areas are connected by a single purpose: to ensure that in the EU, migrant workers’ rights and experiences are guaranteed at an equal footing with native workers. It is therefore important to set a research agenda that cuts across false distinctions separating migrant workers and native workers as if they are two distinct groups with different and even competing interests. Indeed, as the International Trade Union Confederation (ITUC) has boldly noted in one of its publication on this issue: “Migrants’ rights are workers’ rights.”<sup>127</sup> More than ever, trade unions, along with migrant and other non-government organizations, could play a larger role in supporting research that uphold the rights and improve the welfare of migrant workers in the EU and are bounded to a simple premise: migrant workers are workers. Interventions should ensure that migrant workers will not get downgraded to second-class workers and do not serve to ‘divide and rule’ the working class.

---

<sup>126</sup>Mendoza D. R., 2009. Guiding the Invisible Hand: Making Migration Intermediaries Work for Development. Human Development Research Paper No.22, New York, United Nations Development Programme. [https://www.rrojasdatabank.info/HDRP\\_2009\\_22.pdf](https://www.rrojasdatabank.info/HDRP_2009_22.pdf); Mendoza, D. R. 2011. Running in Circles: Progress and Challenges in Regulating Recruitment of Filipino and Sri Lankan Labor Migrants to Jordan, Washington, D.C., Migration Policy Institute; Mendoza D. R. 2009. Migration’s Middlemen: Regulating Recruitment Agencies in the Philippines-United Arab Emirates Corridor, Washington, D.C., Migration Policy Institute.

<sup>127</sup>[https://www.ituc-csi.org/IMG/pdf/flyer\\_migration\\_eng\\_lr\\_2\\_.pdf](https://www.ituc-csi.org/IMG/pdf/flyer_migration_eng_lr_2_.pdf)



# WORKS CITED

## CASE STUDIES COMMISSIONED FOR THIS REPORT

- Florczak, I. (2020) "Situation of migrant workers from Nepal on the Polish labour market" Typescript, Case Study Report submitted to Federatie Nederlandse Vakbeweging (FNV) Mondiaal
- Nepal, R. (2020), "Third Country National Migrants from South Asia to the EU: A Brief Analytical Report" Case Study Report submitted to Federatie Nederlandse Vakbeweging (FNV) Mondiaal

## OTHER WORKS

- Ambrosini, M. (2013). Irregular Migration and Invisible Welfare: M. Ambrosini: Palgrave Macmillan. Retrieved September 07, 2020, from <https://www.palgrave.com/gp/book/9780230343160>
- Barbulescu, R., & Vargas-Silva, C. (2020, June 02). Seasonal harvest workers during Covid-19. Retrieved September 07, 2020, from <https://ukandeu.ac.uk/seasonal-harvest-workers-during-covid-19/>
- Borjas, G. J. (2003). The Labor Demand Curve is Downward Sloping: Reexamining the Impact of Immigration on the Labor Market. *The Quarterly Journal of Economics*, 118(4), 1335-1374. doi:10.1162/003355303322552810
- Card, D. (2001). Immigrant Inflows, Native Outflows, and the Local Labor Market Impacts of Higher Immigration. *Journal of Labor Economics*, 19(1), 22-64. doi:10.1086/209979
- Castles, S. (2013). The Forces Driving Global Migration. *Journal of Intercultural Studies*, 34(2), 122-140. doi:10.1080/07256868.2013.781916
- Clemens, M. (2014). Does Development Reduce Migration? Retrieved September 7, 2020, from [https://www.cgdev.org/sites/default/files/does-development-reduce-migration\\_final\\_0.pdf](https://www.cgdev.org/sites/default/files/does-development-reduce-migration_final_0.pdf)
- Constant, A. (2014, May 01). Do migrants take the jobs of native workers? Retrieved September 07, 2020, from <https://wol.iza.org/articles/do-migrants-take-the-jobs-of-native-workers/long>
- Consterdine, E., & Samuk, S. (2018). Temporary Migration Programmes: The Cause or Antidote of Migrant Worker Exploitation in UK Agriculture. *Journal of International Migration and Integration*, 19(4), 1005-1020. doi:10.1007/s12134-018-0577-x
- Docquier, F., Ozden, Ç, & Peri, G. (2013). The Labour Market Effects of Immigration and Emigration in OECD Countries. *The Economic Journal*, 124(579), 1106-1145. doi:10.1111/eoj.12077
- European Commission. (2018, August 8). Poland: Easy job access for foreigners in nearly 200 new professions. Retrieved September 07, 2020, from <https://ec.europa.eu/migrant-integration/news/poland-easy-job-access-for-foreigners-in-nearly-200-new-professions>
- Farchy, E. (2016, June 24). The Impact of Intra-EU Mobility on Immigration by Third-Country Foreign Workers, by Emily Farchy. Retrieved September 07, 2020.
- Friedberg, R. M., & Hunt, J. (1995). The Impact of Immigrants on Host Country Wages, Employment and Growth. *Journal of Economic Perspectives*, 9(2), 23-44. doi:10.1257/jep.9.2.23
- Galgóczy, B., & Leschke, J. (2015, January 01). Intra-EU Labor Mobility: A Key Pillar of the EU Architecture Subject to Challenge. Retrieved September 07, 2020, from <https://research.cbs.dk/en/publications/intra-eu-labor-mobility-a-key-pillar-of-the-eu-architecture-subje>
- Haas, H. D., Castles, S., & Miller, M. J. (2020). *The age of migration: International population movements in the modern world*. London: Red Globe Press.
- Haas, H., Vezzoli, S., & Villares-Varela, M. (2019, February 20). Opening the floodgates? European migration under restrictive and liberal border regimes 1950-2010. Retrieved September 07, 2020, from <https://www.migrationinstitute.org/publications/opening-the-floodgates-european-migration-under-restrictive-and-liberal-border-regimes-1950-2010>
- Hanson, G. (2008, November 13). The Economic Consequences of the International Migration of Labor. Retrieved September 07, 2020, from <https://www.nber.org/papers/w14490>
- Hetebrij, B. (2019, March 24). Waarom Oost-Europeanen ons vuile werk doen en niet Nederlandse werklozen. Retrieved September 07, 2020, from <https://demonitor.kro-ncrv.nl/artikelen/waarom-oost-europeanen-ons-vuile-werk-doen-en-niet-nederlandse-werklozen>
- Holtslag, J. W., Kremer, M., & Schrijvers, E. (2013). Making migration work: *The future of labour migration in the European Union*. Amsterdam: Amsterdam University Press.

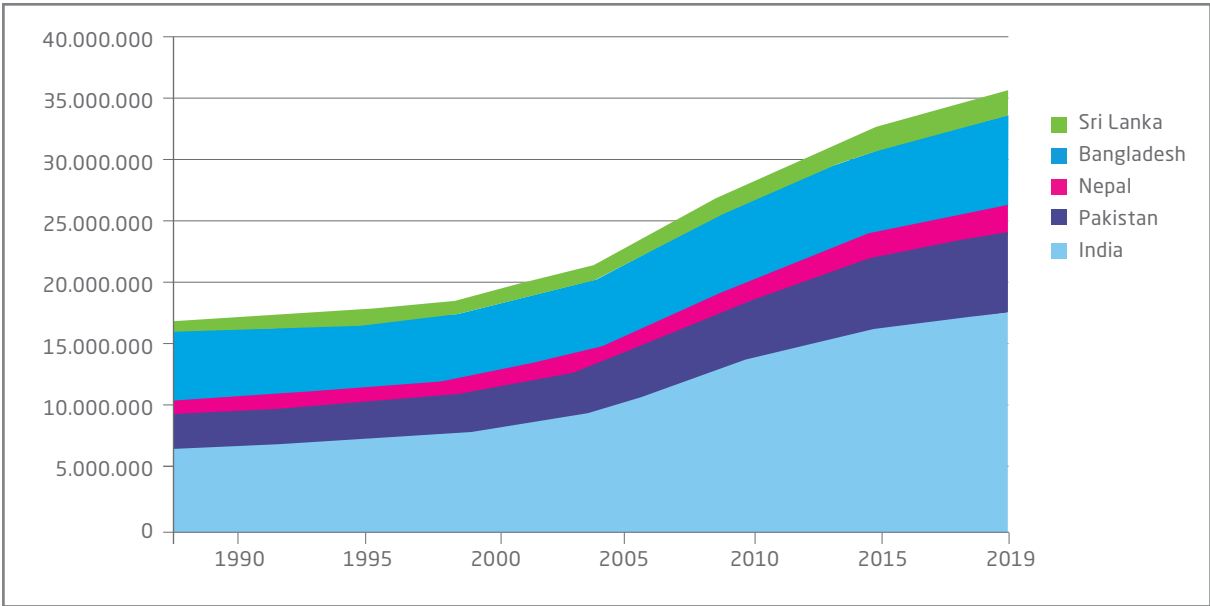


- Hymas, C. (2020, April 27). Only 112 of 50,000 UK applicants for fruit pickers take jobs amid farmers' fears over skills and application. Retrieved September 07, 2020, from <https://www.telegraph.co.uk/news/2020/04/27/112-50000-uk-applicants-fruit-pickers-take-jobs-amid-farmers/>
- International Trade Union Confederation. (2011, December). Migration. Retrieved September 7, 2020, from [https://www.ituc-csi.org/IMG/pdf/flyer\\_migration\\_eng\\_lr\\_2\\_.pdf](https://www.ituc-csi.org/IMG/pdf/flyer_migration_eng_lr_2_.pdf)
- Jones, S. (2020, April 17). Anyone who's been laid off can pick fruit, right? It's not that simple | Steve Jones. Retrieved September 07, 2020, from <https://www.theguardian.com/commentisfree/2020/apr/17/laid-off-pick-fruit-seasonal-workers-special-skills>
- Kaczmarczyk, P. (2019). Recent Trends in International Migration in Poland.
- Kahanec, M., & Guzi, M. (2017). How immigrants helped EU labor markets to adjust during the Great Recession. *International Journal of Manpower*, 38(7), 996-1015. doi:10.1108/ijm-08-2017-0205
- Kerr, S., & Kerr, W. (2011, January 27). Economic Impacts of Immigration: A Survey. Retrieved September 07, 2020, from <http://www.nber.org/papers/w16736>
- Khrebet, A. (2020, March 03). Germany and Poland compete for Ukrainian migrant workers. Retrieved September 07, 2020, from <https://www.atlanticcouncil.org/blogs/ukrainealert/germany-and-poland-compete-for-ukrainian-migrant-workers/>
- Kucharska, M. (2019). Despite the anti-immigrant rhetoric, Poland receives more migrant workers than anywhere else in the world. Retrieved September 07, 2020, from <https://www.equaltimes.org/despite-the-anti-immigrant?lang=en>
- Lavrakas, P. J. (2008). *Encyclopedia of survey research methods*. Thousand Oaks (Calif.): SAGE.
- Lewandowski, P. (2018). Case study - Gaps in access to social protection for ... Retrieved September 7, 2020, from <http://ec.europa.eu/social/BlobServlet?docId=19169&langId=en>
- Lucassen, L., & Lucassen, J. (2018). *Vijf eeuwen migratie: Een verhaal van winnaars en verliezers*. Amsterdam: Uitgeverij Atlas Contact.
- Marino, S., Roosblad, J., & Penninx, R. (Eds.). (2017). Trade unions and migrant workers: *New contexts and challenges in Europe*. Cheltenham: E. Elgar.
- Massey, D. (1990). Social Structure, Household Strategies, and the Cumulative ... Retrieved September 7, 2020, from <https://www.jstor.org/stable/3644186>
- Massey, D. S., & Pren, K. A. (2012). Unintended Consequences of US Immigration Policy: Explaining the Post-1965 Surge from Latin America. *Population and Development Review*, 38(1), 1-29. doi:10.1111/j.1728-4457.2012.00470.x
- Massey, D. S., Arango, J., Hugo, G., Kouaouci, A., Pellegrino, A., & Taylor, J. E. (1993). Theories of International Migration: A Review and Appraisal. *Population and Development Review*, 19(3), 431. doi:10.2307/2938462
- Mendoza, D. (2015, August 12). Running in Circles: Progress and Challenges in Regulating Recruitment of Filipino and Sri Lankan Labor Migrants to Jordan. Retrieved September 07, 2020, from <https://www.migrationpolicy.org/research/regulating-recruitment-filipino-sri-lankan-migrants>
- Mendoza, D. R. (2009). Human Development Research Paper 2009/22 Guiding the Invisible Hand. Retrieved September 7, 2020, from [http://hdr.undp.org/sites/default/files/hdrp\\_2009\\_22.pdf](http://hdr.undp.org/sites/default/files/hdrp_2009_22.pdf)
- Mendoza, D. R. (2014, February 16). Migration's Middlemen: Regulating Recruitment Agencies in the Philippines-UAE Corridor. Retrieved September 07, 2020, from <https://www.migrationpolicy.org/events/migrations-middlemen-regulating-recruitment-agencies-philippines-uae-corridor>
- National Human Rights Commission. (2019). *Research-Report on The Situation of the Rights of Migrant Workers Recruitment Practices and Access to Justice of Migrant Workers*, (Rep.). Lalitpur: National Human Rights Commission.
- Piore, M. J. (1980). *Birds of passage: Migrant labor and industrial societies*. Cambridge: Cambridge University Press.
- Regional Labour Office Krakow. (2017). Occupational Barometer 2018, Poland. Retrieved 2017.
- Rolfe, H. (2017). It's all about the Flex: Preference, Flexibility and Power in the Employment of EU Migrants in Low-Skilled Sectors. *Social Policy and Society*, 16(4), 623-634. doi:10.1017/s1474746417000240
- Ruhs, M., & Anderson, B. (2012). *Who needs migrant workers? labour shortages, immigration and public policy*. Oxford: Oxford University Press.
- Skeldon, R. (2001). *Migration and development: A global perspective*. Harlow: Longman.
- Skeldon, R. (2011). Migration Transitions Revisited: Their Continued Relevance for The Development of Migration Theory. *Population, Space and Place*, 18(2), 154-166. doi:10.1002/psp.667

- Sommer, U., & Specht, F. (2019, January 30). No end in sight to German employment boom. *Handelsblaad*.
- Wilczek, M. (2019, August 29). Poland struggles to find workers as unemployment hits 28-year low. Retrieved September 07, 2020, from <https://www.aljazeera.com/ajimpact/poland-struggles-find-workers-unemployment-hits-28-year-190829195115010.html>
- Wojciech, B. (2015, January). Poland 2025: Europe's new growth engine. Retrieved from [https://www.mckinsey.com/~media/mckinsey/business\\_functions/economic\\_studies\\_temp/our\\_insights/how\\_poland\\_can\\_become\\_a\\_european\\_growth\\_engine/poland\\_2025\\_full\\_report.ashx](https://www.mckinsey.com/~media/mckinsey/business_functions/economic_studies_temp/our_insights/how_poland_can_become_a_european_growth_engine/poland_2025_full_report.ashx)
- Zimmermann, K., & Zaiceva, A. (2008). Scale, Diversity, and Determinants of Labour Migration in Europe. Retrieved September 07, 2020, from <https://www.iza.org/publications/dp/3595/scale-diversity-and-determinants-of-labour-migration-in-europe>

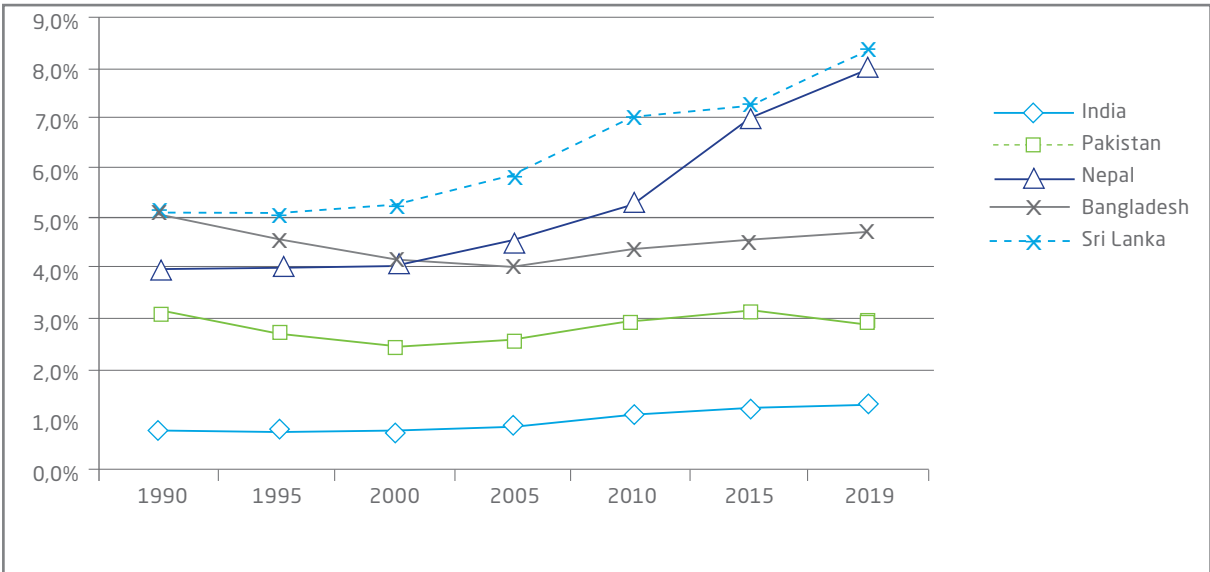
# ANNEX: SUPPLEMENTARY FIGURES

**Figure 1** Total emigrant population, selected South Asian countries, 1990-2019



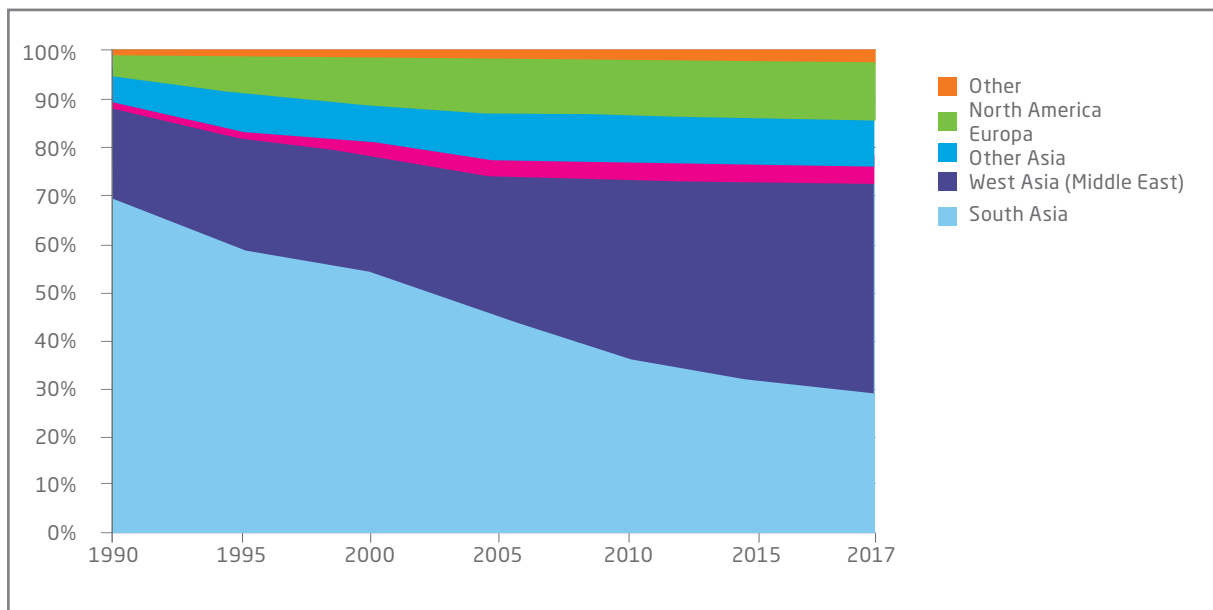
Source: Author's calculations based on UN Population Division, International Migrant Stock database 2019

**Figure 2** Emigrants as share of population, selected South Asian countries, 1990-2019



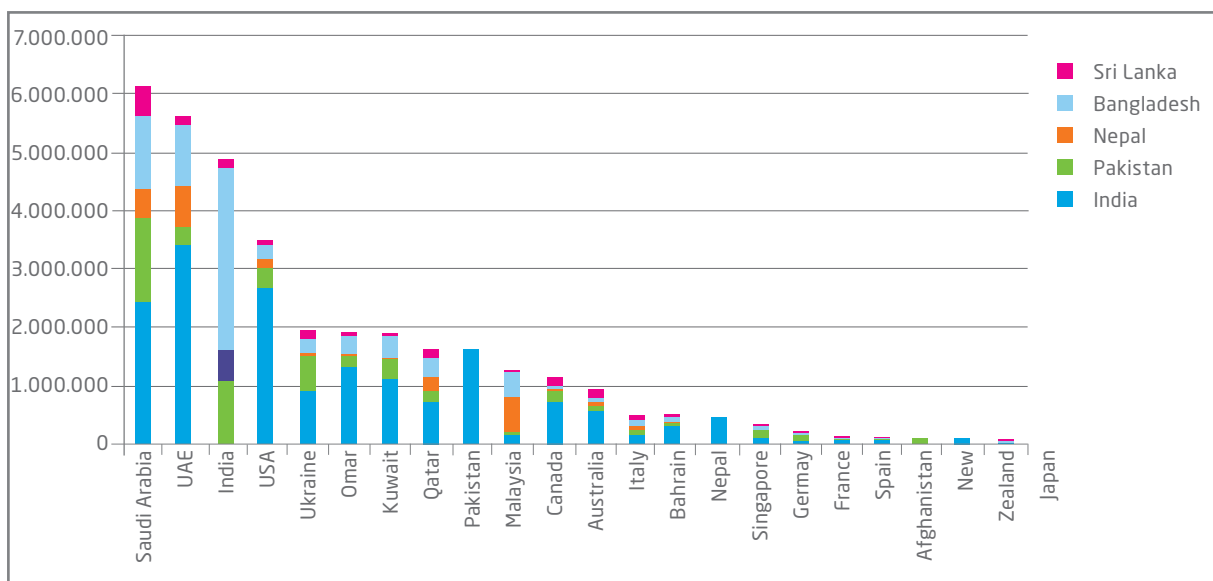
Source: Author's calculations based on UN Population Division, International Migrant Stock database 2019

**Figure 3** Settlement regions of south Asian born living abroad, 1990 - 2017



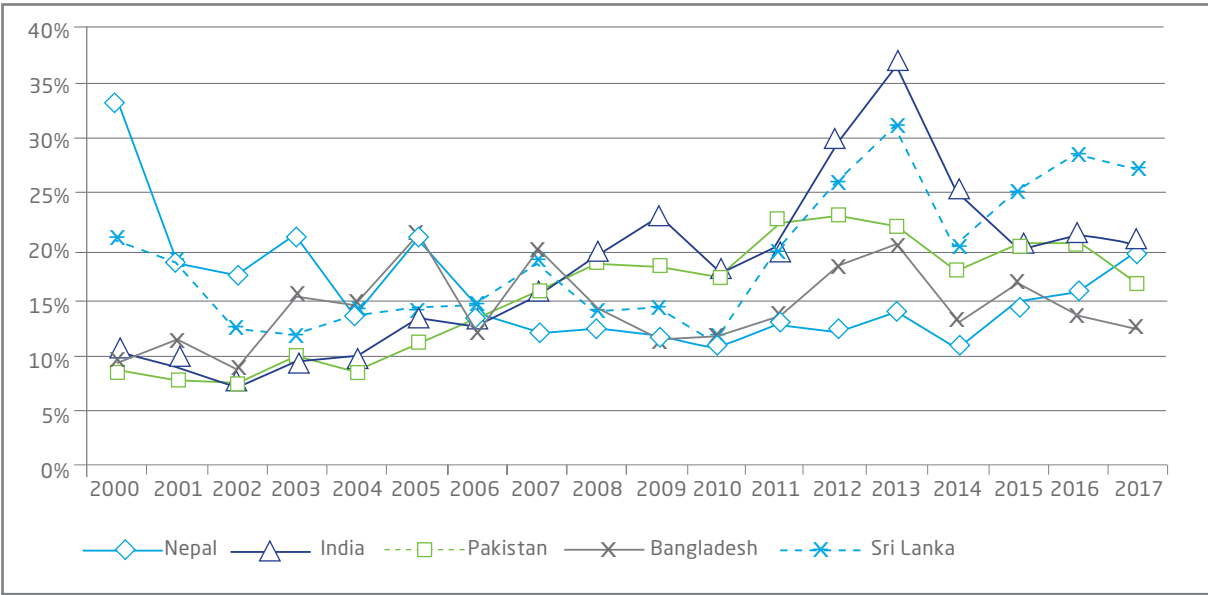
Source: Author's calculations based on UN Population Division, International Migrant Stock database 2019

**Figure 4** South Asians living abroad, main destination countries, 2019



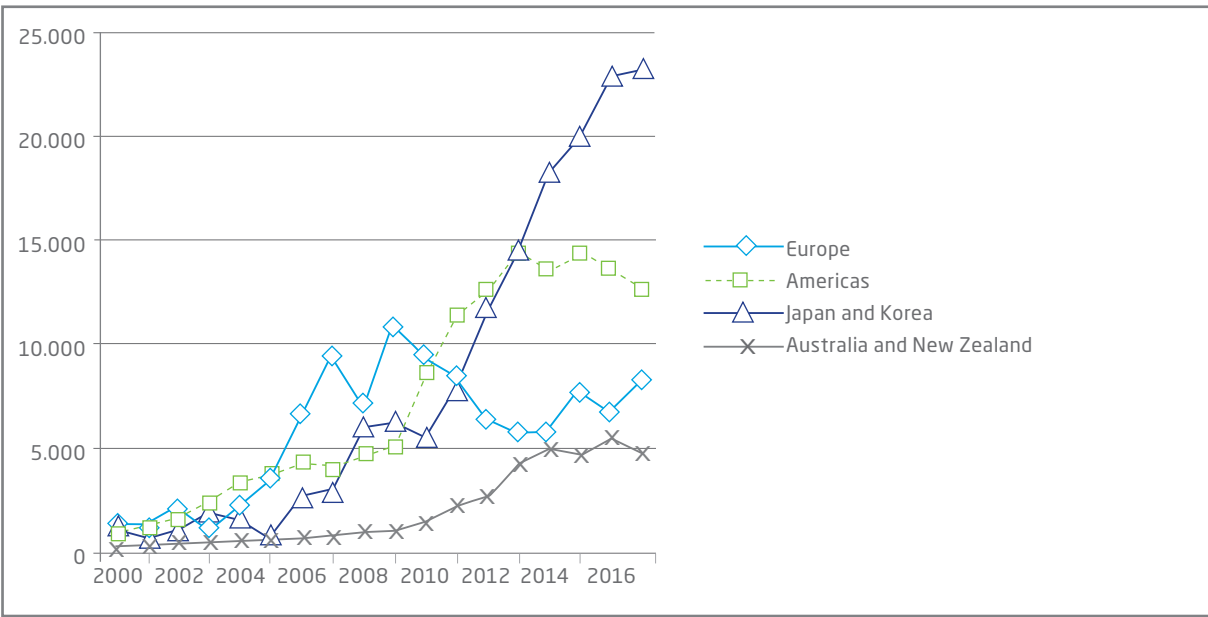
Source: Author's calculations based on UN Population Division, International Migrant Stock database 2019

**Figure 5** Ratio outflows/inflows from South Asia to/from OECD countries



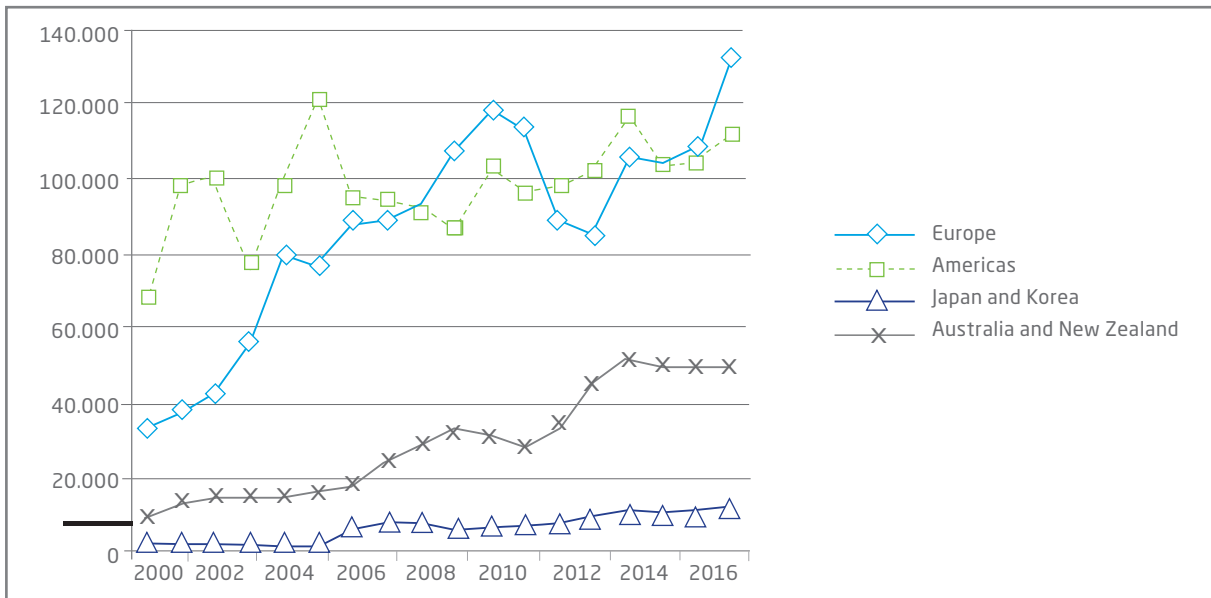
Source: Author's calculations based on OECD International Migration Database, accessed 23 February 2020

**Figure 6** Annual registered inflows of Nepalese migrants, by OECD destination region, 2000-2017



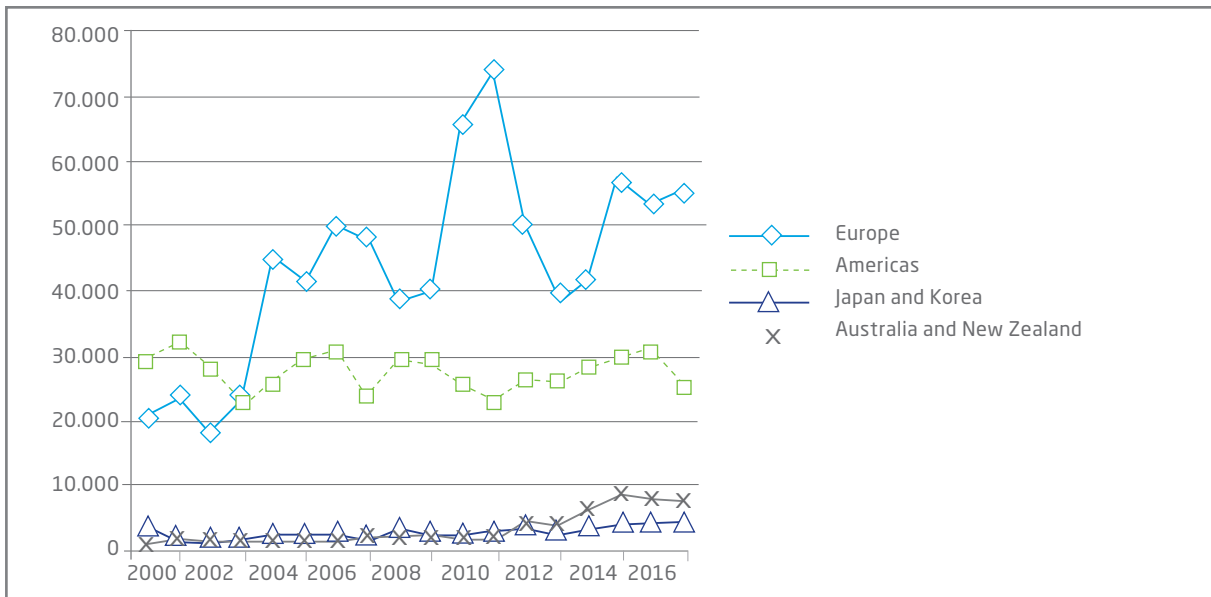
Source: Author's calculations based on OECD International Migration Database, accessed 23 February 2020

**Figure 7** Annual registered inflows of Indian migrants, by OECD destination region, 2000-2017



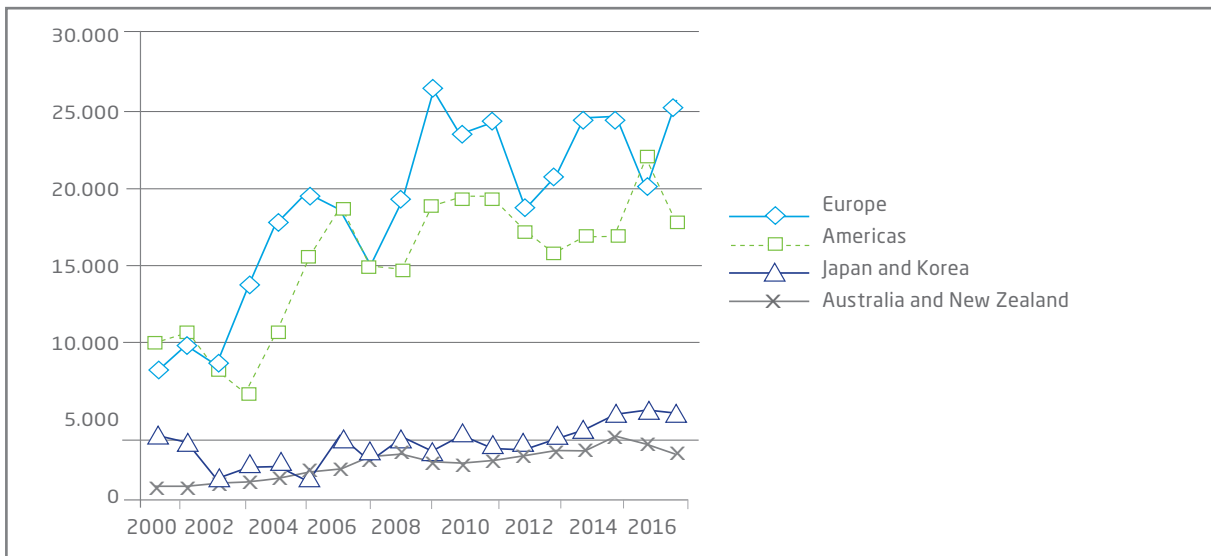
Source: Author's calculations based on OECD International Migration Database, accessed 23 February 2020

**Figure 8** Annual registered inflows of Pakistani migrants, by OECD destination region



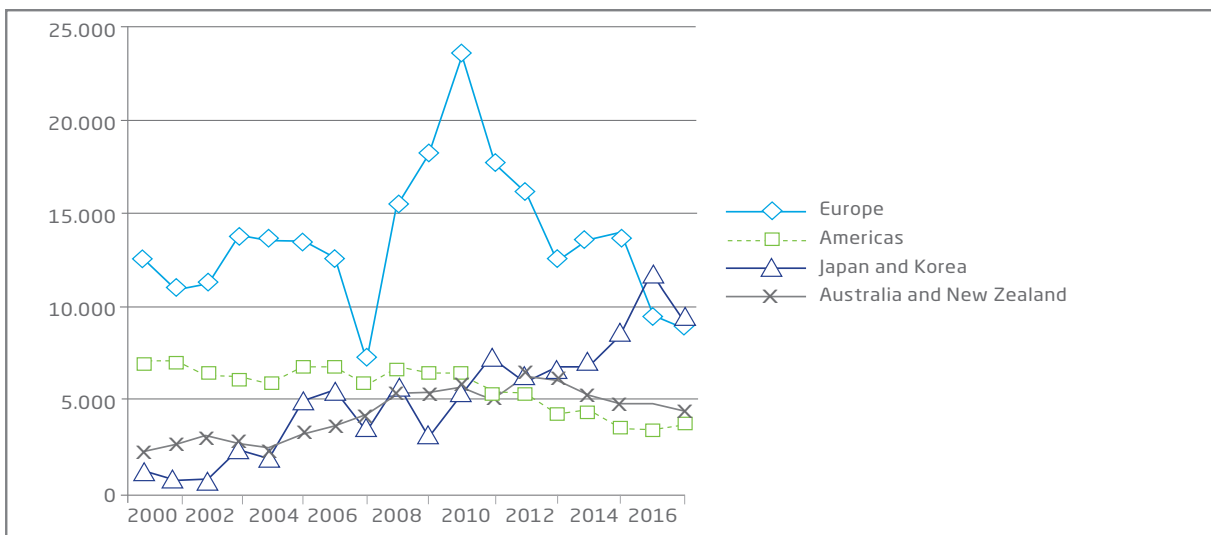
Source: Author's calculations based on OECD International Migration Database, accessed 23 February 2020

**Figure 9** Annual registered inflows of Bengali migrants, by OECD destination region



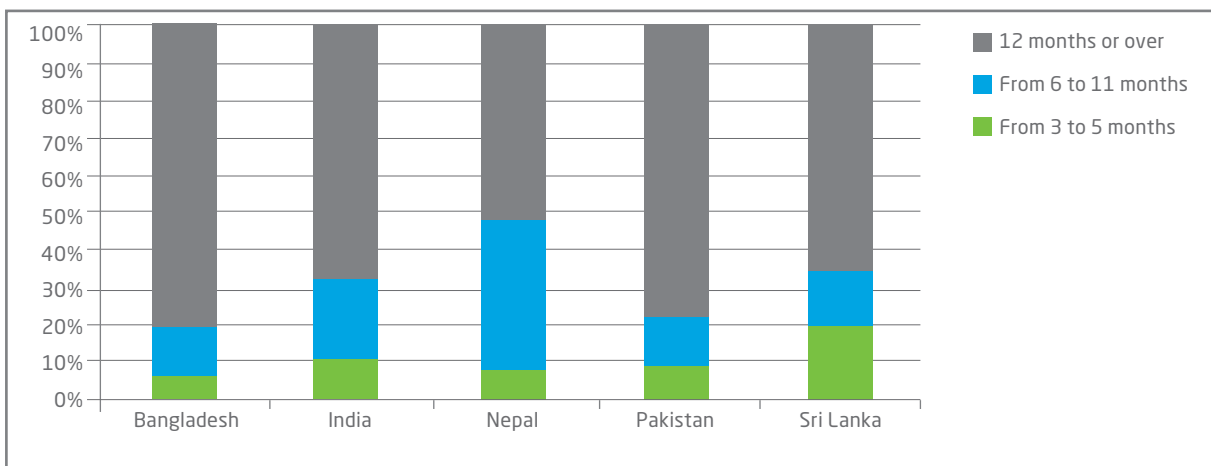
Source: Author's calculations based on OECD International Migration Database, accessed 23 February 2020

**Figure 10** Annual registered inflows of Singhalese migrants, by destination region, 2000-2017



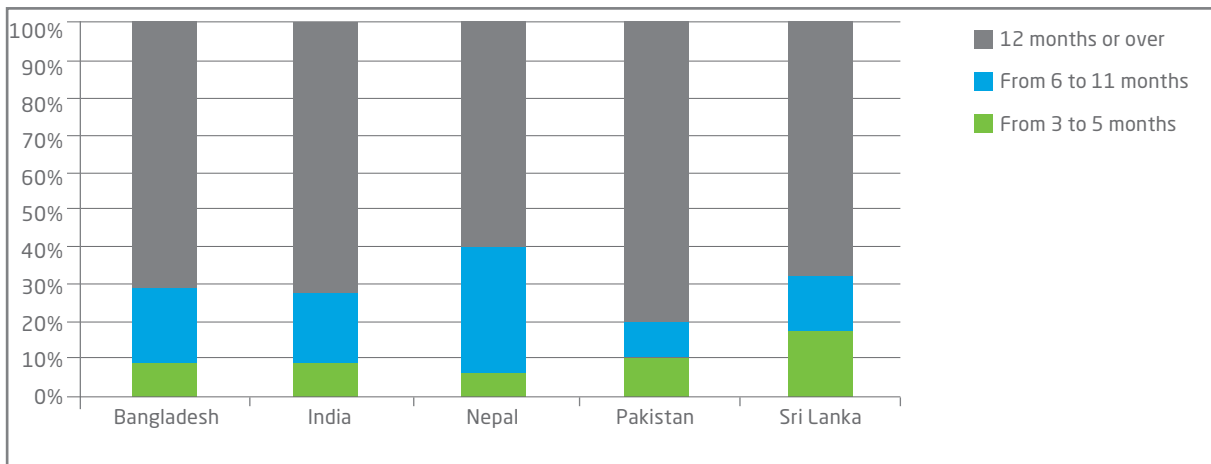
Source: Author's calculations based on OECD International Migration Database, accessed 23 February 2020

**Figure 11** Duration of first work-related permit, 2017



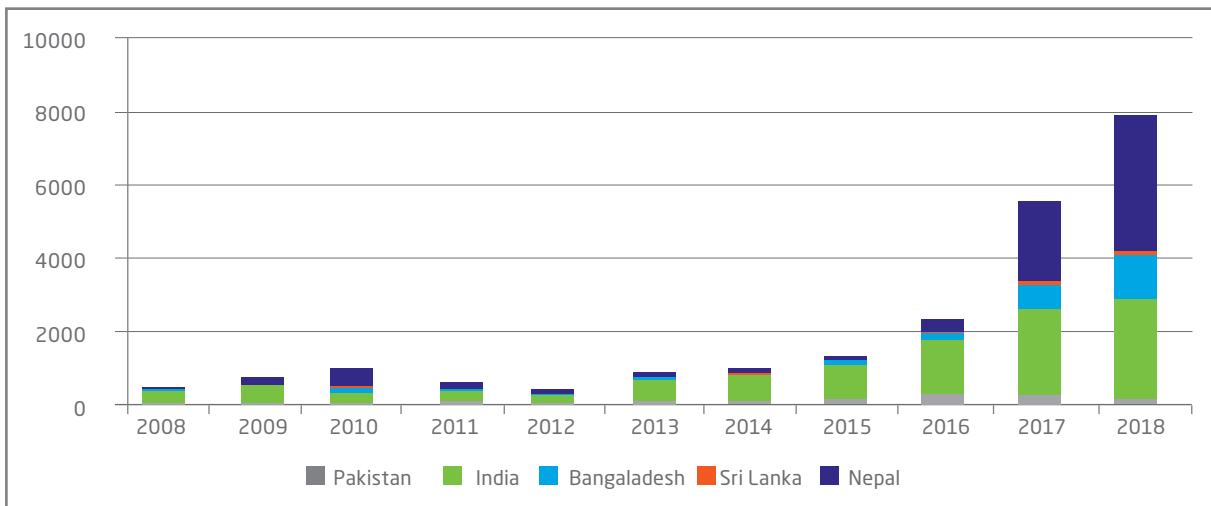
Source: Author's calculations based on Eurostat, accessed 9 March 2020

**Figure 12** Duration of first work-related permit, 2018



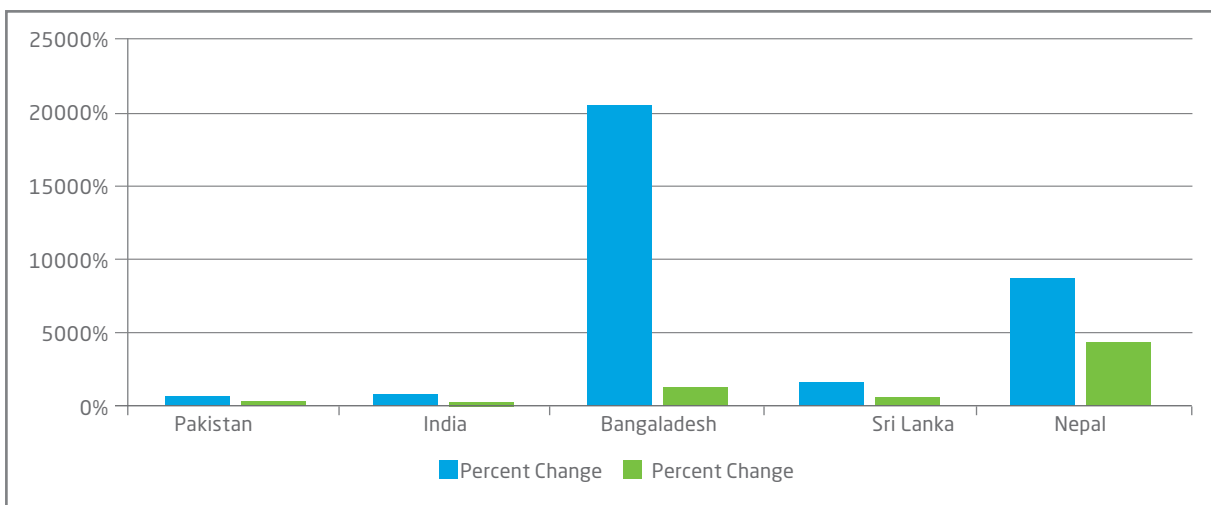
Source: Author's calculations based on Eurostat, accessed 9 March 2020

**Figure 13** First work-related residence permits issued to South Asian Migrants in Poland, 2008-2018



Source: Author's calculations based on Eurostat, accessed 9 March 2020

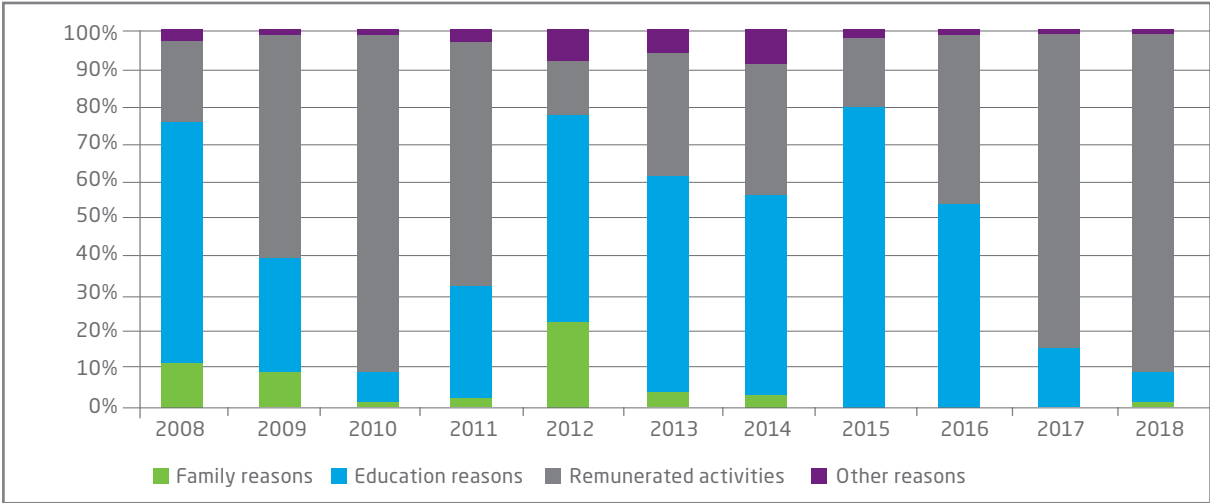
**Figure 14** Percent Change Work Permits in Poland



Source: Author's calculations based on Eurostat, accessed 9 March 2020

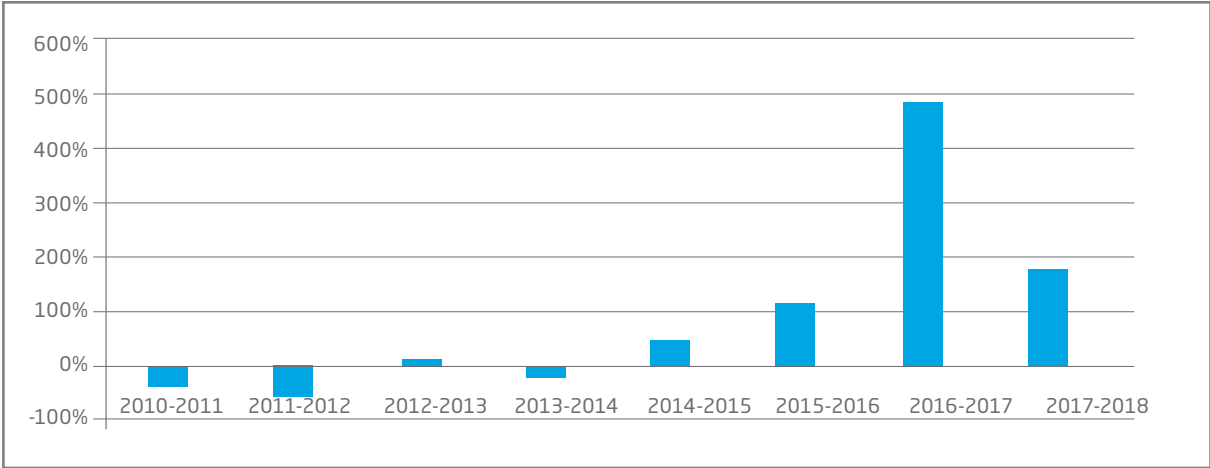


**Figure 15** First work-related residence permit issued to Nepalese Nationals in Poland, by reasons, 2008-2018



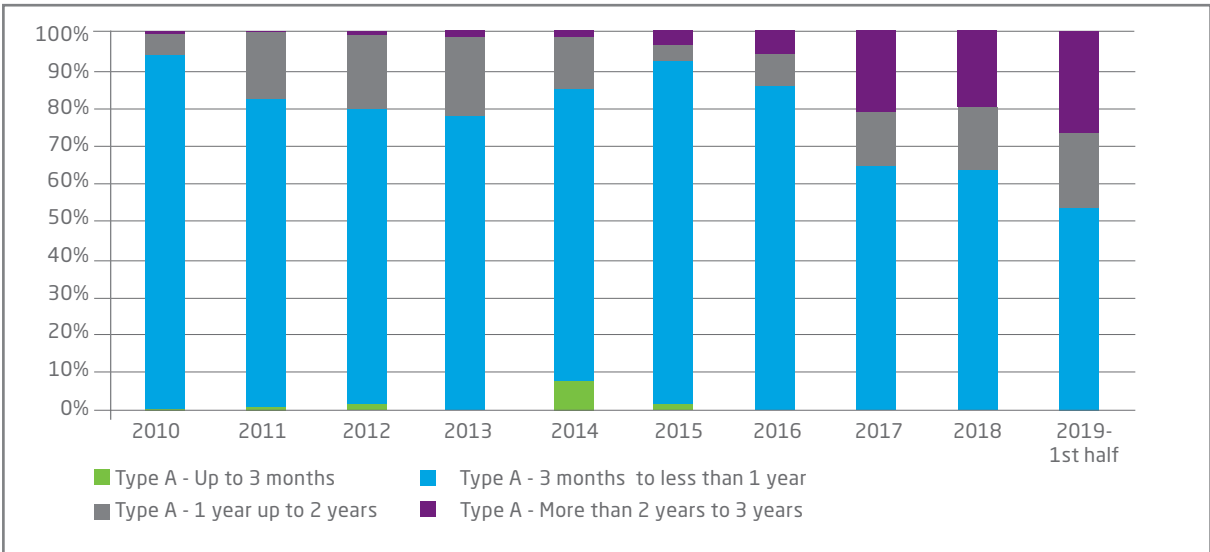
Source: Author's calculations based on Eurostat, accessed 9 March 2020

**Figure 16** Percent change in the Number of Work Permits Issued to Nepalese Workers in Poland, 2010-2018



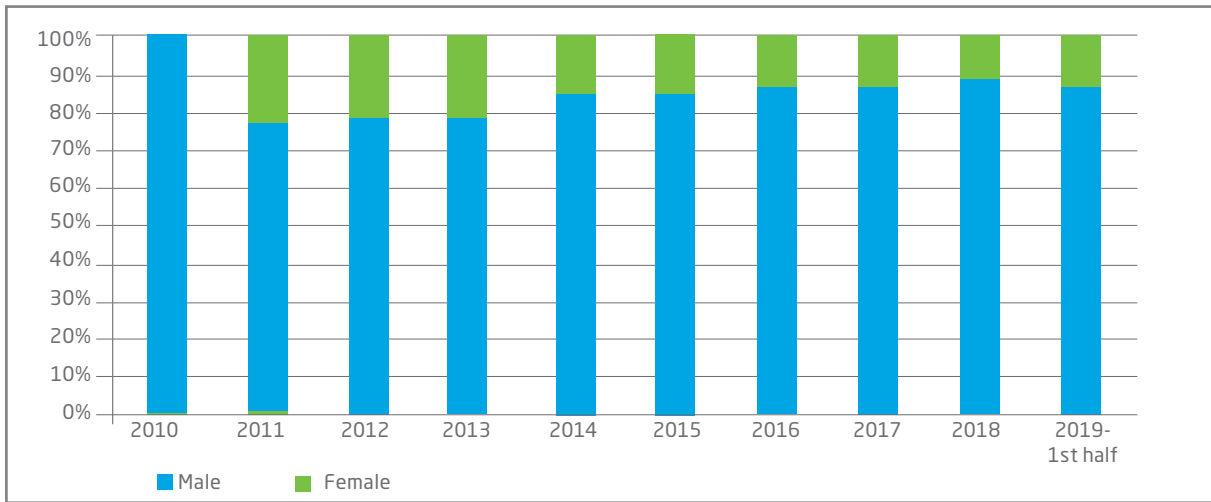
Source: Author's calculations based on Eurostat, accessed 9 March 2020

**Figure 17** Proportion of Type-A Work Permits issued to Nepalese Nationals, by Duration, 2010-2018



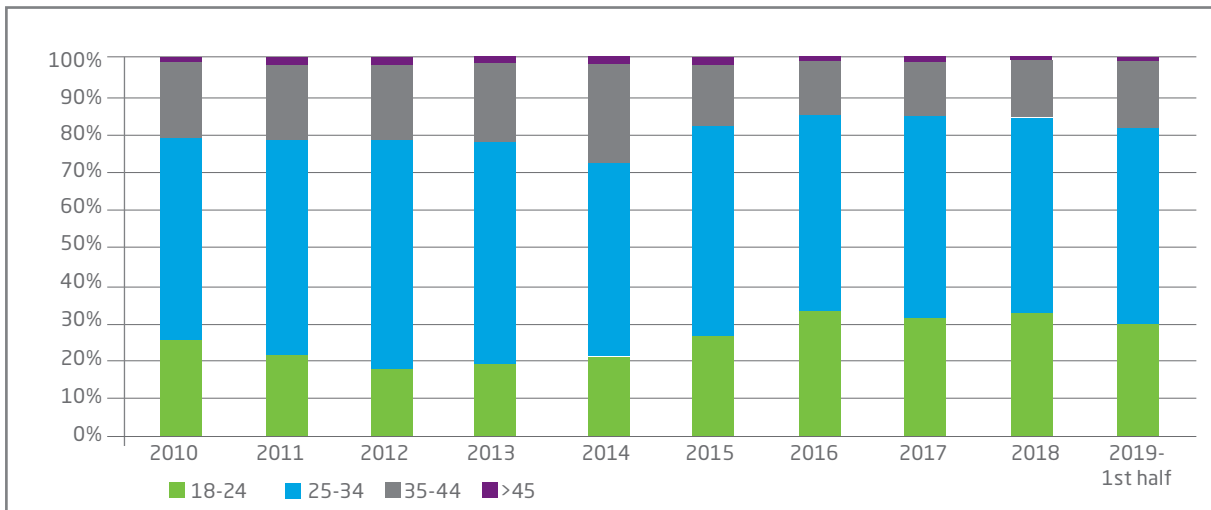
Source: Author's calculations based on Ministry of Family, Labor and Social Policy, Poland, accessed 15 February 2020

**Figure 18** Proportion of Work Permits Issued to Nepalese Nationals, by sex, 2010 to 2019 (1st half)



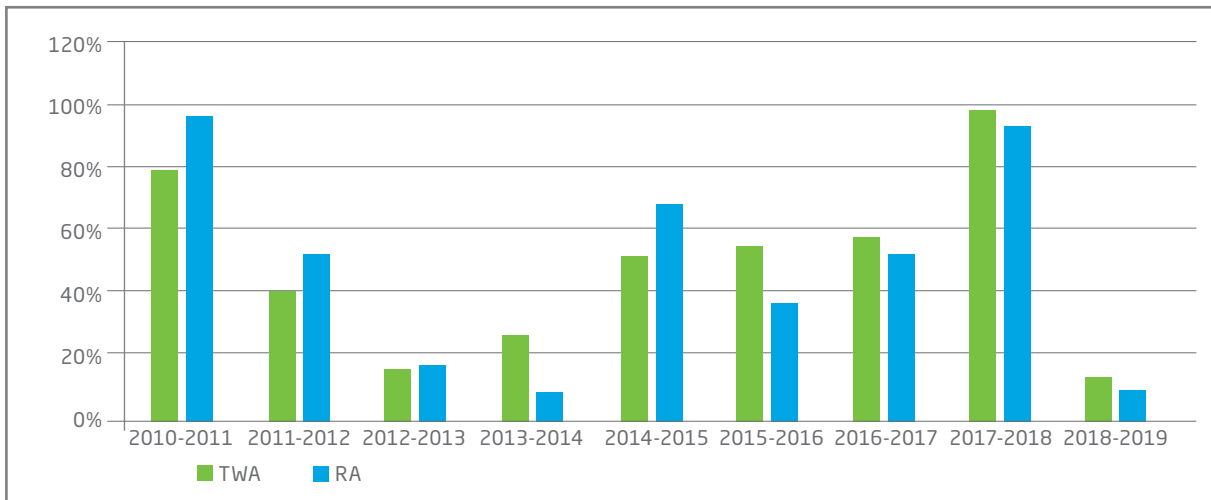
Source: Author's calculations based on Ministry of Family, Labor and Social Policy, Poland, accessed 15 February 2020

**Figure 19** Work Permit to Nepalese Workers by Age, 2010-2019 (1st half)



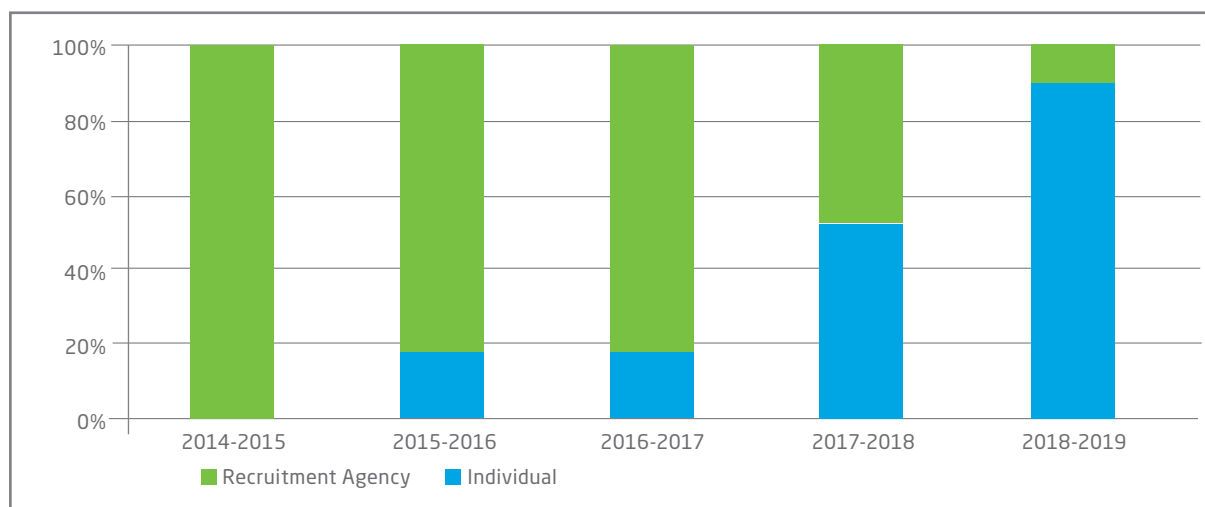
Source: Author's calculations based on Ministry of Family, Labor and Social Policy, Poland, accessed 15 February 2020

**Figure 20** Number of registered Recruitment Agencies (RA) and Temporary Work Agencies (TWA) in Poland, 2010-2019, yearly relative change



Source: National Register of Employment Agencies, Poland.

**Figure 21** Proportion of Labor Approval for Nepalese workers to Poland, Recruitment Agency vs Individual route, relative, 2014-2019



Source: Author's calculations based on Ministry of Labor, Employment and Social Security, Nepal, accessed 15 March 2020

**Table 1.** Countries of residence of south Asians living abroad, 2019

	India	Pakistan	Nepal	Bangladesh	Sri Lanka	Total	Share Of All Emigrants
Saudi Arabia	2,440,489	1,447,071	490,965	1,246,052	516,256	6,140,833	17.0%
UAE	3,419,875	981,536	27,474	1,079,013	118,708	5,626,606	15.6%
India		1,082,917	533,646	3,103,664	152,536	4,872,763	13.5%
USA	2,661,470	406,509	114,120	240,404	57,135	3,479,638	9.7%
Ukraine	917,686	605,016	40,003	245,014	161,334	1,969,053	5.5%
Oman	1,325,444	240,965		304,917	28,967	1,900,293	5.3%
Kuwait	1,124,256	330,824	24,012	370,844	38,707	1,888,643	5.2%
Qatar	698,088	235,876	254,340	263,086	155,825	1,607,215	4.5%
Pakistan	1,588,067				537	1,588,604	4.4%
Malaysia	146,128	83,884	578,082	410,195	7,591	1,225,880	3.4%
Canada	712,050	215,409	15,325	62,554	140,579	1,145,917	3.2%
Australia	568,971	81,032	78,016	51,968	136,979	916,966	2.5%
Italy	161,364	112,947	2,244	123,894	94,745	495,194	1.4%
Bahrain	318,547	78,638	3,988	82,518	10,358	494,049	1.4%
Nepal	429,769	1,221		224	44	431,258	1.2%
Singapore	127,189	109,537		68,430	9,093	314,249	0.9%
Germany	89,704	66,033	5,705	11,346	43,198	215,986	0.6%
France	52,921	26,183	1,457	8,174	52,703	141,438	0.4%
Spain	37,857	55,043	3,249	10,986	650	107,785	0.3%

Source: UNDESA

**Table 2.** Main destination countries Nepalese (total OECD inflows 2000-2017)

	<b>Total Inflows 2000-2007</b>	<b>%</b>	<b>Cumulative</b>
United States	118024	28.0%	28.0%
Japan	84058	19.9%	48.0%
Korea	64386	15.3%	63.2%
United Kingdom	46940	11.1%	74.4%
Australia	33265	7.9%	82.3%
Canada	14046	3.3%	85.6%
Germany	11699	2.8%	88.4%
Portugal	7645	1.8%	90.2%
Spain	6497	1.5%	91.7%
Denmark	5691	1.4%	93.1%
Poland	4031	1.0%	94.0%
Finland	3485	0.8%	94.9%

**Table3.** Main destination countries Indians (total OECD inflows 2000-2017)

	<b>Total Inflows 2000-2007</b>	<b>%</b>	<b>Cumulative</b>
United States	1175367	29.6%	29.6%
United Kingdom	768151	19.3%	48.9%
Canada	589608	14.8%	63.7%
Australia	397503	10.0%	73.7%
Germany	265094	6.7%	80.4%
Italy	167846	4.2%	84.6%
New Zealand	129929	3.3%	87.8%
Japan	70380	1.8%	89.6%
Spain	58646	1.5%	91.1%
Netherlands	57894	1.5%	92.5%
Korea	44967	1.1%	93.7%
France	34339	0.9%	94.5%

**Table 4.** Main destination countries Pakistani (total OECD inflows 2000-2017)

	<b>Total Inflows 2000-2007</b>	<b>%</b>	<b>Cumulative</b>
United Kingdom	312022	22.5%	22.5%
United States	288387	20.8%	43.3%
Canada	201620	14.5%	57.8%
Italy	135988	9.8%	67.6%
Spain	127629	9.2%	76.9%
Germany	105698	7.6%	84.5%
Australia	53127	3.8%	88.3%
Korea	37682	2.7%	91.0%
France	17196	1.2%	92.3%
Sweden	16436	1.2%	93.5%
Japan	14832	1.1%	94.5%
Norway	10417	0.8%	95.3%
Belgium	10345	0.7%	96.0%
Austria	10307	0.7%	96.8%
Denmark	8215	0.6%	97.4%
Netherlands	8156	0.6%	97.9%
Portugal	7771	0.6%	98.5%

**Table 5.** Main destination countries Bengalis (total OECD inflows 2000-2017)

		%	Cumulative
US	219086	30.7%	30.7%
Italy	151781	21.3%	52.0%
United Kingdom	96557	13.5%	65.5%
Canada	55433	7.8%	73.3%
Korea	40780	5.7%	79.0%
Australia	35161	4.9%	83.9%
Spain	23135	3.2%	87.2%
Germany	21031	2.9%	90.1%
Japan	20727	2.9%	93.0%
France	15845	2.2%	95.2%
Sweden	8191	1.1%	96.4%
Austria	4291	0.6%	97.0%
Portugal	4246	0.6%	97.6%

**Table 6.** Main destination countries Sinhalese (total OECD inflows 2000-2017)

		%	Cumulative
Italy	89719	17.3%	17.3%
United Kingdom	71760	13.8%	31.2%
Canada	70231	13.5%	44.7%
Korea	66354	12.8%	57.5%
Australia	65869	12.7%	70.2%
France	37396	7.2%	77.4%
United States	31689	6.1%	83.5%
Japan	25911	5.0%	88.5%
Germany	23468	4.5%	93.1%
New Zealand	12391	2.4%	95.5%
Switzerland	7498	1.4%	96.9%
Norway	4231	0.8%	97.7%
Netherlands	3068	0.6%	98.3%

# CASE STUDY POLAND

Izabela Florczak

# TABLE OF CONTENTS

<b>1. METHODOLOGY</b>	<b>83</b>
<b>2. GENERAL INFORMATION ABOUT THIRD COUNTRY NATIONALS WORKING IN POLAND</b>	<b>85</b>
2.1. Scale of the phenomenon	86
2.2. Legal basis for entry and stay of third country nationals	87
2.3. Legal basis for taking up employment	88
<b>3. DATA ANALYSYS</b>	<b>90</b>
3.1. Basis for entry into poland	90
3.2. Basis for stay	90
3.2.1. Issued decision - permanent residence	91
3.2.2. Issued decision - temporary residence	91
3.2.3. Valid refugee status	91
3.3. Basis for taking up employment	92
3.4. Data from the social insurance institution (zus)	96
3.4.1. Number of nepalese registered for insurances	96
3.5. Data concerning temporary employment agencies	97
3.6. Selected data concerning indian citizens	97
<b>4. RESEARCH RESULTS OBTAINED FROM FACE-TO-FACE INTERVIEWS</b>	<b>99</b>
4.1. Recruitment process	99
4.2. Employment and living conditions	101
4.3. Case study 1	103
4.4. Case study 2	105
<b>5. RESULTS OF RESEARCH BASED ON PRESS RELEASE</b>	<b>108</b>
<b>6. CONSLUSIONS</b>	<b>114</b>
<b>APPENDIX</b>	<b>118</b>

# 1. METHODOLOGY

## This report is based on three initial assumptions:

- 1) Continuous increase in the employment rate of Nepalese citizens in Poland;
- 2) Nepalese workers regard Poland as a transition country, enabling them to take up other employment in other EU member states;
- 3) Nepalese workers fall victim to unfair intermediaries, human trafficking and illegal employment.

## The report refers to the analysis of data collected from the following institutions:

- Social Insurance Institution (ZUS);
- Ministry of Family, Labour and Social Policy (until 2015: Ministry of Labour and Social Policy);
- The Office for Foreigners
- National Labour Inspectorate
- The Polish Border Guard
- National register of employment agencies

## The information contained herein comes from interviews with the following respondents:

- the Nepalese workers employed in Poland (about 40 individuals<sup>1</sup>);
- a representative of NSZZ Solidarność trade union;
- a representative of Polish employers' organizations Lewiatan;
- representatives of the Ministry of Family, Labour and Social Policy;
- an employer of Nepalese workers;
- a representative of the temporary employment agency and the employment agency that employs and recruits Nepalese workers;
- a representative of the Association of Temporary Employment Agencies..

The report contains practical recommendations and evidence-based strategies that can provide the trade unions with knowledge on the importance of the role of greater protection of the rights and welfare of third country nationals in the EU as perceived by Nepalese workers.

## The following obstacles were encountered in the course of preparing the report:

- it was impossible to conduct interviews with representatives of the **embassy of Nepal** because there is no such diplomatic mission in Poland (the nearest Nepalese diplomatic post is in Berlin);
- The Gdańsk-based **Immigrants Support Centre** (Centrum Wsparcia Imigrantów i Imigrantek) was approached by Nepalese citizens only a few times in the context of legalizing their employment and stay in the Pomorskie Province. In 2018 they were informed about the difficulties in obtaining a work visa for Poland, however, the Center has no information about the situation of Nepalese citizens across the country;
- Neither the **Polish branch of the Helsinki Foundation for Human Rights** nor the **Association for Legal Intervention** (Stowarzyszenie Interwencji Prawnej) have any statistical data or experience in any cases concerning the issues discussed herein;

## There was no possibility to collect data on the situation of Nepalese employees regarding the following:

- Licensing/Registration of Recruitment and Temporary Employment Agencies
  - ✓ The number of South Asians, particularly Nepalese workers, which each recruitment agency deployed annually, disaggregated by sex, skill level, occupation, district of origin and country of destination,
  - ✓ The number of South Asians, particularly Nepalese workers, which each temporary employment agency hired annually, disaggregated by sex, skill level, occupation, district of origin and country of destination,
  - ✓ Number of licenses cancelled annually

---

<sup>1</sup>Each interview lasted around 40 minutes. The interviews took place i.e. in Warsaw and Gądk. The interlocutors willingly took part in the interviews. They only partially did not want to answer certain questions (eg regarding their remuneration). Anonymous transcripts of the interviews are available upon request: iflorczak@wpia.uni.lodz.pl



- ✓ Number of licenses suspended annually
- ✓ Number of applications approved by recruitment agencies and temporary employment agencies in relation to those rejected
- ✓ Main reasons for rejecting the application
- Inspection of Recruitment Agencies and Temporary Employment Agencies
  - ✓ Number of agencies inspected disaggregated by location and number of years of operation
  - ✓ Number of inspectors, disaggregated by location and number of years of operation
  - ✓ The ten most serious violations
- Litigation concerning South Asians, especially Nepalese workers who worked under temporary contracts both in Poland and in the EU
  - ✓ Number of complaints submitted disaggregated by type of complaint, gender, skill level, occupation, region of origin and country of destination
  - ✓ Number of cases resolved disaggregated by type of complaint, gender, skill level, occupation, region of origin and country of destination
- Cases concerning human trafficking involving Nepalese migrant workers who worked in Poland under temporary contracts
  - ✓ Number of cases filed against traffickers
  - ✓ Number of cases resolved
  - ✓ Number of cases referred from Nepalese embassies and consulates
  - ✓ Number of cases docketed
  - ✓ Average duration of cases
  - ✓ Profile of trafficking complainant: sector, gender, education,
  - ✓ Number of arrested traffickers
- Raising awareness among Nepalese migrant workers who worked in Poland under temporary contracts
  - ✓ Number and type of information disseminated through print and electronic media, including circulation of leaflets/posters/booklets, etc. disaggregated by region.
  - ✓ Number of pre-departure orientation and other sessions for migrants at various stages of the migration cycle (pre-departure, during the stay at the point of destination and after the return), disaggregated by gender, skill level and region where orientation is provided..

**NO SUCH INFORMATION IS PRESENT IN ANY OF THE AVAILABLE SOURCES.**

**FOR THE SAKE OF CLARITY, DESCRIPTIONS OF STATISTICAL DATA CONTAINED IN THE REPORT ARE PRESENTED IN A DIFFERENT FONT.**

## 2. GENERAL INFORMATION ABOUT THIRD COUNTRY NATIONALS WORKING IN POLAND

Poland used to be commonly regarded as the so-called classic emigration country. The situation has changed over the last 10 years. Poland is now receiving the largest number of migrants coming from outside the EU. Their main goal is to find work - 59% of the residence permits issued in 2017 concerned work-related activities.

Pursuant to Polish legislation, third-country migrants are defined as citizens from countries outside the European Union, the European Free Trade Association (EFTA) - parties to the Agreement on the European Economic Area or the Swiss Confederation. This definition of third country nationals is provided for in Article 2 of the Act of 14 July 2006 on entering the territory of the Republic of Poland, residence and departure from this territory of nationals of Member States of the European Union and their family members (Journal of Laws of 2019, item 293, as amended). These persons must fulfil special conditions for legalisation of work and stay on the territory of Poland.

### ACCORDING TO THE INTERNATIONAL ORGANIZATION FOR MIGRATION:

The outflow of both high- and low-skilled labour from Poland, mainly to the United Kingdom and Ireland has stabilized; however, there is still a need for information campaigns among Poles living abroad on possibilities after coming back to their country of origin. **As a consequence of shortages in the domestic labour market, Poland has also begun to look for strategies to attract foreign workforce to the country.**

The Polish administration is still not ready to handle such inflow of migrant workers. Government agencies are not effective, as confirmed by the Supreme Audit Office in its report published in 2019<sup>2</sup>.

In order to fully understand the nature of the Polish labour market, it is important to indicate the differences between labour law and civil law present in the Polish legal order. The Polish labour market has been struggling with the problem of employers moving away from employment under the **labour law** towards **employment under the civil law** for the past two decades. This phenomenon, aimed exclusively at minimizing the costs of employment related mainly to employees' rights to social benefits, ought to be considered unlawful, as such entitlements are not granted to persons employed under civil law contracts. The table below presents the most distinct, selected features of labour law and civil law, highlighting the differences between employment based on employment contracts and employment based on civil law contracts.

---

<sup>2</sup>Readiness of public administration to provide services to foreigners, The report of Supreme Audit Office, <https://www.nik.gov.pl/plik/id,20963,vp,23595.PDF>, accessed: 23.02.2020.

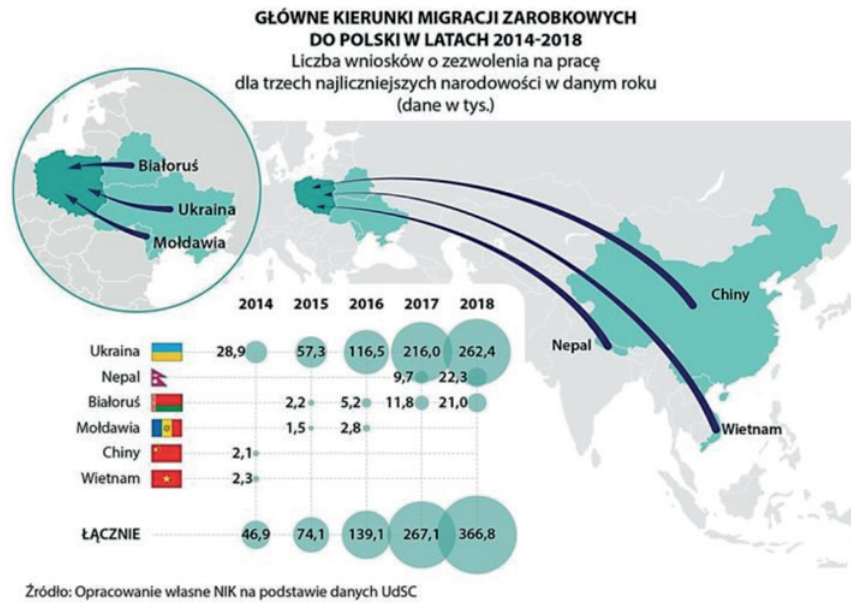
	Labour law	Civil law
Legal basis:	Labour Code and other labour law regulations	Civil Code and other civil law regulations Parties are equal in their positions
Mutual relations between the parties	Employee is subordinated to an employer  Employee is protected by the labour law regulations due to its weaker negotiating position	The parties agree to mutual cooperation, during which no one enjoys a dominant position
Possible contract	Employment contract	Many different types of contracts, the most prominent of which is the commission agreement. (umowa zlecenia)
Relationship features	<ul style="list-style-type: none"> <li>• time of work stipulated by the employer</li> <li>• place of work designated by the employer</li> <li>• the employee's right to a minimum wage</li> <li>• the employee's right to annual leave, allowances for overtime work, night work, protection against dismissals (e.g. in case of pregnancy)</li> </ul>	<ul style="list-style-type: none"> <li>• freedom in designating the time and place of performing the tasks</li> <li>• the worker's right to a minimum wage</li> <li>• the worker does not have the right to annual leave, allowances for overtime work, night work, protection against dismissals (e.g. in case of pregnancy)</li> </ul>

**Concluding a civil law contract on conditions specific for the regular employment contract is against the Polish law!**

## 2.1. SCALE OF THE PHENOMENON

There is an upward trend in the inflow of foreigners to the Polish labour market. In 2008, 25.5 thousand applications for work permits required for TCNs were submitted. In 2017 the number of applications was 267,136 but in 2018 it rose to 366,898. The nationalities represented in submitted applications for work permits that exceeded 10,000 in 2018 were Ukrainian (262,461), **Nepalese** (22,336), Belarusian (21,007) and Bangladeshi (10,002). Another noticeable change is an increase in the use of the so-called simplified procedure, including declarations of intention to entrust work to a foreigner registered by the end of 2017, **and declarations of entrusting work to a foreigner** registered in accordance with the regulations effective from 1 January 2018. The simplified procedure was used in 2007 by 21,797 people and in 2017 by as many as 1,824,464 people. This procedure is currently applicable to citizens of **the Republic of Armenia, the Republic of Belarus, the Republic of Georgia, the Republic of Moldova, the Russian Federation and Ukraine** and consists in the registration of declarations of employment in labour offices. The declaration is registered in the District Labour Office by the entity that has a job to entrust.

Having analyzed the data from the Office for Foreigners, the **Supreme Audit Office** prepared a chart showing the main directions of economic migration to Poland in the years 2014-2018. The following figures represent the numbers of applications for work permits in thousands, taking into account the three nationalities with the highest numbers in a given year (from 2014 to 2018):



According to these figures, Nepalese citizens ranked 3rd in 2017 and 2nd in the number of applications for work permits in 2018. These data also show steady increase in the participation of TCNs in the Polish labour market (from 46.9 thousand in 2014 to 366.8 thousand in 2018).

## 2.2. LEGAL BASIS FOR ENTRY AND STAY OF THIRD COUNTRY NATIONALS

Many non-EU citizens are required to obtain a Polish visa to enter and stay in Poland. The visa does not guarantee entry into Poland as the border guard has the right to deny a foreigner entry. Issuing such visas is the responsibility of Polish consular services abroad. **Polish consulate in New Delhi is available for Nepalese citizens because there is no consulate in Nepal itself.**

### A foreigner may apply for different types of visas:

**Air Transit Visa (A):** the 'A' visa allows a foreigner to transit through the airport of one or more Schengen countries.

**Schengen Visa (C):** the 'C' visa allows a foreigner to stay in the Schengen area for up to 90 days within the period of 180 days. This period is counted from the moment of first entry.

**Individual Country Visa (D):** the 'D' visa allows a foreigner to enter and stay in one country for up to one year. The validity of such a visa depends on the destination.

If the foreigner intends to stay in Poland beyond the permitted period of stay, they should apply for another visa or residence permit at the Polish consulate abroad.

The **visa may be issued for a number of purposes** as indicated on the visa sticker, i.e:

'04' – performance of business activity;

'05' – performance of work by a foreigner for a period of up to six months during 12 consecutive months, on the basis of a statement of intention to entrust work to a foreigner registered by employer with the district labour office;

"05a' – performance of work by a foreigner for a period of less than 6 months during 12 consecutive months on the basis of a declaration on entrusting work to a foreigner;

"05b' – performance of work by a foreigner on the basis of a seasonal work permit for a period shorter than 9 months within a calendar year;

'06' – performance of work on the basis of documents other than a statement on the intention to entrust work to a foreigner, such as a work permit<sup>3</sup>.

<sup>3</sup>Most frequently used in case of Nepalese workers.

### Legal grounds for stay in Poland include the following:

- Temporary residence permit;
- Permanent residence permit;
- Long-term EU-resident permit;
- Refugee status;
- Subsidiary protection;
- Residence permit for humanitarian reasons.

From the perspective of Nepalese citizens, the analysis of the **temporary residence permit** will be most relevant, as employers refer to this legal basis in most cases.

The temporary residence permit in Poland may be applied for by foreigners who plan to stay in Poland for a period longer than 3 months, although it is granted for a maximum period of 3 years. However, the validity period of the permit may be shorter and still be in line with the basis for applying for the permit if such a stay is justified. If the foreigner wants to extend their stay in Poland, they must apply for a new permit, since the temporary residence permit is not automatically extended. The foreigner is required to leave Poland before the temporary residence permit expires, unless they have obtained another valid document entitling them to stay in Poland legally (e.g. another temporary residence permit, permanent residence permit, or EU resident's residence permit).

The procedure of legalising temporary residence is performed in the competent Office for Foreigners of the Provincial Office in the province (voivodship) where the foreigner is staying.

Having received a positive decision on the residence permit, the foreigner is issued the Temporary Residence Card (TRC). It is a document confirming the foreigner's identity during their stay in Poland. This document, together with a valid passport, constitutes proof of the right to stay in Poland and entitles the foreigner to cross the Polish state border multiple times without the need for a visa. The residence card should be presented to the Border Guard officers together with a valid passport whenever the foreigner crosses the Polish border.

### 2.3. LEGAL BASIS FOR TAKING UP EMPLOYMENT

As defined by the law, an individual who is not a Polish citizen and who meets certain legal requirements can be considered a foreigner authorized to perform work in the Republic of Poland.

Citizens of non-EU countries residing in Poland under the permit to settle and the **residence permit for EU long-term resident** do not require any additional documents entitling them to take up and perform work.

On principle, nationals of non-EU countries staying in Poland on the basis of a **visa** or a **residence permit for a fixed period** may be employed in Poland provided they possess a **work permit**.

Citizens of Belarus, Moldova, the Russian Federation, Ukraine and the Republic of Armenia may take up employment without the need to obtain work permit for a period not exceeding 6 months within 12 consecutive months on the basis of a **declaration of entrusting work to a foreigner**.

A foreigner is entitled to perform work in the Republic of Poland when at least one of the following criteria is met :

- 1) holds the status of a refugee granted in the Republic of Poland;
- 2) has been granted subsidiary protection in the Republic of Poland;
- 3) has the permit to settle in the Republic of Poland;
- 4) has the EU long-term residence permit for the Republic of Poland;
- 5) has the residence permit for humanitarian reasons;
- 6) has the permit for tolerated stay in the Republic of Poland;
- 7) enjoys temporary protection in the Republic of Poland;
- 8) is a citizen of a Member State;
- 9) is a citizen of a country belonging to the European Economic Area, which is not a EU member;
- 10) is a citizen of a country which is not a party to the Agreement on the European Economic Area and is entitled to exercise freedom of movement under the agreement concluded between that country and the European Community and its member states;
- 11) **has the temporary residence and work permit for the territory of the Republic of Poland.**

Foreigners who intend to legalize their stay in Poland in connection with the commencement or continuation of work in Poland should apply for the temporary residence and work permit. Foreigners who apply for the temporary residence permit on account of work performed in Poland are not required to obtain the work permit in advance. In case of the temporary residence and work permit, the foreigner's right to take up employment in Poland for a specific employer and under the conditions specified in the decision on granting the permit is confirmed by the TRC. The remuneration paid to the foreigner cannot be lower than the one paid to other employees performing work of the same duration, of a comparable type or on a comparable position.

At the foreigner's request, the residence and work permit may be replaced at any time by the voivode competent for the foreigner's place of residence, whenever the foreigner intends to work for another employer or under conditions other than those specified in the decision on granting the temporary residence and work permit.

In the event of a change in the seat, place of residence, name or legal form of the employer or when the employer is taken over in whole or in part by another employer, no change or replacement of the temporary residence and work permit is required.

Another option is to work on the basis of the **seasonal work**<sup>4</sup> permit. This type of permit is issued for a specified period of time or extended for a period not longer than 9 months from the date of first entry for the purpose of seasonal work performed in a given calendar year. The permit may also be granted if the circumstances which constitute the basis for applying for the permit do not justify the foreigner's stay on the territory of the Republic of Poland for a period longer than 3 months.

The seasonal work permit is issued by the starost competent for the seat or place of residence of the entity contracting the foreigner to perform particular work.

---

<sup>4</sup>The list of activities classified as "seasonal work" is compiled by the Minister of Family, Labour and Social Security

## 3. DATA ANALYSYS

The analysis of the available administrative data and other relevant statistics and assessments revealed the actual number of Nepalese citizens and employees in Poland.

### The analysed data concerned the following:

- Nepalese citizen entering into the territory of the Republic of Poland and cases of illegal work revealed by the Border Guard;
- legal basis for the stay of Nepalese nationals;
- legal basis for the performance of work;
- the extent of the social security system coverage

### Options available to migrant workers:

1. before coming to Poland - visa + work permit;
2. in Poland - temporary residence permit + work permit;
3. in Poland - permanent residence;
4. in Poland - refugee status.

### 3.1. BASIS FOR ENTRY INTO POLAND

The Border Guard collects data on the number of Nepalese citizens entering the Polish territory:

Period	Number of Nepalese citizens entering Poland
2017	2,275
2018	4,432
I-IX 2019	3,755

Source: the Border Guard

The above data indicate a steady increase in the number of people of Nepalese citizenship entering Poland. Number of cases of illegal work undertaken by Nepalese citizens detected by the Border Guard:

Year	Number
2016	8
2017	6
2018	39
2019	51

Source: the Border Guard

The figures presented above indicate that the number of cases of illegal work carried out by Nepalese citizens revealed by the authorities has significantly increased in the last four years.

### 3.2. BASIS FOR STAY

The analysis of statistical data related to the legal basis for the stay of Nepalese citizens substantiates the presumption that it is work-related in majority of cases. This visible increase can be attributed to the most often cited legal basis for the work-related residence - the temporary residence permit.

When the stay is deemed illegal, the foreigner may be obliged to leave Poland. These figures represent the number of Nepalese citizens leaving Poland pursuant to administrative decisions obliging them to leave the territory of the Republic of Poland and other agreements and arrangements.

Year	Number
2018	35
2019	9

Source: the Border Guard

### 3.2.1. ISSUED DECISION - PERMANENT RESIDENCE

The following data show the number of positive decisions issued under the procedure for granting permanent residence permits to Nepalese citizens (by gender):

Year	Number of positive decisions	Applicants - men	Applicants - women
2010	2	2	0
2011	7	5	2
2012	6	3	3
2013	10	8	2
2014	12	9	3
2015	17	11	6
2016	14	13	1
2017	9	6	3
2018	14	9	5
2019	16	10	6

Source: Office for Foreigners

The table above indicates a steady, though slight increase in the number of permanent residence permits issued to Nepalese citizens.

### 3.2.2. ISSUED DECISION - TEMPORARY RESIDENCE

The following data show the number of positive decisions issued under the procedure for granting temporary residence permits to Nepalese citizens (by gender):

Year	Number of positive decisions	Applicants - men	Applicants - women
2010	446	453	48
2011	407	333	124
2012	371	354	82
2013	394	352	103
2014	330	300	54
2015	268	196	88
2016	337	320	80
2017	642	605	151
2018	817	986	224
2019	1357	1393	326

Source: Office for Foreigners

The table above indicates a steady increase in the number of temporary residence permits issued to Nepalese citizens.

### 3.2.3. VALID REFUGEE STATUS

The following data indicate the number of Nepalese citizens who enjoyed a valid refugee status (by gender):

Year	Number	Men	Women
2010	2	0	2
2011	2	0	2
2012	2	0	2
2013	2	0	2
2014	2	0	2
2015	N/A		
2016	2	0	2
2017	2	0	2
2018	1	1	0
2019	1	1	0

Source: Office for Foreigners

The above data highlight the constant number of valid refugee statuses granted to Nepalese citizens.



### 3.3. BASIS FOR TAKING UP EMPLOYMENT

According to information provided by the Ministry of Labour and Social Policy for the period between 2008 and the first half of 2011, **most work permits for Nepalese residents were issued in Mazovia**. In 2008, they were able to find employment in five other provinces (Lubuskie, Łódzkie, Małopolskie, Opolskie, Wielkopolskie), but in the first half of 2011 they worked in almost every part of the country, except for Opolskie, Podlaskie, Świętokrzyskie and Warmińsko-Mazurskie. The last two aforementioned regions did not employ any Nepalese citizens. The data for 2008 and 2009 include information on where the Nepalese workers came from. The country of their previous stay was predominantly Nepal. For a small group of people (three in 2008, twenty-one in 2009), it was Israel.

By 2011, the Nepalese had been employed for period of over three months in microenterprises, mostly as skilled workers and those doing menial work. In the first half of 2011, the permits of over 700 Nepalese workers were revoked. At the same time there were almost as many permits issued. Every second permit was issued in the Mazowieckie Province, one third of which was granted to women. Half of the revoked permits were issued in Mazovia and significant part of the other half in Lubuskie.<sup>5</sup>

The following statistics refer to the work permits obtained by the Nepalese and include:

- total number of work permits issued;
- the number of employees who performed menial work under the above-mentioned permits;
- the number of permits taking into account their expiry date;
- selected professional groups.

All the figures refer to the period between 2010 and the first half of 2019 and cover only Nepalese citizens.

Year	Number of issued work permits	Number of Nepalese who entered Poland (according to the Border Guard)	Workers performing menial jobs	Number of work permits type A	Number of work permits type A <sup>6</sup> duration up to 3 months	Number of work permits type A duration 3 months -1 year	Number of work permits type A duration 3 months -1 year-2 year	Number of work permits type A duration 3 months -2 year-3 year
2010	2,110		360	2,086	12	1,952	117	5
2011	1,202		187	1,200	4	987	198	11
2012	486		69	471	12	367	90	2
2013	525		124	524	0	406	110	8
2014	402		63	392	31	305	53	3
2015	596		257	596	10	542	23	21
2016	1,211		398	1,211	2	1,044	101	64
2017	7,075	2 275	3,209	7,074	17	4,637	940	1,480
2018	19,912	4 432	10,160	19,893	40	12,684	3,283	3,886
2019 1st half	6,360	3 755 <sup>7</sup>	2,810	6,322	8	3,315	1,326	1,673

Source: Data from the Ministry of Family, Labour and Social Policy and the Border Guard

<sup>5</sup>„Z Nepalu na Mazowsze”, Biuletyn Migracyjny, issued on 31 Oct. 2011, accessed 23 Feb. 2020, <http://biuletynmigracyjny.uw.edu.pl/31-pazdziernik-2011/z-nepalu-na-mazowsze>

<sup>6</sup>The type A work permit is the one issued most frequently to foreigners who work in Poland for an employer whose registered office, place of residence or department, plant or other form of enterprise is located in Poland.

<sup>7</sup>1-IX 2019.

Year	Number of issued work permits	Number of Nepalese who entered Poland (according to the Border Guard)	Positive decisions concerning Temporary residence permits issued for Nepalese citizens	
2010	2,110	X	446	
2011	1,202		407	
2012	486		371	
2013	525		394	
2014	402		330	
2015	596		268	
2016	1,211		337	
2017	7,075		2,275	642
2018	19,912		4,432	817
2019 - 1st half	6,360		3,755	1,357

Source: Data from the Ministry of Family, Labour and Social Policy, the Border Guard and Office for Foreigners

The number of work permits issued to this group of foreigners is disproportionately high compared to the number of Nepalese nationals who entered the country in 2018 (4,432) and received a temporary residence permit (817).

The following data indicate the number of work permits issued to Nepalese nationals with a breakdown into selected professional groups.

Year	All	Posts held on the boards of legal entities	Skilled workers	Unskilled workers	IT specialists	Lawyers	Artists	Medical professions	Doctors	Nurses	Teaching professions
2008	181	4	0	32	125	0	0	0	0	0	0
2009	838	9	0	324	339	0	0	0	0	0	0
2010	2,110	9	3	422	360	0	0	0	0	0	0
2011	1,202	6	1	340	187	0	0	0	0	0	0
2012	486	3	2	103	69	0	0	0	7	0	0
2013	525	5	1	90	124	0	0	3	9	0	0
2014	402	12	0	148	63	0	0	0	0	0	0
2015	596	15	0	162	257	0	0	1	15	0	0
2016	1,211	19	0	387	398	3	1	0	7	0	0

Source: Data from the Ministry of Family, Labour and Social Policy

Year	All	Representatives of public authorities	Specialists	Technicians	Office workers	Service and sales workers	Farmers, gardeners, foresters
2017	7,075	4	77	51	162	571	231
2018	19,912	4	98	219	635	358	338
1st half of 2019	6,360	3	38	31	233	143	105

Source: Data from the Ministry of Family, Labour and Social Policy

Year	Industrial workers and craftsmen	Machine and device operators and assemblers	Worker performing menial work	IT specialists	Lawyers	Artists	Medical professions	Doctors	Nurses	Teaching professions
2017	1,984	786	3,209	15	0	3	0	0	0	1
2018	6,838	1,262	10,160	86	0	0	7	0	0	2
1st half of 2019	2,649	348	2,810	27	0	0	0	0	0	6,360

Source: Data from the Ministry of Family, Labour and Social Policy

These figures illustrate a **steady and substantial increase in the number of work permits issued to Nepalese citizens**, with almost a tenfold increase observed between 2010 and 2018. Most of the work permits were issued for the purpose of performing menial work - more than half of all the permits in 2018. Virtually all work permits were of type A. Most of them are still being issued for a short period (3 months - 1 year), but we can also see increased need for the longest option available (a maximum of 3 years) - from 2 to 3 years.

It Additionally, it is essential to consider economic migration of the Nepalese with the following aspects in mind:

- gender;
- age;
- level of participation of employment agencies in employment of Nepalese migrants.

The following data represent the number of all work permits for Nepalese people broken down by gender:

Year	Total number of work permits issued in Poland	Work permits issued to Nepalese men	Work permits issued to Nepalese women
2010	36,622	Total 2,110	
2011	37,582	928	274
2012	39,144	384	102
2013	39,078	412	113
2014	43,663	343	59
2015	65,786	507	89
2016	127,394	1,077	134
2017	235,626	6,239	836
2018	328,768	17,758	2,154
2019- 1st half	217,297	5,572	788

Source: Data from the Ministry of Family, Labour and Social Policy

Since there is a **significant discrepancy between the number of work permits issued and the number of Nepalese nationals who entered the country**, it is necessary to review the data that show the number of revoked work permits issued to Nepalese nationals against all the permits issued to this group (in one selected year - 2018).

Year 2018	Number of issued work permits		Number of permits revoked		% Of revoked permits
	All	Women	All	Women	
All foreigners	328,768	74,861	26,784	6,206	8.15
Nepalese	19,912	2,154	1,799	132	9.03

Source: Data from the Ministry of Family, Labour and Social Policy

Based on these data alone, it cannot be concluded that the discrepancy between the number of permits issued to Nepalese citizens and the number of Nepalese citizens who entered Poland results from the revocation of permits, which may have taken place before their arrival.

Available data concerning the age of Nepalese migrants over the period 2010-2018:

Age	18-24	25-34	35-44	45-54	55-59	60-64	< 18	> 64	Other
<b>Year</b>	<b>Number of decisions</b>								
2010	512	1,169	415	17		1	3		1
2011	269	655	257	17		1	2		1
2012	85	287	106	8		1	1		
2013	102	298	120	4			1		
2014	88	203	101	4		1			
2015	152	334	102	6					
2016	421	604	161	10					
2017	2,429	3,758	1,037	87	1	1	3		1
2018	6,896	10,224	2,957	151	1	1	12	1	

Source: Data from the Ministry of Family, Labour and Social Policy

Available data concerning the age of Nepalese migrants considering last year (2019):

Age	Number of issued work permits	%
25-34	4,779	51.2
18-24	2,821	30.3
35-44	1,619	17.4
45-54	100	1.1
below 18	4	0.0
55-59	1	0.0
Other	1	0.0
<b>Sum:</b>	<b>9,325</b>	<b>100.0</b>

Source: Data from the Ministry of Family, Labour and Social Policy

The above data clearly indicate that economic migration of the Nepalese is predominantly **undertaken by young men**.

The available data do not indicate in detail to what extent employment agencies participate in recruiting Nepalese employees. The only information that can be obtained consists of data illustrating the employment of Nepalese citizens in the sector 'Administrative and support service activities'<sup>9</sup>, which includes (but is not limited to) which includes (but is not limited to) work undertaken through employment agencies.

Year	All foreign workers working in the sector "Administrative and support service activities" on the basis of work permit type A	Nepalese workers working in the sector "Administrative and support service activities" on the basis of work permit type A
2018	78,358	8,625
2019	97,432	3,668

Source: Data from the Ministry of Family, Labour and Social Policy

**Further aggregated data** for the period 2014-2019 provided by the Ministry of Family, Labour and Social Policy concern the level of employment of Nepalese citizens in the sector 'Administrative and support service activities' against the employment of other foreigners in this sector:

Nepalese workers working in the sector "Administrative and support service activities" on the basis of work permit	%	all foreign workers working in the sector "Administrative and support service activities" on the basis of work permit	%
16,049	41.2	265,519	21.7

Source: Data from the Ministry of Family, Labour and Social Policy

<sup>9</sup>In Polish: Działalność w zakresie usług administrowania i działalność wspierająca.

Despite the growing number of Nepalese citizens entering Poland, the number of those considered illegally employed remains relatively constant and low:

Year	Number Nepal	Number UKR	Number China	Number Philippines	Number Vietnam
2010	21	618	77	64	31
2011	5	513	59	-	33
2012	1	445	34	4	25
2013	3	357	16	-	20
2014	1	776	9	-	10
2015	-	989	2	-	6
2016	3	4,982	3	-	12
2017	3	5,043	4	-	6
2018	4	3,943	7	15	8

Source: National Labour Inspectorate

### 3.4. DATA FROM THE SOCIAL INSURANCE INSTITUTION (ZUS)

According to data presented by the Social Insurance Institution (ZUS)<sup>10</sup> the highest growth rate of the number of foreigners registered for pension and disability insurance applies to citizens of non-EU countries, including the following:

- **Indian citizens** - in 2018, the number of persons reported for insurance grew more than six times as compared to 2008 and almost three times as compared to 2015 (during the analyzed time span the number of the insured increased from 878 to 5.5 thousand in September 2018);
- **Nepalese citizens** - in 2018, the number of persons reported for insurance increased almost sixteen times as compared to 2008 and more than six times as compared to 2015 (during the analyzed time span the number of insured persons increased from 172 to 2.7 thousand in September 2018);
- **Bangladeshi citizens** - in 2018 there was almost 19-fold increase in the number of persons reported for insurance as compared to 2008 and more than a 4-fold increase as compared to 2015 (during the analyzed time span, the number of insured persons increased from 66 to 1.2 thousand in September 2018).

#### 3.4.1. Number of Nepalese registered for insurances

The Polish social security system provides for 4 different types of insurance:

- **accident** insurance
- **sickness** insurance
- **pension** insurance
- **disability** pension insurance

**Health insurance** is organised under a separate scheme managed by the National Health Fund (NFZ). All persons employed in Poland, including foreigners, are obliged to be covered by health insurance. Monthly contributions are paid to the NFZ on their behalf (usually by the employer).

It is worth emphasising that the entity reporting the insured to the social security system (in most cases the employer) does not always indicate the citizenship of the insured. Therefore, the information presented below should be treated as data pertaining to persons registered for insurance with Nepalese citizenship and not as comprehensive data for all the insured Nepalese:

Year	Health insurance	Accident insurance	Sickness insurance	Pension insurance	Disability pension insurance
2015	472	417	382	418	N/A
2016	671	618	543	618	
2017	1,730	1,662	1,180	1,664	
2018	N/A	N/A	N/A	2653	

<sup>10</sup>Cudzoziemcy w polskim systemie ubezpieczeń społecznych. Departament statystyki i prognoz aktuarialnych ZUS, Warsaw 2019.

The data presented above show a steady yet considerable increase in the number of people who were reported to the social security system with an indication of Nepalese citizenship.

### 3.5. DATA CONCERNING TEMPORARY EMPLOYMENT AGENCIES

The number of registered temporary employment agencies (TEA) and agencies dealing with job placement, personal counselling and career advisory service (RA-recruitment agencies):

Year	TEA	RA
2010	49	69
2011	88	136
2012	124	208
2013	144	245
2014	182	267
2015	277	450
2016	430	618
2017	681	942
2018	1,352	1,826
2019	1,544	1,998
All in 2020	5,357	7,724

Source: National Register of Employment Agencies

Number of temporary employment agencies (TEA) and agencies dealing with job placement, personal counselling and career advisory service (RA-recruitment agencies) controlled by National Labour Inspectorate:

Year	TEA	RA
2010	227	260
2011	228	249
2012	222	278
2013	280	267
2014	250	245
2015	285	278
2016	262	N/A
2017	461	N/A
2018	360	N/A

Source: National Register of Employment Agencies

According to the National Labour Inspectorate, 208 entities were removed from the register of agencies in 2012-2017 due to objections raised by labour inspectors.

### 3.6. SELECTED DATA CONCERNING INDIAN CITIZENS

In order to present a fraternal perspective on migration from Western Asia to Poland, it is appropriate to present statistics showing the extent of economic migration coming from India. If we compare the number of temporary residence permits issued to citizens of India in 2010 and in 2018, we can observe a substantial growth.

Type of document	Year	Number
Temporary residence	2018	7205
Temporary residence	2010	1087

Source: Office for Foreigners

The data presented below indicate the number of work permits issued to Indian citizens broken down by gender and the number of Indian citizens who entered Poland:

Year	Total number of work permits issued in Poland	Work permits issued for Indian men	Work permits issued for Indian women	Number of Indian citizens who entered Poland
2010	36,622	1189	N/A	
2011	37,582	738	49	N/A
2012	39,144	745	66	N/A
2013	39,078	694	81	N/A
2014	43,663	678	85	N/A
2015	65,786	1,272	153	N/A
2016	127,394	1,170	175	16,762
2017	235,626	3,539	399	19,364
2018	328,768	7,775	587	24,553
2019-1st half	217,297	3,960	350	(I-IX 2019) 21,282

Source: Data from the Ministry of Family, Labour and Social Policy

## 4. RESEARCH RESULTS OBTAINED FROM FACE-TO-FACE INTERVIEWS

This report contains the results of interviews with three entities that are of key importance to the labour market:

### 1. employees:

- about 45 Nepalese employees were interviewed in this group along with a representative of the largest Polish trade union NSZZ Solidarność;

### 2. employers:

- In this group, both an employer who hires Nepalese workers and a representative of the employers' organization Lewiatan were interviewed. Due to the fact that Nepalese workers are employed primarily through a temporary employment agency, its representative was interviewed together with a representative of a job placement agency which employs and recruits Nepalese workers (**hereinafter TEA**) and a representative of a temporary employment agencies organization (**hereinafter TEAO**);

### 3. government officials:

- interviews were also conducted with representatives of the Ministry of Family, Labour and Social Security (hereinafter MFLSS).

The interviews revealed that social partners (trade unions, NGOs, employers' representatives) do not pay sufficient attention to the problems of migrant workers in Poland. Likewise, Nepalese workers do not realize that they can receive support from institutions of this kind.

The information gathered at this stage of the analysis allows to draw conclusions regarding both the situation of Nepalese citizens coming to Poland (in order to take up employment) and the conditions under which they are forced to live and work in Poland.

### 4.1. RECRUITMENT PROCESS

To begin this section of the report properly, it is necessary to answer one question concerning a rather fundamental issue: **'Why are Polish employers interested in recruiting workers from Nepal?'**<sup>11</sup> This question contains a thesis that employers themselves, rather than employees, set the tone for the inflow of the Nepalese to Poland. This thesis reflects the fact that temporary employment agencies are involved in the process of bringing Nepalese citizens here. These agencies seek workers outside Poland, so it is them who are to be credited with initiating the whole process.

This question was answered by a TEA representative. He explained that Polish agencies and employers tend to look for employees who speak English but do not have high expectations when it comes to living and employment conditions. This was the main reason behind their interest in India, Pakistan, Bangladesh and Nepal. Given the economic and political situation in Nepal, its citizens are prone to leave their country to find a better life. From their point of view (as stated by all the surveyed workers) Poland is as good a direction as other European countries. Additionally, the workers also claimed that neither they nor their families want to go to the United Arab Emirates (mainly Dubai). Such a trip would obviously be much cheaper, but the working conditions are very poor. One of the workers claimed that about 10 Nepalese workers are killed every day on construction sites in Dubai. For this reason, they would rather emigrate to Europe.

It needs to be emphasized that Polish government provides no support for economic migrants from Nepal. The MFLSS representative stated that Polish government does not envisage supporting any migration from distant regions (including Nepal), which is also evident in the organization of the Polish embassy operating in New Delhi. The embassy is facing a shortage of personnel due to the fact that this institution is responsible not only for matters relating to India, but also to Afghanistan, Bangladesh, Bhutan, Maldives, Nepal and Sri Lanka. Bearing in mind the rapid increase in economic migration from India, Bangladesh and Nepal to Poland in recent years, the number of people employed in embassy should also increase accordingly. However, this has not happened as of yet, indicating the reluctance of the Polish authorities to facilitate the influx of people from these regions into the Polish labour market.

---

<sup>11</sup>Due to the low unemployment rate in Poland, in fact considered to be record low at the moment, employers have been forced to look for workers abroad for the last 10 years.



Both TEA and TEAO representatives maintained that the Polish embassy in New Delhi is inefficient. The rules for arranging visits to the embassy are not clear to Polish employers. Therefore, there is a general belief that there are illegal practices related to gaining access to the embassy, such as bribing embassy staff or hacking the electronic appointment system<sup>12</sup>.

Having obtained the knowledge of why Polish employers decided to bring in Nepalese workers, it is also appropriate to point out **why Nepalese workers want to be employed in Poland**. One of the conditions has already been mentioned - they wish to leave Nepal because of the unfavourable economic and political situation in the country. They choose Europe as a destination that is fairly easy to reach (as compared to e.g. the United States of America or Australia). Several of the surveyed workers claimed that working conditions in Nepal are extremely poor, that the work performed is undervalued so there is no possibility to improve one's material status. The reasons for opting for Poland are also diverse. Particular attention should be paid to the prominent role of local agents. Some of them act individually, others on behalf of Polish temporary employment agencies. In the opinion of the TEA representative, local affiliations in Nepal are similar to those of the mafia. This conclusion was also confirmed by TEAO. Cash flow is rarely disclosed, relations between local authorities, agents and recruiters remain unclear. TEAO representatives claimed that most Polish temporary employment agencies use the services of local (Nepalese) agents. Moreover, all interviewed employees confirmed that they had used the services of local agencies/agents to facilitate their migration to Europe/Poland.

There are **few procedures to be followed by Nepalese citizens when coming to Poland to work**. First of all, Nepalese citizens have to obtain a work permit. Such a document can only be issued in Poland which makes cooperation with the employer essential. Most Nepalese workers do not communicate directly with their Polish employer, they refer to a local agent to do this on their behalf. Such an agent can provide services in various ways - it can include assistance in obtaining a work permit, as well as obtaining a visa if needed. Some agents provide full range of services, including arranging journey to Poland, finding a place to stay and a job. It is common for employees who come to Poland from Nepal not to do the work they are supposed to do under a work permit. Occasionally, they only change the sector of work, but some of them also change the employer. Some agencies provide fake employment opportunities and when Nepalese workers are already in Poland and contact their employer, they receive information that the employer is unaware of the situation (that was experienced by employers No. 2 and 3). It is possible that local employers are actively involved in this process and simply pretend not to know anything about Nepalese workers. Typically, Nepalese workers pay agents a lot in order to obtain a work permit and part of this amount might be given to the employer for declaring that they will hire foreigners (such a declaration is required for a valid work permit application). The amounts that Nepalese citizens pay to agents vary. Some of them seem to be honest (500-600 EUR), others unfairly inflate the price (up to 12,000 EUR). Nepalese citizens search for agents in Nepal via the Internet or through the recommendations of acquaintances. Sometimes agents themselves actively look for people who are likely to seek employment in Poland.

**The second part** involves obtaining a visa. Only those who have a valid work permit are granted visas. Some agents obtain a visa on their own, some send the work permit to a candidate and he must make an appointment with the Polish embassy.

The costs of agent services in Nepal depend on several factors. Firstly, as long as the market is free, they estimate the price at a level acceptable to the customer. One of the employees, whose case was investigated by the La Strada Foundation, paid 50,000 PLN (about 12,000 EUR) for agent's services. Another paid approximately 500-600 EUR and two others 5,500 EUR. The Nepalese are convinced that the services provided by the agents are simply that expensive, so they do not hesitate to pay these amounts. To make the payment, they borrow money from family and friends (always with interest) and sometimes take bank loans. They consider this process to be fair and they accept it as it is. None of the surveyed Nepalese employees have signed a contract with an agent. Some of them have never met their agent, they simply interacted with the agent via instant messaging. They find agents on Facebook, through their friends and sometimes agents find them on their own, aware that there is a possibility that they may be interested in coming to work in Europe/Poland.

---

<sup>12</sup>This system allows for making an appointment with the embassy. Employers (including temporary employment agencies) have long claimed that this system has been compromised and is not effective.

TEAs claim that sometimes it takes a long time for a Nepalese employee to come to Poland after all required documents for such an employee have been received by a Nepalese agent. TEA believes that the reason for this is the money flow. It is thought that Nepalese employees pay the agent in installments and the agent does not want to hand over all the documents until the full amount is received. Since the amounts are considerable, this process may take a long time.

What is interesting in the recruitment process is that most employees receive an **employment agreement in Polish**. Before applying for a work permit, they must sign this document without understanding its content. Only some of the contracts are available in English. Pursuant to the Polish law, an employment agency is obliged to provide a foreigner being sent to work with written translation of the employment agreement in a language they understand before it is signed. Similarly, an entity entrusting the performance of work to a foreigner is obliged to conclude a written employment agreement and provide him/her with a translation into the language he/she understands.

Finally, the Nepalese workers in Poland **tend to work for employer other than the one with whom they concluded their first contract**. Also, they do not usually do the work they were promised, but this is not a problem in most cases as they move from one menial work to another. Normally they change the sector they work in. Prior to coming to Poland, Nepalese workers realize that they will be doing menial work but do not mind, even though some of them hold a university degree.

Typically, one agent serves several people at a time. Members of this **group** come to Poland together, which can lead to certain delays, because not everyone gets their documents at the same time. But doing business this way is more profitable for the agent. When they come to Poland, there is usually someone waiting for the group at the airport (it does not have to be the agent they know). This person takes them to a hostel/apartment and assists them in finding job if necessary.

The knowledge about employment standards and legal regulations is minimal, making the Nepalese easy to manipulate during the process of recruitment and employment as well.

## 4.2. EMPLOYMENT AND LIVING CONDITIONS

The conditions of employment of Nepalese workers in Poland **vary depending on the type of work they do**. The first group, i.e. employees performing menial work (e.g. work in warehouses, processing), work mainly on the basis of civil-law contracts (contract of mandate), which guarantee minimum remuneration, but do not entitle to paid annual leave, daily and weekly rest and additional remuneration for night shifts or overtime.

The second group comprises qualified employees whose skills are highly valued and well paid, such as experienced chefs. These employees can negotiate their working conditions mainly in terms of salary.

Some contracts with Nepalese employees are drawn up only in Polish (only some have the Polish-English version), which is against the Polish law<sup>13</sup>.

Majority of Nepalese workers who engage in menial jobs in Poland are employed by temporary employment agencies. The agency is obliged to inform a foreigner about the rules of entry, stay and work of foreigners on the territory of the Republic of Poland, in writing, using the language that is understood by the foreigner. Such an obligation results from the Act on employment promotion and labour market institutions.

The Nepalese do not have any knowledge of the Polish labour law regulations, nor do they know how their employment relationship should be structured. As has been confirmed by the employer employing Nepalese workers, this is why they are willing to agree to almost all working conditions provided by the employer<sup>14</sup>. This claim was further confirmed by TEAO - its representative stated that this group of employees is particularly vulnerable because they

---

<sup>13</sup>This omission was already described previously in the report.

<sup>14</sup>This refers mainly to low skilled workers.

enter the Polish labour market with an intention to earn as much money as possible. Therefore, they are willing to endure a lot. First of all, they accept work outside the employment agreement, e.g. based on a civil-law contract. It appears that they are highly determined when it comes to accumulating their finances.

As far as employment stabilization is concerned, it should be stressed that none of the interviewed employees has an employment agreement of indefinite duration<sup>15</sup>. They work under one of the following:

- a civil-law contract with a temporary employment agency, which is of a temporary nature;
- the employment agreement with a temporary employment agency, which is also of a temporary nature;
- a fixed-term employment agreement concluded directly with the employer.

#### RELEVANT INFORMATION ABOUT THE POLISH LABOUR LAW:

**The regulations governing temporary employment** changed in Poland in 2018. Up to that point, the limitation was in place, according to which each agency was allowed to send an employee to one employer for 18 months within the period of 36 months. This limit applied to 3 entities: agent-employer-employee. If the agency changed name after 18 months, the same employee could work for the same agency for another 18 months. Such an agency was commonly called a 'daughter agency'. Since this situation was common (and 'parent' and 'daughter' were in fact the same agency, only registered separately), the law was modified in 2018 and now the limitation stands even if an employee is sent to the same employer by two different agencies, and even if one agency sends the same employee to different employers.

Workers who were interviewed in Miasteczko (Case study 1) have been working for more than 18 months with the same employer, only changing agencies. It constitutes a violation of Polish labour law, by both the agency and the employer. The workers are not aware that if they are to do the same job, they should change their employment relationship from agency to direct employment after 18 months.

The employees who work under civil-law contracts work **as many as 250-300 hours per month** (Case study 1), which is almost twice the number of hours they should work under labour law standards. Due to the character of their work, **the working conditions are rather poor**.

Nevertheless, the **quality of work** is appreciated by Polish employers because Nepalese workers are hardworking (this claim was confirmed by the employer who employs Nepalese workers). The only **difficulty** Polish employers see in cooperating with Nepalese workers is that they do not comprehend some working standards. For example, one TEA representative mentioned that they tend to skip random working days because they claim that they have an appointment at a bank or it is their laundry day. This causes many problems for employers, affects the organization of the work process and leads to negative perception of the Nepalese employees and may affect the attitude of Polish employers.

It is possible to distinguish two different groups based on the **living conditions** of Nepalese employees. The first group consists of well-paid employees (those demonstrating highly valued skills). They rent apartments with several other Nepalese residents, usually 1-2 people per room. The other group consists of low-skilled workers (or even highly skilled, but doing menial jobs). These people usually live on the outskirts of big cities, near the companies they work for and are employed through temporary employment agencies.<sup>16</sup> Renting an apartment in such places is not an option. This is why employees usually live in annexes or houses adapted for collective accommodation. Housing conditions are far from satisfactory - the rooms are crowded (even 6 people in one room), with residents sleeping on bunk beds, often with just a sponge instead of mattresses (probably due to the landlords' penurious approach). They do not sign any tenancy agreement - everything is arranged by the agency that hires them. As confirmed by the TEAO representative, since Nepalese workers want to accumulate as much money as possible, they do

<sup>15</sup>However, the employer hiring Nepalese chefs mentioned that two of them had employment agreements for an indefinite period of time, which confirms the statement that high-skilled workers enjoy better working conditions.

<sup>16</sup>Employers do not employ foreign workers directly for the purposes of performing menial jobs.

not want to spend much on their accommodation, so they are willing to accept really poor living conditions. Short distance from the place of accommodation to the place of work is very convenient for the Nepalese working in small towns, allowing them to save both time and money, as they can easily reach the workplace on foot.

### 4.3. CASE STUDY 1

The interviews were conducted in the village called **Miasteczko, where about 100 Nepalese employees work in the poultry processing plant.** The meeting was held in the house they rent. It is in a poor condition, with three bunks in each room, which means that 6 people live in one room and there are 5-6 such rooms. The room where the meeting was held was rather spacious. A total of 30-35 Nepalese took part in the meeting. The reported period of their stay in Poland was varied. Most of the participants of the meeting had resided in Poland for a year or two, but there were cases of people staying in Poland for as long as 9 years. Not everyone was present throughout the meeting. There were both men and women, most of them very young - about 20-30 years old.

#### **General information on first professional experience related to Poland:**

There was no one in the group who came to Poland without the agent's assistance. The price that each of them paid to the agent differed, but it was about 1,000 EUR. It is a considerable amount of money for the Nepalese. Each of the respondents had to borrow money from their family (typically with interest), some of them took out a loan from one of the banks. They do not consider the price to be excessive. Each of them made such a claim. They believe that the promises made by the agent were not fulfilled. Also, in many cases, the agents told them that their income would be paid in euros. Thus, they thought they would earn (for example) 2000 EUR, not 2000 PLN.

While in Nepal, each of them had signed an employment agreement. In most cases this document had been presented to them in Polish only. Only some of the contracts had been drawn up in Polish and English. One of the women (about 30 years old) said she does not understand the contents of the contract, but there was nothing she could have done about it - she just had to sign it.

When asked why they choose Poland, they answered that there was no future for them in their homeland. Some of them were looking for opportunities to travel to other EU member states, however, it is not that easy to find out information on how to reach that market. In turn, coming to Poland is relatively straightforward since there are many Polish-Nepalese agencies in Nepal that 'help' workers find their way to Poland. In many cases such agencies have approached them directly.

The employment agreements they signed in Nepal were concluded with an employer for whom they would never work directly. These agreements were concluded with Company A. They work for this particular company, but through various temporary employment agencies. No agency has ever told these people why their contracts are limited to 18 months and why the agencies change after each such period.

They were initially briefed on what kind of work they were supposed to do in Poland and what kind of work they would do (packing products in a poultry factory), only the working and living conditions are not as they expected and as were promised.

According to the Nepalese workers residing in Miasteczko, men are more likely to emigrate to Poland because women fear for their safety.

#### **Working conditions in Poland:**

The company employs about 100 Nepalese employees who work about **250-300 h each month.** According to their estimates, maybe 2 or 3 of them have employment agreements. The others have a service contract (contract of mandate). They did not know the difference between an employment agreement and a civil law contract.

They never asked for any contract of employment. When they were told about the National Labour Inspectorate they were surprised that there is an institution that supervises employers' observance of labour law.

They also did not know that it is against Polish law to entrust work in subordinate conditions on the basis of a service contract and not on the basis of an employment agreement.

One of the men worked on the basis of a service contract for 9 years.

The aforementioned contract for the provision of services is worded in a very clever way, as it does not indicate the place where the work will be performed. It also does not indicate the designated working hours<sup>17</sup>. Additionally, the contract for the provision of services states that the employee is aware of the fact that on the basis of such a contract he has no legal entitlement to paid annual leave.

For their work they receive about 3200 PLN net. They send most of this amount to Nepal to pay off their debts incurred in order to have the means to come to Poland and help their family.

#### Living conditions:

The living conditions in Miasteczko are very poor. They pay 360 PLN for a bed in a 6-person room or 1000 PLN for a bed in a 2-person room. This amount is paid to the agency that rents the room. Miasteczko is a small town, so there are no other options to find a place to live. Workers houses are located near the plant they work at.

They feel humiliated that they live in such conditions.

As for the food, they buy it on their own and cook in the kitchens they have in the house.

#### Legalization of stay and work in Poland:

Each time the agency represents them before the Immigration Office (the Provincial Office - Department for Foreigners), they are required to pay 700 PLN. They do not sign any agreement, under which the agency undertakes to represent them at the immigration office. In consequence, they cannot demand any action from the office fearing that the agency will cancel their application for work and residence permits and their stay will no longer be legal.

One young man receives his TRC (Temporary Residence Card) for the period of only 3 months. After this period the agency always asks for another 700 PLN to get him the TRC for another 3 months. When asked why this is so, he said that the agency probably wants to have control over him because without a permanent TRC he cannot move out of Miasteczko.

Another man claimed that the procedure for getting the TRC takes an extremely long time. When they want to ask the agency about the procedure, the agents always say: **'I have nothing to say to you. If you call me again, I will take your papers from the office and you will have to go back to Nepal.'**

Because of this, they prefer not to ask any questions.

One man is waiting for his decision concerning the permit for a temporary residence and work for 3 years. He does not know what is going on with his application. If the agent got his decision or not. The agent did not inform him about anything.

Another man received an e-mail from the office stating that additional documents should be provided to complete the application for temporary residence and work permits. But according to this e-mail, the information about the required documents was included in the message sent only to the agent. The worker does not know whether the agent have sent these additional documents to the office.

One man received an e-mail from the office informing that the decision concerning the temporary residence and work permit in his case was scheduled to be made in November 2019. He never received any information from the agent whether he received this final decision. He did not receive it directly from the office, either.

<sup>17</sup>Both the specification of place and time of work indicates that the employment agreement should have been concluded. However, according to Polish law, not only is the content of the contract important, but also the conditions under which the work is performed. The conditions in the plant in Miasteczko are sufficient to require the conclusion of an employment agreement instead of a civil law contract.

Currently, there are about 20 Nepalese in Miasteczko who received a **negative decision** regarding their temporary residence and work permits. The reason behind one such decision was that he did not present one document during the procedure, although he had been asked to provide it. In fact, it was not him personally, but the agency acting as his representative had been asked by the office to provide this document. The document meant to prove that the foreigner has no tax obligations in Poland. He was not contacted by his representative after receiving this decision, but continues to work through this agency. He does not know whether the agent appealed against this decision. The decision was issued in 2018. If the agent has not appealed against the decision, it may mean that the person's stay is illegal and he may be expelled. The agent has not contacted any of those who received a negative decision.

This case casts doubt on whether the agency has actually registered all the workers it employs or maybe it has never registered the contracts of Nepalese workers in Miasteczko, which makes their stay illegal. If the agency, as an employer, makes deductions from wages (in order to pay tax and social security), it commits double fraud because it does not pay public dues by making unjustified deductions from wages.

One of the workers got a message from an agent with the picture of the letter the agent sent to the office asking for an immediate decision because the process was taking too long. Instead of sending such a request to the Provincial Office, he sent it to the Office for Foreigners which does not deal with these matters nor does it issue any decisions regarding work and residence permit. It is not known whether the agent did it on purpose just to pretend that he was doing something that would speed up the process.

One of the men got a positive decision but told me he never received the TRC. The decision was made several months ago. The agent did not inform him about the possibility of taking TRC from the office. He just told him to wait.

One of the men concluded: **'We aren't free here. We can't move out. We can't change our employer because the employer we have doesn't inform us about our status. Even if we had our TRCs, we wouldn't be able to change jobs, we'd have to apply for new work permits. Our situation is very difficult and we don't see any hope of changing it because we don't have our TRCs and we can't change our employer just like that. Also, we can't leave Poland without the TRCs, we can't visit our families if something happens to us.'**

#### 4.4. CASE STUDY 2

##### The interview with a Nepalese citizen - conducted by the La Strada Foundation

I came to Poland on **13 June 2018**. I learned about the possibility of working in Poland from my neighbor, when I was still in Nepal. The agent offered me the opportunity to go to Poland, I was supposed to work in a **pillow factory** and earn 20 PLN/hour. Working 40 to 60 hours a week, including accommodation, insurance and food. For matters related to the flight, visa and work arrangements, the agent requested **50,000 PLN** (converted from rupee) from me. Since I had no such amount myself, my father took a loan from the bank (he sold the hotel / house and lived in a rented apartment together with my siblings). Back in Nepal I got a contract to sign, it wasn't my native language or even English (I think it was Polish), after the signing, the agent took it from me and I never saw it again, nor did I get any copies.

##### My journey experience was as follows:

I went from Nepal (Kathmandu) to India (New Delhi) to obtain a visa, there the agent showed me a work permit, which stipulated that I would not work in a pillow factory, but as a construction worker. The agent said that the work on the construction site would only take a few days, so I accepted that offer, hoping to do the job promised to me before I had left. After receiving the visa, I returned to Kathmandu, then I went by plane to Qatar, and then to Warsaw, where I was accompanied by 10-12 other Nepalese citizens. We spent 2 nights in a hostel. Next we went to a city in the south of Poland, where the agent showed us the place of our accommodation.

Conditions in this hostel were not bad, but it turned out that there is no work for us. The agent did not want us to leave the accommodation often, probably had failed to complete the formalities related to our arrival. Since we were still waiting for them to give us work, the agent told us that he could not pay us, he also did not want to show us the contracts.

Once in a while, we were sent for an **'apprenticeship' intended for construction workers**, although this was not the work we were promised. It lasted about two and a half months, **we never received any remuneration**. I also did not receive any food rations (the same goes for about 10 other Nepalese who came with me), I had some 250 euros with me, so somehow we managed to do some shopping; unfortunately, even this money began to run out. Since I had a guitar with me and the agent noticed it, one day he sent me with another Nepalese to an Italian restaurant, I thought I would play there at dinner, but it turned out that they needed someone to **work in the kitchen** for two days.

However, after 2 days we were made redundant. It was then that for the first time the chef in this restaurant made me realize that we were probably deceived and we would never get a job, and he himself certainly does not need new employees in his restaurant. Once we returned, **we spent another month sitting in the hostel without any employment**. One day our agent called a taxi, which took us from the city in southern Poland to Warsaw and accommodated us in a private hostel where we lived with four Ukrainians.

The following day he sent us to **work on a construction site**. I had no experience whatsoever in this type of work except for those few times when I 'learned' how to do this work. After one day's work, the agent sent us to another hostel, where we waited again for work for several days. The worst aspect was that **he kept telling us that there was no work for us and we just had to wait**, and he wasn't going to pay us for sitting and doing nothing. After a couple of days we were sent to another place where we **worked in a piston factory** for about a week or so, and then our intermediary sent us to another place where we had to **plant trees**.

After 2 days I decided to protest. I was exhausted, I literally got 1 zloty (1 zloty) left from what I had brought, so I started asking why we were still doing work different than the one described in the work permit and why it lasted a few days at a time and without any pay. Since we no longer had any money left, we **picked cabbage leaves in a field** near the orchard and we were seen by an elderly lady, who gave us food and offered to pay for minor renovation work (painting the fence and door).

The agent promised to find me another job. I came back to Warsaw, where I was sent to a **pub selling kebab** near Warsaw. Some of our 10-person team fled, probably to Portugal. Only 4 of us were left. The conditions in the restaurant, which was supposed to be our dream job, were extremely harsh. **I worked 14/15 hours a day** and could only take a day off after 10 days of work (a maximum of 3 days off a month in total).

We stayed in a hostel, where there were about 6 people in a single room, **with no beds** (only mattresses). We only had old blankets to cover ourselves at night, left by some Bangladeshi workers who stayed there before us. **We could have a meal in the restaurant, but only once a day** (at 3:00 p.m.), so we had to endure until 3:00 p.m. the next day. The owner of this place was a Muslim from Bangladesh, who often yelled at us when he was in a bad mood.

After two months of work I got 700 PLN (it means I made less than 6 PLN/h, is that the legal minimum wage in Poland?). After 3 months I got 1700 PLN, but it still wasn't the payment I wanted. During my time at work I was called to the migration office in order to leave my fingerprints, but unfortunately I was never called to collect my residence card (TRC). Most likely, the employer probably failed to complete the formalities, did not pay for the card or the required taxes. I decided not to work there anymore, I realized that I had been deceived all along and nothing would change for the better. My friend still works there, hoping that they will finally relocate him so he can pick up his TRC. However, my agent didn't like the idea and said he stopped looking for any job opportunities. My visa was still valid, so I decided to look for a job in Warsaw, where I was living with a friend.



**I was looking for another job for almost 3 months**, I mainly went to restaurants, attended job interviews and even though I qualified for the post every time, nobody wanted to hire me as my visa was about to expire. After my friend had started demanding payment for the rented room (about 3,000 PLN for three months), I knew I had to go back to Nepal and earn that money to pay him back. He advised me to come to IOM. My visa expired on 19 January 2019. Then I went to the airport, where the guards stamped my passport with the following: **COMMITMENT TO RETURN on 25 January 2019**. I also received a list of organisations and institutions offering support that could somehow help me, it included the phone number to the La Strada Foundation, which I called and arranged for a visit.



## 5. RESULTS OF RESEARCH BASED ON PRESS RELEASE

- **6 February 2018 - Press release of the Portal Warmii i Mazur<sup>18</sup>:**

21 audits per month were sufficient to find out that almost every third foreigner working in our region has no legal employment.

Last month, officers of the Warmia and Mazury Border Guard conducted 21 inspections. Their goal was to search the labour market for foreigners.

The inspections involved 176 foreigners and revealed that in January 2018 50 of them were working illegally. Irregularities were found in the districts of Ełk, Iława, Olecko and Olsztyn.

As reported by Mirosława Aleksandrowicz, spokesperson of the Warmia and Mazury Border Guard Office, the recurring violations included: work without the required permit or the declaration of intent to entrust work and work under conditions other than those specified in the permit or the declaration.

As usual, the irregularities were reported in the following sectors: transport, construction, agriculture, catering, tourism and employment agencies. Last month, citizens of Nepal, Ukraine, India and the Philippines were among those most often working without legal employment.

After the inspection, the Border Guard officers filed 13 motions to the courts, demanding penalties for entrepreneurs. In addition, in the previous month the courts imposed fines amounting to 13,650 zlotys on entrepreneurs who had been audited earlier.

- **20 June 2018 - Press release by the Border Guard<sup>19</sup>:**

The Warsaw-Okęcie Border Guard officers detained six Nepalese citizens who violated Polish regulations and wanted to travel to Portugal.

The foreigners were detained on 19 June 2018 before their departure to Lisbon. During the inspection, the Border Guard officers found that six men had visas issued for the purpose of work in one of the employment agencies in the Kujawsko-Pomorskie Province. However, after contacting the employer, it became evident that the foreigners never took up work in this agency. Therefore, the company asked the voivode to revoke their work permits. Due to the fact that the foreigners did not have other documents that would confirm employment with another employer on the territory of the Republic of Poland, their stay in Poland was deemed illegal.

National visas for Nepalese were revoked. Administrative proceedings were initiated against them, which will probably lead to a decision obliging foreigners to return home. Until the completion of administrative procedures, the men remain at the disposal of the Border Guard officers.

This is yet another case of foreigners using the visa to work in our country in order to facilitate their migration to Lisbon. This may be due to the liberalization of regulations concerning the right of foreigners to apply for permanent residence in Portugal, which have been in force since the end of August 2017.

- **25 June 2018 - Press release by the Border Guard<sup>20</sup>:**

Border Guard officers at Warsaw Chopin Airport detained two Nepalese citizens who wanted to go to Portugal. Both the man and the woman had Polish visas issued by the Polish consul in New Delhi, which entitled them to take up employment in Poland. The officers contacted the companies that employed Nepalese, and were

---

<sup>18</sup>'Nepalczyki zdeklasowali Ukraińców. Teraz to oni najczęściej pracują u nas nielegalnie', Portal Warmii i Mazur, 06.02.2018, <http://gazetaolsztynska.pl/493407,Nepalczyki-zdeklasowali-Ukraińcow-Teraz-to-oni-najczesciej-pracuja-u-nas-nielegalnie.html>, accessed 23.02.2020.

<sup>19</sup>'Sześciu Nepalczyków wróci do swojego kraju', Straż Graniczna, 20.06.2018, <https://www.strazgraniczna.pl/pl/aktualnosci/6670,Sześciu-Nepalczykow-wroci-do-swojego-kraju.html>, accessed 23.02.2020.

informed that they had quit their jobs. The employer had no interest in further recruitment and also declared that he would immediately apply to revoke the foreigners' work permits. Considering the foregoing circumstances, the visas were revoked upon issuance of appropriate administrative decisions.

Moreover, the Commander-in-Chief of the Warsaw-Okęcie Border Guard issued decisions to foreigners setting a deadline for voluntary return and a ban on re-entering the territory of the Republic of Poland and the Schengen area for one year.

- **16 August 2018 - The Himalayan Times<sup>21</sup> press release:**

A team deployed by Metropolitan Crime Division has arrested a Ukrainian man and a woman on Thursday for defrauding several people by promising them employment in Poland.

The team acting on complaints lodged by 9 victims including Budhhi Raj Bista (26) of Udaypur detained Vitalii Bilyi (26) and Nataliia Melnychuk (23) from an institution "People Work Group" ran by the duo at Putalisadak in Kathmandu.

According to MCD, the accused duo arrived in Nepal on April 26, 2018 in tourist visa, rented an apartment and lured the victims through social networking sites by releasing adverts which promised employment and monthly pay of Rs 100,000 and benefits in Poland.

Apart from taking Rs 200,000 as travel and processing charges from the victims, the duo were in the process of collecting more cash from 600 gullible targets, said police.

The duo were charged as fraudsters under Civil Code and have been taken to Metropolitan Police Range, Teku for further investigation and action.

- **28 November 2018 - Press release by Polish Radio<sup>22</sup>:**

The Ukrainians broke a kind of record in terms of the number of foreigners working in Poland..In 2017, 192,547 Ukrainians received permission to work in Poland - 137,495 men and 55,052 women. Next, there are the Belarusians, but far behind. 10,518 Belarusians - 9,684 men and only 834 women received permission to work in Poland. Surprisingly, the third workforce turned out to be the Nepalese, who started working here in the number of 7,075 people (6,239 men and 836 women). They are followed by other Asian - Hindi/Indian people who came from India to Vistula to earn 3,938 (3,539 men and 399 women). Why did so many Nepalese decide to seek work in Poland? As reported by Katarzyna Włodarczyk-Niemyska from the Union of Entrepreneurs and Employers, it is all about the money - the Nepalese choose our country because there are good wages and there is also the kind of work they can actually do - she explains. She adds that cultural and linguistic differences do not constitute a barrier for them. The Nepalese choose positions where less qualified workers are needed. These include mainly positions related to transport, e.g. Uber is staffed mainly Asians. Working here seems to be very attractive for them because they do not need to know our language. The issue of communication with others is not a problem, all you need is an application that will guide you towards your destination. The only thing you have to do is know how to drive and follow the navigation prompts - says Katarzyna Włodarczyk-Niemyska.

As demonstrated by the statistical data compiled by the Ministry of Family, Labour and Social Policy, the Nepalese were employed most frequently in positions that do not require high qualifications. Most of them - 3,209 - performed menial work. Next, they earned their living as industrial workers and craftsmen - 1,984. The third place was occupied by those who worked as operators and fitters of machines and equipment - 786. The figures for the sectors in which Nepalese people were employed indicated that they were mainly engaged in physical labour. Most often in manufacturing (1,572 people) and construction (744 people), but - surprisingly - the third group consisted of people conducting professional, scientific and technical activities (479 people).

---

<sup>21</sup>„Ukrainian nationals arrested over Poland employment scam”, The Himalayan Times, 16.08.2018, <https://thehimalayantimes.com/kathmandu/ukrainian-nationals-arrested-over-poland-employment-scam/>, accessed 23.02.2020.

<sup>22</sup>„Nepalczycy w Polsce. Dlaczego tak chętnie ściągają do nas w celach zarobkowych?”, Money.pl, 28.11.2018, <https://www.polskieradio24.pl/5/3/Artykul/2222277,Nepalczycy-w-Polsce-Dlaczego-tak-chetnie-sciagaja-do-nas-w-celach-zarobkowych>, accessed 23.02.2020.

As for the prestige of their work, the Nepalese proved to be far behind the Hindi. Last year, the fourth group of foreign workers in Poland were employed mainly as experts (1,387 people) and IT specialists (934 people), and the key sector that employed them was related to professional, scientific and technical activities (427 people). Only 15 and 77 people from Nepal earned their salaries as IT specialists and hardware experts respectively.

Generally, the Nepalese perform the simplest tasks and sometimes, perhaps due to cultural differences, they use the simplest means, which irritates Poles. This is best reflected in the opinion of Warsaw cab drivers regarding the work performed by foreigners - they complain, among other things, about the unpredictability of Nepalese couriers on the road and a rather casual approach to regulations. There were several cases where they left scooters somewhere between the street and the streetcar tracks, obstructing the passage, and proceeded to the indicated address. Some labour market experts do admit that they heard different opinions about the workers from Nepal. - Last year I happened to be at a fair where one of the employers complained about Nepalese workers. It turns out that certain sectors of the industry consider them troublesome. They find it difficult to learn more complex work. However, in a situation of a significant shortage of workforce, everyone is welcome - admits Prof. Monika Gładoch, an expert at Employers of Poland.

Obviously, money is the reason why we reach out to the Nepalese. They have no excessive financial requirements, which is something that labour market researchers also emphasize. - If so many of them work here, it means that their income satisfies them - says Professor Gładoch.

This makes employers ask about Nepalese themselves. According to Paweł Wolniewicz, operational manager for foreigners at the Wrocław Work Service company, which deals with job placement, entrepreneurs are increasingly turning to it for personnel from Asia, including from Bangladesh or the Philippines. In consequence, employers ask for the Nepalese themselves. According to Paweł Wolniewicz, the foreign operations director at Work Service, a Wrocław-based job placement agency, entrepreneurs are increasingly turning to him for employees from Asia, including Bangladesh and the Philippines.

- 'It's the result of media reports about the German border, potentially opening up to attract Ukrainians', explains Wolniewicz, pointing out that companies want to secure themselves against the outflow of employees and lower production flow. - 'But increased interest is also due to better access to employees. It primarily concerns men, who we are missing on our labour market', he adds.

Stability of employment is another issue. Experts agree that employers are especially interested in foreigners who can provide their services for more than a year. In this respect, the Nepalese are ideal because in their case, going to Poland is a considerable investment of funds and time.

- Future employer undertakes to arrange travel by plane, prepare for the departure and assure proper social and living conditions in Poland. The Nepalese expect stability and fairly close relations with their employer. Therefore, they are very committed to their responsibilities and it is unlikely that they would change jobs. In turn, as it appears from the conversations with the employees from Nepal, a short trip to visit the family takes place only after a year or two of work - says Paweł Wolniewicz.

- **15 December 2019 - Press release by Wirtualna Polska (wp.pl)<sup>23</sup>:**

Nepalese see Europe, not Poland. If they end up in the wrong place, they will be treated like slaves.

The advertisements say that the Nepalese do not flee. They do not deceive the employers. They will not ask for a raise. They are loyal and effective.

Advantages: hardworking, reliable, highly motivated.

Poland, Germany, Spain? It doesn't matter, because they see Europe. Soon they learn it is actually a bottomless pit.

---

<sup>23</sup>'Nepalczyk widzi Europę, a nie Polskę. Trafi źle i będzie jak niewolnik', Wirtualna Polska, 15.12.2019, <https://wiadomosci.wp.pl/nepalczyk-widzi-europe-a-nie-polske-trafi-zle-i-bedzie-jak-niewolnik-6327280066090625a>, accessed 23.02.2020.

Some [agents] make a promise: we will substitute an employee if he or she fails to meet expectations.

Hundreds or even thousands of them come here every year. This has already become commonplace. From Nepal to Poland in search for a better life.

Some come to make upholstery furniture while others chop and pack chickens. All of them look for work and work looks for them. All you need to do is enter in the search engine: work for the Nepalese.

- Employee from Nepal, perfect for manufacturing industry - states the first heading - Careful employee selection, our workers look for jobs with a considerable number of hours, they are loyal, minimum or zero rotation
- announces another one.

When presenting their offers, companies always emphasize the number of acquired personnel. One agency recruited 1500 employees, another 500. It is always 'verified candidates'. Self-confident and reliable. Loyal. First of all loyal

- We give a one-month guarantee for each employee's services - states another description.

It is a highly secure option. You do not have to pay anything if we establish that the employee does not meet the requirements. Or we will provide you with another one.

The advantages include: reliable, diligent, meticulous. - This reflects the Asian upbringing philosophy and environment the employee comes from - states yet another advertisement.

The Nepalese has to prove himself in repetitive tasks. Such as physical work requiring manual skills, perseverance and attention. A belt conveyor? Sounds great.

And finally, the key quality - The Nepalese do not flee - The work permit is reserved for one employer only - states one of the job offers. - A possible change requires a multi-stage and bureaucratic procedure.

Thus, the employer can be sure of their reliability. They say that there are only benefits to this.

Some agencies create an image of some European paradise. They talk about impossible wages. However, the workers do not know it is all fake. Some agents will take the money and disappear. They will not issue any documents or give you false papers that will not be taken seriously by officials.

However, it could get even worse. You can find an agent who will turn out to be a fraud. The travel expenses are gone and the earnings are several times lower than they were supposed to be. The job cannot be changed - you become a slave.

A lot of people don't have sufficient amount of money to pay the agency - explains L. - That's why they take a loan. They come here, and you already know how much they earn.

- 'How much do they have to pay?' - I ask.

- 'Up to 50,000 PLN' - he explains. - What are the options? Gloomy perspective.

Sometimes an essential detail is missing from the ad: the currency. The most important fact for the Nepalese is that they fly to Europe. It does not matter whether it is Poland or Germany. Nobody tells them that 2 thousand zlotys does not equal 2 thousand euro. The difference comes to light upon arrival.

- **12.05.2019 - Press release The Himalayan Times<sup>24</sup>:**

- **Nepal to sign bilateral labour pact with Turkey and Poland**

- With an aim to send workers to those destinations that guarantee to provide minimum wages to migrants, the government has started the process to sign bilateral labour agreements with Turkey and Poland.

---

<sup>24</sup>„Nepal to sign bilateral labour pact with Turkey and Poland”, The Himalayan Times, 12.05.2019, <https://thehimalayantimes.com/nepal/nepal-to-sign-bilateral-labour-pact-with-turkey-and-poland/>, accessed 23.02.2020.

Ram Prasad Ghimire, joint secretary at the Ministry of Labour, Employment and Social Security, informed that the ministry has forwarded proposals to the aforementioned nations.

“We exchanged a draft of a memorandum of understanding (MoU) with Turkey last month,’ Ghimire said, adding that the ministry will soon forward a draft of the MoU to Poland too.

As per him, both the nations have been positive about signing a labour pact with Nepal. “Turkey and Poland have both mentioned about its willingness to hire Nepali migrant workers citing the honesty and hardworking nature of Nepalis,’ Ghimire added.

Earlier, Nepal and Turkey had held talks to hire Nepali migrant workers through government to government (G2G) model for various technical and non-technical jobs. However, negotiations are still underway.

Currently, Turkish and Polish companies recruit Nepali workers through various recruitment agencies. It has been alleged that Nepali recruitment agencies have been selecting workers by charging a huge amount of money from the job aspirants.

Likewise, many people reportedly fly to Turkey and Poland with fake documents every year.

According to the labour ministry, when signing a labour agreement with Turkey and Poland, the government will focus on including major provisions of existing labour pacts that have been signed with other countries, like supplying workers at zero-cost. Moreover, it will ensure that the migrants are provided the minimum wages.

Ghimire also said the government will ensure the employer firms in both Turkey and Poland bear recruitment service charges, two-way airfare, visa fee, health check-up fee, security screening and levy charges of Nepali migrants, among others.

He further informed that the destination countries’ firms or the countries themselves will also have to bear all expenses related to accommodation and provide security at the workplace, among others, during the contract period.

**This information was denied by the representative of the Polish Ministry of This information was not confirmed by a representative of the Polish Ministry of Family, Labour and Social Policy, Department of Economic Migration Policy:**

I have no knowledge of such an agreement, I do not know if the offer was submitted, as the article says. So far, Poland has not concluded any special migration agreements, including agreements guaranteeing employment conditions (but we do conclude, for example, agreements on the coordination of social security systems). As a rule, Polish legislation contains mechanisms for the protection of migrants, including employment agencies (and if I understand it correctly, this also applies to Nepalese intermediaries charging unfair fees).

E-mail correspondence regarding this matter:

• **21.05.2019 - Press release by money.pl<sup>25</sup>:**

According to the Central Statistical Office, 329 thousand work permits were issued in Poland last year. It is a record breaking figure. By comparison, a year earlier there were 236,000 and two years earlier - 127,000. The increase is five-fold compared to 2015. More than two thirds of all permits were issued to Ukrainians, which is not surprising. However, the second place seems somewhat interesting. Suddenly we have the citizens of Nepal, a distant and exotic country.

<sup>25</sup>According to the Central Statistical Office, 329 thousand work permits were issued in Poland last year. It is a record breaking figure. By comparison, a year earlier there were 236,000 and two years earlier - 127,000. The increase is fivefold compared to 2015. More than two thirds of all permits were issued to Ukrainians, which is not surprising. However, the second place seems somewhat interesting. Suddenly we have the citizens of Nepal, a distant and exotic country.

Only last year, as many as 20 thousand of them received permits to work in Poland, which accounted for 6.1% of all issued permits, of which 1.3 thousand were issued in the smallest province in the country - Opolskie. It is close to the German border and probably that is the reason why the Nepalese arrive to this region. (...)

Polish mountains are much lower than the Himalayas, but the economic differences are in sharp contrast to the differences in the tallest national peaks. The gross domestic product per capita of Nepal is 1.47 thousand USD per year, while in Poland it is 23.4 thousand USD. Even if we take into account lower prices in Nepal, the difference in GDP per capita is over ten times greater.

Therefore, it is no wonder that they are looking for a place on Earth that will provide them with a better quality life. Wages in Poland, where prices are slightly higher than in Nepal, appear to be a fantastic opportunity for most of them. In the 1980s we used to treat economic migration to the West the same way.

At the same time, work permits are the most convenient option for a foreigner because, unlike other possibilities, they allow them to work for a long time, up to three years. However, getting one is not that easy. A work permit entitles a foreigner to take up legal work, provided they have a visa or a temporary residence permit, entitling them to work in Poland. (...)

So it is safe to say that Ukrainians, Belarusians and Nepalese repeat the steps of those who migrated to the West in search for better money.

## 6. CONSLUSIONS

1. The inflow of Nepalese workers to Poland is undeniable.
2. The vast majority of Nepalese workers who want to migrate to Poland use services of agents.
3. The main reason why Nepalese workers want to migrate to Poland is lack of well-paid, reputable work in Nepal.
4. Nepalese citizens believe that Poland is as developed country as other European countries.
5. Before leaving Nepal, Nepalese workers have no knowledge regarding the labour law in Poland. This makes them susceptible to manipulation either by agents who are supposed to help them with the migration procedure or by employers in Poland.
6. The workers are not aware that the remuneration proposed to them is not expressed in euro but in Polish zloty, which makes them estimate their income to be 4 times as high.
7. The Nepalese find agents in Nepal on the Internet or following the recommendations of their friends. Sometimes agents actively search for people who seem most likely to go to Poland.
8. Polish government is not interested in simplifying the procedures for entry, stay and work that apply to Nepalese workers.
9. Polish government has never indicated Nepal as a country which can be consider as a source of workforce.
10. Polish government has no specific policy on labour migration. Despite the fact that there are many legal provisions that concern migration in its broadest sense, they cannot be considered a concise policy.
11. Polish labour market suffers from a shortage of people available for work.
12. Nepalese government seems to treat Polish-Nepalese affairs as a tool for creating its policy. Misinformation about this relationship, which is supposed to create a positive perception of Nepalese foreign policy, is commonplace online.
13. The reason why so many Nepalese workers are in Poland is that local employers (mainly temporary employment agencies) needed people to work. Since Poland is not a very prosperous or competitive labour market, Polish agencies began to look for people with a good command of English and low expectations. Their first choice was India, but then they changed their interest to Nepal because people from this country are willing to work for even less money.
14. The Nepalese citizens are served by the Polish embassy in India (New Delhi).
15. The Polish embassy in India suffers from insufficient staffing. Polish authorities are not willing to address this issue. TEAO offered help to resolve this situation, but it was rejected.
16. The process of scheduling visits to the embassy in New Delhi far from being transparent.
17. The time needed to process matters at the embassy in New Delhi is getting longer, which has negative impact on the Polish labour market and the situation of Nepalese workers, as their services become unnecessary before such procedure can be finalized.
18. Polish TEA usually relies on the assistance of Nepalese agents to bring Nepalese workers to Poland.
19. There is considerable social pressure on labour migration in Nepal - including to Poland. Families are keen on sending their relatives to Europe, as this can have a positive impact on their situation.
20. Generally, people migrating from Nepal to Poland need to borrow money from family/friends/banks to pay for agent services and airline tickets. Such loans always come with interest. This is the first benefit of having a family member/friend migrating. By lending him/her money to go to Poland - they earn money themselves.
21. The amounts that Nepalese citizens pay to agents are different. Some of them seem to be honest (500-600 EUR), others inflate prices dishonestly (even 12,000 EUR).
22. Most offers published online by agents do not include service charges. These fees are disclosed to customers in private only.
23. Usually, agents' services include preparing all required documents, but sometimes employees must take care of the visa themselves.
24. The entities involved include agencies in Nepal, either Nepalese or Polish-Nepalese joint ventures, or agencies of other nationalities with strong affiliation with Nepal.
25. The Nepalese agency landscape is unclear. Some respondents (employees, TEA, TEAO) noted that they observe certain aspects of mafia-like activities in the recruitment process.
26. Poland is such a popular destination for migration that most employees do not take other European countries into account. The exception is Portugal, where many Nepalese workers migrate through Poland, usually without prior notice to their employers, resulting in a general lack of trust towards Nepalese workers.

27. Men are more inclined to migrate to Poland because women fear for their safety.
28. Men who migrate to Poland do not plan to settle there to merely improve their financial situation. They plan to return to Nepal and start a family when the time is right. For this reason, it is mainly young men who migrate from Nepal to Poland. Nepal-Poland economic migration is the migration of young men (representative statement of the MFLSS).
29. Agents who organize Nepalese work trips to Poland usually organize them for a group of people.
30. There is a huge discrepancy between the number of work permits issued to Nepalese workers and the number of Nepalese citizens who actually entered Poland. Several factors may contribute to this. First of all, it can be presumed that some Nepalese nationals initiate the procedure of finalizing the migration to Poland but are unable to complete it due to the lack of necessary financial resources required by the agent. Secondly, the reason may be the fact that the agents acting on behalf of Nepalese citizens commit fraud by not handling the client's documents properly. The third reason may be that the whole procedure takes so long that employers are no longer interested in hiring a particular employee.
31. It should be emphasized that some work permits may be issued to persons who already reside in Poland. These persons will not be included in the number of people who have entered Poland, which may cause a slight discrepancy between the number of work permits issued to Nepalese workers and the number of Nepalese citizens who actually entered Poland. Also, some Nepalese workers may receive more than one permit per year but, depending on the duration of the procedure, such a situation is indisputably very exceptional.
32. Due to the relatively high costs and organizational involvement in bringing Nepalese workers to Poland, the employers' requirements towards them are quite high.
33. Nepalese workers agree to all types of work offered to them during migration procedures.
34. The majority of Nepalese citizens are presented with an employment agreement in Polish in the course of migration procedures. Most of them do not understand what they are signing at all. According to Polish law, an employment contract should be prepared in a language the employee understands.
35. Some Nepalese citizens receive an employment contract both in Polish and in English during the migration procedures.
36. Additionally, while Nepalese workers are already in Poland, some of them receive employment agreements only in Polish, but most of them are drawn up in Polish-English.
37. The majority of work permits issued to Nepalese workers concern menial jobs.
38. Most Nepalese workers find work in Poland through temporary employment agencies.
39. The majority of work permits issued for Nepalese workers are short-term. This may be due to the fact that most employers are not willing to hire these people for extended periods of time. Furthermore, since these people work mainly through temporary employment agencies, their permit cannot be longer than 18 months (due to the limitation of temporary work under the Polish labour law).
40. Due to several factors, Nepalese workers are willing to take up very poorly paid work, which can also be very hard. These factors are:
  - determination of Nepalese employees to work;
  - the feeling of vulnerability;
  - unfamiliarity with the law;
  - lack of knowledge of institutions that can help employees protect their rights.
41. Although not all Nepalese workers are fully satisfied with their working and living conditions in Poland, information about their unmet expectations never reaches Nepal. One reason for this may be strong belief that it would be seen as a failure if, after such a great effort as going through the migration process, the main goal was not achieved.
42. The above pattern seems to fit the Nepalese migration from Poland to Portugal, too. Working and living conditions are not much better there than in Poland, but no one will reveal such information, as it would be perceived as personal failure.
43. The Nepalese workers are generally unaware of the differences between employment agreements and civil law contracts, where the latter do not guarantee adequate protection. Most of them work on the basis of a civil law contract, which goes against Polish labour law because their employment meets all the conditions to be qualified as employment on the basis of an employment agreement.
44. The scale of illegal employment of the Nepalese in Poland is relatively small. There is no data on violations of labour law provisions concerning them.



45. Nepalese workers can be split into two internal subclasses - qualified, well-paid workers (usually chefs) and unskilled workers, employed in simple low-paid jobs.
46. The above breakdown also translates into various living conditions. The workers belonging to the first of these groups live in larger cities, most often in apartments rented together with several other Nepalese residents. Their living conditions are fairly good. The workers in the second group work in suburban areas, live in buildings adapted for residential purposes or in crowded single-family houses. Their living conditions are very harsh.
47. Also, the above division refers to the overall situation of employees on the Polish labour market. The first group comprises people who are familiar with their rights, who place specific expectations on employers and did not have to deal with a dishonest agent/employer or who successfully resolved such issues. The second group consists of vulnerable employees, susceptible to abuse, often deceived by a temporary employment agent/employer. These agents/employers know that the possession of employees' key documents as well as the supervision of their validation procedure allows them to dictate the conditions of mutual cooperation.
48. The employees of the latter group entrust their agents with the entire process of legalizing their employment/residence. It is not uncommon for employees not to receive information from the agent about the status of their cases. This makes employees uncertain as to their current residence status. They have no claims against the agent concerning any action, because they do not sign any contract with him/her. This type of behaviour may be due to several factors:
- Previous employment was illegal, so the agent cannot apply for legalization of work and stay successfully;
  - The agent does not want to disclose documents to the employee that prove that his or her stay is legal, fearing that the employee will resign from work without prior notice, which in the case of a temporary employment relationship between three parties may lead to financial penalties imposed by the employer on the agency.
49. Neither the Polish National Labour Inspectorate nor NGOs are prepared to help Nepalese workers who have fallen victim to dishonest agents/employers.
50. Nepalese authorities do not provide their citizens who intend to emigrate to Poland with institutional support, including informative and educational support.

**Entities participating in the process of employing Nepalese people in Poland listed according to the gradation of the most common occurrence:**

The process of legalizing arrival and work in Poland	Working in Poland	Migrating to other European country
<ul style="list-style-type: none"> <li>- Single agent in Nepal or</li> <li>- Recruitment agency/TEA in Nepal or</li> <li>- Polish recruitment agency/TEA operating in Nepal or</li> <li>- Polish recruitment agency/TEA operating in Nepal via Nepalese agent or</li> <li>- Independent actions of employees</li> </ul>	<ul style="list-style-type: none"> <li>- Via TEA or</li> <li>- Directly for an employer</li> </ul>	<ul style="list-style-type: none"> <li>- Independent actions of employees or</li> <li>- Recruitment/TEA agency in Poland or</li> <li>- Recruitment/TEA agency in country of destination</li> </ul>

**RECOMMENDATIONS**

1. Improvement of Nepalese legal awareness, with the following objectives:
- development of the ability to carry out migration procedures on their own;
  - development of knowledge on how to seek information on the legality of the activities carried out by agents and employers.

This process should concern Nepalese workers at the pre-employment stage, which means that this knowledge should be transferred before they get involved with agents who assist in the migration procedure.

2. Raising the awareness of Polish social partners about the need to protect the rights of Nepalese workers.
3. Imposing an obligation on the first host country to inform Nepalese workers about their labour rights.
4. Improving the quality of services offered by Polish government agencies regarding migration and legalization processes.
5. Conducting further research aimed at clarifying the process of hiring Nepalese workers, including:
  - finding the source of discrepancy between the number of work permits issued for Nepalese workers and the number of Nepalese citizens who actually entered Poland;
  - finding information about the activities of agents in Nepal;
  - developing solutions in terms of informing Nepalese workers about their labour rights, who is responsible for the entire process, when it should happen.

# APPENDIX

## PART ONE - ADVERTISEMENTS ADDRESSED TO NEPALESE PEOPLE

### 1. Facebook group with job offers:



Sample job offers from this Facebook group:

**Rnk Chowdary** opublikował ofertę pracy. 25 stycznia o 22:54

**\*\*We are hiring qualified welders to work for our client project in Poland.\*\***

\*Skills required: TIG /MIG WELDERS With minimum 2 years experience and certifications.

\*Candidate should be in Europe

\*Salary: 25pln /hour

\* Accommodation: from employer

\* Transport from accommodation to work : Employer

To Apply: please email your Cv and certificates to info@hdpartnerships.com or Wtsp: +48 579355200

**Job for Welders**  
Warszawa · Pełny etat · 25 zł / godzina

Skontaktuj się

**Yulia Sliusarenko** opublikował ofertę pracy strony Chili Traders - Recruitment. 4 lutego o 11:53

**JOB IN POLAND FOR CHEFS**  
Chili Traders Company is hiring CHEFS.

What we offer:

- employment contract
- full package of documents for legal work in Poland (work permits, job offer letters, recommendation letter etc.)
- assistance in arrival and stay logistics
- decent salary
- the opportunity to gain new professional experience

If you:

- have 5+ years of experience as a Chef
- know European or Continental cuisines
- want to work in Europe
- your English is very good

**CONTACT US**  
to apply - send your CV at our email: rekruter5@chilitraders.com or contact us on Facebook!

**CHILI TRADERS - RECRUITMENT**

**Chef**  
Kraokoe · Pełny etat

Wyślij wniosek

### 2. Facebook profile which helps to make an appointment at the embassy in India

Hungary Iceland Italy  
Latvia Liechtenstein Lithuania  
Luxembourg Malta Netherland  
Poland Poland Portugal

**Poland Appointment**

30 stycznia o 23:21

**Poland appointment for kolkata  
inbox me**

**Poland Appointment**  
30 stycznia o 18:58

**FOR EMBASSY APPOINTMENT**

- 1, Poland wp & poland study
- 2, Germany wp , study , etc
- 3, Czech Republic wp
- 4 , Slovakia
- 5, Portugal wp

Please inbox us we deal all with best price .

### 3. Facebook profile which offers visa & work permit in Poland

**Schengen Visa & Work Invitation**  
Temporary residence permit in 3 Month

We Can Help You With: Temporary Residence Permit, Permanent Residence Permit

+48 512030764

**Poland work permit for Nepali and Nepalese**  
12 listopada 2019

e-Consulate - Ambasada Rzeczypospolitej Polskiej w New Delhi  
We are Glad to introduce you our service to assist get appointment date in Poland Embassy!  
If you want to work or study in Poland, we will get your appointment as fast as soon!  
We helps with Embassy in:  
India (New Delhi/Mumbai)  
Dubai,  
Malaysia (Kuala Lumpur)  
Azerbaijan (Baku)  
We guarantee:  
✓ fast service  
✓ no fraud  
✓ no prepayments  
✓ you pay only after you confirm appointment date on email from Embassy  
Contact us via PM message/email:  
rayeducongroup@gmail.com  
WhatsApp: +48 512030764  
Office location: India and Ukraine and Warsaw

**Poland work permit for Nepali and Nepalese**  
10 listopada 2018

Poland work permit for Nepali and Indian and Bangladeshi all types work permit of visas  
WORK PERMIT- POLAND AND TRC  
all types of visas, work and business TRC.  
Quality guarantee. Best service. Experienced Lawyers, No Language Barriers, Low Prices  
WhatsApp/Viber/Imo: +48575381223  
rayeducongroup@gmail.com  
Please note: no comments please we don't have time to reply all comments sorry so please add our number or send private message on Facebook.

### 4. Job advertisement from nepalijob.com

(<https://nepalijob.com/jobs/poland-jobs-packer-job-demand-from-europe-schengen-country-poland/>)

The advertiser was requested to search for employees for the Polish Chamber of Foreign Trade:

Copy of Demand From Polish Chamber of Foreign Trade:

**DEMAND LETTER**

Dear Sir,  
We require the under mentioned category of works for immediate employments in Republic of Poland. We request you to select and recruit the following suitable personnel for our company from Nepal as per details given below. As such we shall be very grateful if you could urgently send us the passport copies and certificates.

PROFESSION	Gender Male	Gender Female	No. Total	Basic Salary
Packer	200	100	300	EURO 550 gross

Term & Condition as follows:

- Place of Employment : Poland ✓
- Period of Contract : 2 years & renewable ✓
- Probation Period : 3 Month ✓
- Working hours/days : 8 hours daily / 6 days per week ✓
- Food : Not provided by the company ✓
- Accommodation : Provided by the company ✓
- Transportation : Provided by the company ✓
- Leave Benefit : As per Polish Labour Law ✓
- End of service Benefits : As per Polish Labour Law ✓
- Medical : As per Polish Labour Law ✓
- Overtime : As per as the company rule ✓
- Air Ticket : One way air ticket will be provided after complete the contract. ✓
- Residence Permit Cost : Provided by the company ✓
- All other terms and conditions : As per as the Polish Labour Law ✓

The salary is paid of the end each month.

Very Truly Yours,  
Ref. No. 4298/17  
The POLISH CHAMBER OF FOREIGN TRADE hereby certifies that Mr. Michael Krawiec and Mr. Gama Holding Sp. z o.o. are authorised to sign on behalf of Gama Holding and that their signatures are authentic.



## 5. Facebook profile which offers visa & work permit in Poland



**Poland work Permit For Nepali z: Au Pair Germany.**  
7 kwietnia 2018 · 🌐

Job vacancy in Poland, Katowice , warsaw.

Services.

- Job with good salary in chicken factory/packing products /Green House /
- With Accommodation
- company will pay Tax /ZUS and make Polish TRC card. (Residence Card)
- company will help you for getting visa. And every process..

contract with us.....

## 6. Single job offer

**Vishal Singh** ▶ NEPALESE LIVING IN POLAND  
3 godz. · 🌐

Wanted  
Looking for professional chef for an Indian restaurant in Poznan. Very high salary and friendly working environment. Salary would be around 3500-5000 netto depending on individual experience. We will provide you work contract umowa praca and medical insurance will also be included in this. We will also provide a place to live.

Note:- Message me on messenger or you can call me on 505893457 and please reply or call only if you have a experience in this field.

7 · 4 komentarze

Lubię to! · Komentarz · Udostępnij

**अशोक भुपाल** I think now in only dishwashers its 3500 zł and you are saying 3500-5000 for chef. 😂😂😂😂😂

Lubię to! · Odpowiedz · 2 godz. · Edytowano

**Bibek Namikaze** अशोक भुपाल 😂 out of Warsaw is still a diff story hajur

Lubię to! · Odpowiedz · 50 min

**Bibek Namikaze** Ashok firstly learn to write correctly to make fun of someone else 😂 and ok I will work.as a dishwasher if you can give me 5000 per month 😂 with palace to live and all Doc's as this guy is saying if you can't then stop showing your teeth 😂 Kura bujhnu sujhnu xoena yar kathae Bari lae lae 😂

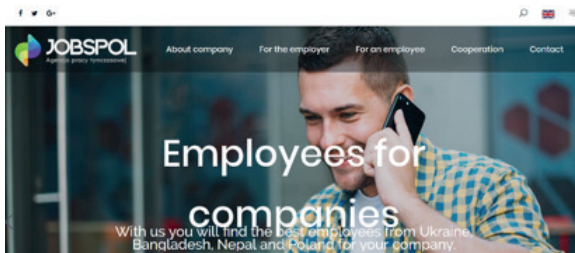
Lubię to! · Odpowiedz · 17 min

**अशोक भुपाल** Bibek Namikaze bro i cannot give you. But you know 17 zł per hour is minimum and 20 days urlop. 160 hr per month and after 160 hour you can get 1.5times more. Maybe you have to know this

Lubię to! · Odpowiedz · 9 min

## PART TWO - INFORMATION FROM POLISH TEMPORARY EMPLOYMENT AGENCIES/ RECRUITMENT AGENCIES WHICH OFFER TO RECRUIT NEPALESE WORKERS

### 1. JOBSPOL



### Recruitment and employment of temporary workers from Ukraine, Bangladesh, Nepal and Poland

JOBSPOL as a temporary work agency provides professional services in the field of **recruitment and employment of temporary workers from Ukraine, Bangladesh, Nepal and Poland** throughout Poland.

We have an extensive database of qualified employees of Ukrainian nationality and not only interested in working temporarily in our country. Our advantage is the **low cost of cooperation and extensive accommodation**, which completely eliminates the problem of employee accommodation.

### 2. Work4us

-tel 87 660 72 57 · e-biuro@work4us.com.pl

**Work4YOU** · O nas · Usługi · Dla firm · Co oferujemy · Kontakt

### Pracownicy z Indii, Bangladeszu, Nepalu

Jako Agencja Pracy Tymczasowej Work4u You bazująca na wieloletnim doświadczeniem oferujemy firmom nowe możliwości rekrutacyjne. Podjęcie współpracy z osobami z krajów azjatyckich to przede wszystkim stabilność zatrudnienia oraz możliwość pozyskania pracowników zmotywowanych do pracy i sumiennego wykonywania swoich obowiązków.

Zatrudniając pracowników z Azji zyskujecie:

- Zwiększenie wydajności pracy
- Dużą stabilność i pewność zatrudnienia
- Zmniejszenie kosztów rekrutacyjnych wynikających z większej stabilności zatrudnienia
- Swobodną komunikację, dzięki stałej opiece osoby ze znajomością języka angielskiego
- Ogromne możliwości rekrutacyjne.


Jako sprawdzony dostawca usług w obszarze nowoczesnego i efektywnego zarządzania zasobami ludzkimi w ramach świadczonych usług zajmujemy się:

- rekrutacją
- obsługą wdrożeń pracowników
- transferem pracowników z Indii do Polski, a także z lotniska na wyznaczone kwatery pracownicze
- wynajmem mieszkań pracowniczych
- obsługą zatrudnienia pracowników
- adaptacją i koordynacją pracowników
- ilustracjom dokumentów

### 3. Work4Time



- ✓ Strona Startowa
- ✓ Oferty Pracy
- ✓ O Firmie
- ✓ Dla kandydatów
- ✓ Dla pracodawców
- ✓ Pracownicy z Nepalu
- ✓ Kontakt



## Pracownicy z Nepalu

### Outsourcing pracowników z Nepalu

Jesteś pracodawcą i chciałbyś **legalnie wynająć pracowników z Nepalu?**

Agencja Pracy **Work4Time** to dobry wybór. Organizujemy pracowników m.in. z Nepalu. Zapewniamy pracowników z różnych branż. Siła pracownicza, charakter pracowników z Azji Południowej jest ceniona na wielu światowych rynkach pracy.



### 4. Easy HR



**easyhr**    O Nas    Leasing    Dlaczego My?    Kontakt

## Zalety Współpracy

Braki kadrowe to poważny problem większości pracodawców w Polsce. Pracownicy z Ukrainy, Białorusi, Nepalu, Indii, Bangladeszu, Gruzji i Azji to kandydaci z wysoką motywacją i zaangażowaniem - praca w Polsce oznacza dla nich nie tylko wielokrotny wzrost wynagrodzenia, ale również wzrost jakości życia dla nich i ich rodzin oraz perspektyw na przyszłość. Wszyscy nasi pracownicy są zatrudnieni legalnie.



# CASE STUDY NEPAL

Rameshwar Nepal



# INTRODUCTION

Around 500,000 Nepalese join the Nepali labour market every year.<sup>1</sup> Even though the Constitution of Nepal recognizes right to employment and labour as fundamental rights<sup>2</sup>, of those joining the labour market every year only few thousand get employed inside the country. As a result, over 1,500 Nepali migrate abroad every day for work in the hope of seeking a better life for themselves and their families.

Some of them are able to make some income and run their family expenses or make some savings, but a large number get into varieties of problems amounting to exploitation, force labour and human trafficking.

## 1. NUMBER OF LABOUR APPROVAL ISSUED

The official data of Nepal government as of 16 July 2019 shows labour approvals were issued for 5,370,820<sup>3</sup> Nepali citizens. In the fiscal year 1993/94, a total of 3,605 labour approvals found to have issued for those intending to migrate for foreign employment and 20 years after in the fiscal year 2013/14, the number acquiring labour approvals reached 519,638.<sup>4</sup> Including the number of people acquiring re-permit and those migrating for foreign employment through informal channel takes the number to more than 750,000 annually. As the records of those migrating for employment in India is not maintained, this number would become higher if the number of those going to India is also added to it. Altogether 4,162,166 labour approvals were issued in last 10 years only.

**Table 1:** Number of labour approvals issued in last 10 years

Year	Female	Male	Total
2008/09	8,594	211,371	219,965
2009/10	10,056	284,038	294,094
2010/11	10,416	344,300	354,716
2011/12	22,958	361,707	384,665
2012/13	27,767	423,122	450,889
2013/14	29,121	490,517	519,638
2014/15	21,412	477,690	499,102
2015/16	18,467	385,226	403,693
2016/17	20,105	362,766	382,871
2017/18	22,419	331,679	354,098
2018/19	20,578	215,630	236,208
<b>Total</b>	<b>211,893</b>	<b>3,888,046</b>	<b>4,099,939</b>
<b>Total of EPS Korea (from 2008 to 2019)</b>	<b>3,710</b>	<b>58,517</b>	<b>62,227</b>
<b>Total Including EPS Korea</b>	<b>215,603</b>	<b>3,946,563</b>	<b>4,162,166</b>

Source: Nepal Government, Ministry of Labour, Employment and Social Security, Nepal Migration Report 2020, Page 4 and 12.

## 2. CONTRIBUTION OF LABOUR MIGRATION IN ECONOMIC SECTOR

Nepali migrant workers make a considerable contribution to Nepal's economy with nearly 30 per cent of the country's Gross Domestic Product (GDP). In the recent fiscal year 2018/19, Nepal received remittance worth 879 billion 2.7 million rupees<sup>5</sup> sent by the migrant workers. According to Nepal Rastra Bank this amount is equivalent to over 25.9% of the gross domestic product (GDP).

<sup>1</sup>Economic Survey, 2019: Government of Nepal, Ministry of Finance, p. 61.

<sup>2</sup>Constitution of Nepal, Article 33 and 34 respectively.

<sup>3</sup>Government of Nepal, Ministry of Labour, Employment and Social Security (MoLESS), Nepal Migration Report 2020, Page XV, 4, and 12.

<sup>4</sup>Government of Nepal, Ministry of Labour, Employment and Social Security (MoLESS), Nepal Migration Report 2020, Page XV

<sup>5</sup>Nepal Rastra Bank Website, [https://www.nrb.org.np/ofg/current\\_macro-economic/1.%20CMES%20Annual\\_%20Nepali%20Final%20Compilation%202075-76-Updated.pdf](https://www.nrb.org.np/ofg/current_macro-economic/1.%20CMES%20Annual_%20Nepali%20Final%20Compilation%202075-76-Updated.pdf)

A total of 55.8% of the households in Nepal receive remittance<sup>6</sup>. According to a study of the World Bank, Nepal stands in the third position among countries receiving the highest amount of remittance.<sup>7</sup>

In the present situation where employment is not generated in the country for those Nepali entering the Nepali labour market every year, foreign employment is the only significant measure to resolve the problem of unemployment at the moment. For many Nepali families, remittance has had an important contribution to meet their daily needs or maintain one's future (for example, spending in children's education, buying land, construction house or investment in small businesses). Due to foreign employment, it has not only provided those seeking to address unemployment or alternative employment a kind of alternative but also brought into Nepal, skills and expertise from abroad.

### 3. COUNTRIES OPENED FOR EMPLOYMENT

Nepali nationals can seek employment in any countries across the world, except in those prohibited by the government of Nepal. The Government of Nepal has opened 110 countries/territories for labour migration through recruitment agencies (see Annex-1) to go for employment in an institutional manner. Of them, currently 3 countries<sup>8</sup> have been halted. According to Nepal government's highly placed officials, Nepali nationals have taken individual labour approval to 172 countries so far.

### 4. MAJOR DESTINATIONS

The labour migration from Nepal is heavily concentrated in the GCC and Malaysia. Out of total labour approval issued from Nepal, the volume of those going to 6 GCC and Malaysia found to be as much as 95%. For example, according to Economic Survey 2018/19, labour approvals were issued for 4,365,415 by 2017/18 of which 4,192,079 were for 6 GCC countries (Qatar, Saudi Arabia, United Arab Emirates, Kuwait, Bahrain and Oman) and Malaya which constitutes 96.03% of total<sup>9</sup>.

### 5. LABOUR SECTOR WHERE NEPALI WORKERS GO

Majority of the people going for foreign employment from Nepal go to work in the construction, production sectors and for domestic work, of which most are recruited and sent for work without sufficient skills or technical knowledge about the related work. According to data maintained by the DoFE, as of Fiscal Year 2013/14, of those going for foreign employment 74% are unskilled (low-skilled), 12% are semi-skilled, 14% are skilled and 1% are highly skilled or professional.<sup>10</sup> In 2017/18, the percentage of low-skilled workers acquiring labour approvals was 64 and in 2018/19 it was 59%<sup>11</sup>.

### 6. WAYS IN PRACTICE FOR MIGRATING

Basically, people go or are taken for foreign labour employment in 5 ways. That includes:

- 1. Third countries<sup>12</sup> with institutional labour approval:** Nepalis wishing to go for foreign employment are provided labour approval to 110 countries (currently 107 countries as 3 amongst them are currently on hold) through institutional labour approval (i.e. labour approval through foreign employment agencies)
- 2. Third countries with individual labour approval:** Labour approval is issued in an individual labour approval to any countries across the world except in those prohibited by the government of Nepal. Those going with individual labour permit find work on their own or through their relatives and go by acquiring labour approval.
- 3. Through Nepal government:** As per Government to Government (G to G) Memorandums of Understanding (MoU) of Nepal government with other countries, Nepal government itself recruits and sends Nepali workers abroad. Hence this is another way of migrating for foreign employment.
- 4. Migrating to India using the porous border:** The 1950 treaty between Nepal and India provides that the citizens of both countries can freely travel to one another's territory, run trade and business, purchase and sell property and reside<sup>13</sup>. As a result, Nepalis can easily go to India for employment. Nepalis do not need to acquire labour permit in order to go to work in India, and it is regarded to be legal.

<sup>6</sup>Central Bureau of Statistics, Nepal Living Standards Survey 2010/11, Statistical Report Volume Two, November 2011, p.78. <https://cbs.gov.np/>

<sup>7</sup>World Bank, Migration and Development Brief No. 23, 2014

<sup>8</sup>Labour approvals are currently not provided to Iraq, Libya and Afghanistan (excluding the green zones). Source: DoFE website, <http://DoFE.gov.np/recognized.aspx>, accessed on 28 March 2020

<sup>9</sup>[https://mof.gov.np/uploads/document/file/compiled%20economic%20Survey%20english%207-25\\_20191111101758.pdf](https://mof.gov.np/uploads/document/file/compiled%20economic%20Survey%20english%207-25_20191111101758.pdf), Page 44

<sup>10</sup>Labour migration for foreign employment, Status report of Nepal 2015/16 - 2016/17: GoN, MoLESS, April 2019, p.52

<sup>11</sup>Government of Nepal, Ministry of Labour, Employment and Social Security (MoLESS), Nepal Migration Report 2020, Page 98

<sup>12</sup>The countries other than India.

<sup>13</sup>Peace and Friendship Treaty reached between Nepal and India, available at <https://mea.gov.in/bilateral-documents.htm?dtl/6295/Treaty+of+Peace+and+Friendship>

**5. Third countries unofficially/informally (going/taken without labour approval):** There is practice of workers going or being taken to the third world countries for employment in an unofficial way including via open border with India or on a Visit VISA or through other means. Going through an unofficial or informal manner is not considered a legal way of migration.

Amongst the 5, the first 4 are the official or formal way while the 5th is not considered as a legal way of migrating abroad for the employment.

## 7. MODE OF OBTAINING LABOUR APPROVAL

Migrant workers obtain labour approvals either through recruitment agencies or individually. The most commonly used mode of obtaining it is via Recruitment Agencies (RA) which is called 'Institutional Labour Approval'. Some workers acquire labour demand and working visa directly from employer and obtain labour approval which is called 'Individual Labour Approval'.

Over 90 % of the workers go with institutional labour approval while remaining are found to go on the basis of individual labour permit.<sup>14</sup>

## 8. INSTITUTIONS RELATED TO FOREIGN LABOUR MIGRATION GOVERNANCE

### 8.1. Governmental institutions

- (A) Ministry of Labour, Employment and Social Security (MoLESS):** MoLESS is the apex body of labour migration governance with the overall responsibility of formulating policies, laws and guidelines in the management and regulation of labour migration in Nepal. Within the MoLESS, the Employment Management Division has the responsibility of overseeing labour migration related portfolio of the Ministry.
  - (B) Department of Foreign Employment (DoFE):** The DoFE is the key regulatory institution under MoLESS responsible for a range of management and regulatory activities including the oversight and monitoring of private sector actors involved in the recruitment process, issuances of labour approvals, migrants' grievance handling and coordination of their repatriation when needed.
  - (C) Foreign Employment Board (FEB):** The FEB (formerly known as Foreign Employment Promotion Board - FEPB) carries out the welfare-related activities for migrant workers and their families including financial relief in cases of death and injuries as well as management of various activities aimed at making migration safe and productive including skill development, orientation and returnee integration programs. Both DoFE and FEB also provide inputs for policy reforms based on lessons from implementation.
  - (D) Foreign Employment Tribunal (FET):** The FET is a semi-judicial body that provides justice to the victims of fraudulent migration practices in an easy and fast track manner.
  - (E) Labour and Employment Offices:** The province-based Labour and Employment Offices under the Labour and Occupational Safety Department renew labour approvals of migrant workers.
  - (F) Labour Desk:** The Government of Nepal has established a Labour Desk at the Tribhuvan International Airport in order to check whether the pre-departure procedures have been fulfilled by the worker going for foreign employment. The labour desk examines whether the worker is carrying the labour permit, the orientation certificate, receipt or voucher of payment of various fees (welfare fund, recruitment and service fee).
  - (G) Labour Attaches:** The Foreign Employment Act (section 68) requires the appointment of a labour attaché in destination countries where 5,000 or more Nepali migrant workers are based.
  - (H) Vocational and Skill Development Training Academy (VSDTA):** The VSDTA is responsible for carrying out skills development initiatives to enhance the employability of Nepali nationals in both domestic and international labour market.
- In addition, there are other stakeholders involved in migration governance.
- (I) Ministry of Foreign Affairs (MoFA):** The MoFA plays an important role in strengthening labour diplomacy, as part of its foreign policy, with major countries of destination and extends support to migrants through its agencies based in Nepal and the Countries of Destination (CoD).

---

<sup>14</sup>Government of Nepal, Ministry of Labour, Employment and Social Security (MoLESS), Nepal Migration Report 2020, Page 22

- (J) Department of Consular Support (DOCS):** The DoCS provides coordination and facilitation for search and rescue, repatriation of dead bodies, financial relief of death and disability, grievance handling and handling of insurance-specific issues.
- (K) Immigration Department:** The Immigration Department keeps records of the exit and arrivals of Nepali migrant workers and regulates departure and arrival activities.
- (L) Diplomatic Missions:** The Diplomatic Missions provide supports to migrant workers in the CoDs and coordinate between the migrant workers and employers as well as between migration-related agencies in the CoD and in Nepal.
- (M) Nepal Rastra Bank (NRB):** The NRB manages and regulates the remittance industry while keeping records and conducting research on various aspects of remittances. In addition, the NRB affiliated Public Debt Department oversees the Foreign Employment Saving Bond scheme.
- (N) Provincial and Local Government:** In the context of localization, Local and Provincial Government also have an increasingly important role to play in migration governance given their proximity to the migrant workers and their families.

### 8.2. Regulatory and Oversight Mechanism

- (A) Parliamentary Committee on Industry, Commerce, Labour and Consumer Interest:** The Parliamentary Committee is one of the thematic Committees in the Legislative Parliament, that provides direction and guidance to the Government on various matters including labour migration-related issues.
- (B) National Human Right Commission (NHRC):** The NHRC is active in the promotion and protection of human rights of migrant workers, both in Nepal and selected destination countries via advocacy, research and collaboration with human rights institutions of other countries.

### 8.3. Private Sectors

Recruitment from Nepal is largely led by the private sector and hence, includes a series of private sector players throughout the recruitment process. Those private sector includes:

- (A) Recruitment Agencies (RA):** RA play an important intermediary role between the employer in CoDs and the Nepali workers by facilitating job search, matching workers with employers and fulfilling the required documentation process.
- (B) Sub-agents:** The first point of contact for almost all those who go on institutional labour permit and through informal channel (without labour permit or through the porous border with India) for foreign employment to third country are the local agents. The agents were found to 'win the heart' of the aspirants by sharing them attractive things about foreign employment in the initial meetings.  
There are reportedly more than 60 thousand such agents in the country. Until the amendment in law in March 2019, the agencies could mobilize only those agents, who were registered, for the mediate recruitment of workers. But until then too, the number of registered agents were only around a thousand. After the provisions relating to agent was repealed in March 2019, all the works of agents have now become "illegal". However, agents are found to be working in same amount as of previous.
- (C) Orientation Training Centers:** The orientation centers equip outgoing migrant workers with necessary information about foreign employment process, legal provisions, travel information, support mechanism and other safety and security measures related to foreign employment prior to their departure.
- (D) Medical Centers:** Medical centers conduct medical tests and furnish health certificates to ensure that the outgoing workers are medically fit.
- (E) Insurance Companies:** Insurance companies provide mandatory term-life insurance for outgoing migrant workers as per the relevant laws.
- (F) Banks and Financial Institutions:** Bank and financial institutions facilitate the payment of migration-related costs and are also involved in various aspects of migration cycle including recruitment (insurance), employment (transferring remittances) and return (soft loans).
- (G) Skills Development Training Centers:** Skills development training centers provide a range of job-specific skills training for outgoing migrant workers.

## 9. LAWS AND POLICIES

### 9.1 Foreign Employment Policy 2012:

The Foreign Employment Policy aims to ensure safe, organized, dignified and reliable foreign employment to help reduce poverty along with sustainable economic and social development through economic and non-economic benefits of foreign employment. The policy reflects a number of provisions enshrined in international conventions as well as domestic laws and policies.

### 9.2 Foreign Employment Act (FEA), 2007:

The FEA, 2007 is the apex regulatory document governing foreign employment in Nepal. The Act aims to make the foreign employment safe, managed and decent, and protects the rights and the interest of the migrant workers and the foreign employment entrepreneurs while promoting that business. As the regulatory body, DoFE is the key institution responsible for the implementation of the Act and Rules.

### 9.3 Foreign Employment Rules, 2008:

Foreign Employment Rules, 2008 promotes the security and welfare of foreign labour migrants, with provisions for the protection of their rights and for the regularization and monitoring of the businesses that facilitate the migration process. The provisions include creation of the Foreign Employment Welfare Fund, insurance coverage, pre-departure orientation and training, compensation to migrant workers and their families, rescue and repatriation of migrant workers and repatriation of workers' income. In addition, it specifies the provision of monitoring mechanisms, such as a facility at the international airport, a mechanism to receive, investigate and adjudicate complaints as well as a tribunal to settle cases and penalize perpetrators.

## 10. GUIDELINES AND DIRECTIVES

### 10.1 Directive on Foreign Employment Related Demand Letter Attestation, 2018:

It is mandatory for recruitment agencies and foreign companies, seeking to recruit Nepali migrant workers, to get their Workers Demand Letters approved by the Nepali foreign missions based in countries of destination or by the Nepali mission based in other country but responsible to look after the concerned countries of destination.<sup>15</sup>

### 10.2 Guidelines Related to Managing Domestic Workers going for Foreign Employment, 2015:

Government of Nepal adopted various labour migration policies specifically targeting women and the domestic work sector. Prior to 2010 for example, all women's migration to the Gulf for low skilled work was restricted. After a period of open regular migration channels, in August 2012, the Government of Nepal announced a new ban on women under the age of 30 years from migrating to the Arab States for domestic work.

In 2014 the age ban was temporarily expanded, stopping women of all ages from migrating for low-skilled work through the regular channels in Nepal, regardless of the country of destination. Then, in 2015 the Government of Nepal issued a new directive<sup>16</sup>, reopening regular migration channels for women migrant domestic workers, 24 years of age and older, wishing to work in certain destination countries in the Arab States and South-East Asia.

The third amendment of the guideline in 2017 imposes total ban in going domestic work in the countries which Nepal has not done labour agreement.

## RECRUITMENT PROCESSES

Nepal's Foreign Employment Act, 2007 and Foreign Employment Rules, 2008 have explained the process of recruitment of workers for employment abroad (other than India). One wishing to work abroad has to obtain labour approval from Nepal government. There are three types of labour approvals:

1. Individual Labour Approval: Any individual going for foreign employment after seeking employment on his/her own and reaching an employment contract with the employer abroad gets "Individual" Labour Approval,

<sup>15</sup>Directive on Foreign Employment Demand Letter Attestation, 2018, endorsed by Nepali Cabinet of Ministers on 7 May 2018 and published in Nepal Gazette, Section 68, Part 5, dated 14 May 2018, retrieved from <http://rajpatra/dop/gov/np/welcome/book?ref=23328>

<sup>16</sup>Guidelines Related to Managing Domestic Workers going for Foreign Employment, 2015:

2. Institutional Labour Approval: Any individual being recruited by the Recruitment Agency gets “Institutional” Labour Approval,
3. G to G Labour Approval: Migrant workers being recruited by the Nepal government as per Nepal government’s agreement with the government of destination country (which is called G to G agreement) will get G to G permit.

**(A) Steps to follow to get Individual Permit:**

- Step 1: Firstly, the prospective worker has to have an employment contract (offer letter) with the employer and the work visa. The employment contract has to mention type of job, basic salary, accommodation, working days and hours, holidays and other benefits.
- Step 2: Then the employer has to submit necessary papers including copy of employment contract (offer letter) and visa in the Nepalese Embassy based in the Country of Destination (CoD) or Nepal Embassy responsible to look after that CoD. (Nepalese Embassy in Germany is responsible to look after Poland as there is no Nepalese Embassy in Poland)
- Step 3: The Nepalese Embassy checks all the documents submitted and does attestations. The embassy then emails the scanned copy of the attested documents to Foreign Employment Office, Kathmandu. On the other hand, the employer has to send the original copy of attested documents to the prospective migrant workers in Nepal.
- Step 4: The prospective worker has to, then, do health check-up, attend Pre-Departure Orientation Training and the insurance. She/he in addition has to pay the fee for Welfare Fund.
- Step 5: The prospective migrant worker has to submit application for Labour Approval for which she/he has to go to the Foreign Employment Office (FEO) herself/himself along with the original copy of papers attested by the Nepalese Embassy, certificate of health check-up, certificate of attending orientation training, copy of insurance paper and receipt of payment of welfare fund. The FEO cross-checks the papers submitted against the email they received from the Nepalese Embassy and provides labour approval.

**(B) Steps to follow to get Institutional Labour Approval (i.e. labour approval through Recruitment Agency):**

- Step 1: Recruitment Agency (RA) obtains demand for workers in destination country.
- Step 2: Employer in the Country of Destination (CoD) goes and submit the labour demand (together with other papers) in Nepali Diplomatic Mission based in the same country or the one which looks after the country (in case of Poland, the Embassy of Nepal in Germany is responsible to certify the labour demand as there is no Nepali embassy in Poland and Embassy in Germany is responsible to look after Poland).
- Step 3: The embassy then attests the labour demand and uploads the scanned copy of the attested papers on Nepal government’s online system. Embassy gives the original copy to the employer. Employer sends the original copy of the attested documents to the recruitment agency in Nepal.
- Step 4: The recruiter in Nepal goes to Foreign Employment Office (FEO), Kathmandu and submits application seeking Pre-approval to start the recruitment process. While submitting application for Pre-approval, it submits the copy of paper attested by the Nepalese embassy, labour contract, and other papers. FEO cross-checks the documents against what has been uploaded by the Nepalese embassy. Then it provides prior approval to the RA to begin the process of recruitment.

(Note: Once the pre-approval is provided, the DoFE uploads the information on its website which can be cross-checked by entering the lot number to be published in advertisement by the recruiter. The screenshot I have inserted here an example pre-approval details that uploaded on DoFE’s site which I reached by entering the lot number published in an advertisement by a recruiter named Diamond Overseas - See the copy of advert below)

- Step 5: RA Publishes advertisement for workers’ recruitment in national newspaper, in the format that the DoFE has instructed. (See the sample of advertisement<sup>17</sup>)
- Step 6: RA Fulfils the worker selection process. Normally interview and practical tests of applicants are done. If the labour demand is for the skilled work, then the worker has to submit skill certificate and workers have to undergo skill test too.



<sup>17</sup>Available at <https://www.facebook.com/1228791797238309/photos/a.1231532286964260/1375344752583012/?type=3&theater> accessed on 27 March 2020.



- Step 7: Successful candidates have to do health check-up and have to get certificate.
- Step 8: Employer fulfils the Visa process and obtains visa for those selected candidates.
- Step 9: Employer and worker sign the employment contract.
- Step 10: Workers have to attend pre-departure orientation training
- Step 11: Worker's insurance is done and payment of contribution to the welfare fund is made.
- Step 12: RA submits all the related papers (employment contract, copy of visa, health check-up certificate, insurance paper, certificate of orientation training, receipt of payment of welfare fund etc). The FEO then provides labour approval (which is called "final labour approval").
- Step 13: RA hands over the passport and labour permit papers to the workers
- Step 14: RA arranges flights and sends the worker abroad.

### (C) Steps to follow to get G to G Permit:

It may vary depending the provision in G to G agreement between Nepal government and government of destination country. Such steps include language test to health check-up, payment of insurance and welfare fund. All the processes under the G to G arrangement is managed by the Nepal government. Nepal government has such type of G to G agreement with South Korea and Israel.

## RECRUITMENT PRACTICES

More than 90 % of those going for foreign employment with labour approval are found to be recruited by the licensed recruitment agencies. On the other hand, among those going with institutional labour approval are linked to local sub-agents, who pay the role of a middle-person for it. A study of National Human Rights Commission (NHRC)<sup>18</sup> shows 94.5% of workers going abroad were mediated to the RA by the local sub-agents or the sub-agents had made an arrangement to reach them to the destination country informally.

The service of the foreign employment agency and sub-agent have proved to be useful for those who choose foreign employment considering that there is no easy and alternative means of income generation in the country. Due to the service of the sub-agent and agencies, hundreds of thousands of Nepalis have found it easier to be linked with foreign employment. With this, they have been able to make some income and run their family expenses or make some savings for the future. Hence, the foreign employment entrepreneurs have an important role in addressing momentarily the severe problem of unemployment in Nepal.

Though all the entrepreneurs involved in this sector are not indulged in fraudulent practices, there have been incidents where the migrant workers are recruited with false promises and are not only exploited and cheated but are also illegally transported or trafficked for forced labour and exploitation. The research of NHRC Nepal shows 76.74 % had face one or all the problems as mentioned below:

1. Payment: Not paid as promised, not provided with food expenses or for additional work, not paid at all, not paid on time, pay deducted or withheld etc.
2. Type of work: Not given work as promised,
3. Working hours: Forced to work for more working hours than the labour standard,
4. Unpaid overtime work: Not paid for overtime work.

Even though government mechanism and special legal provisions are in place to stop the excesses taking place against those going for foreign employment and to regulate and manage the overall foreign employment sector, their role has not been found to be effective in protecting the rights of the Nepali workers and in stopping such excesses carried out by the entrepreneurs. Various limitations and obstruction were found in the access to justice of those who have suffered exploitation and excesses.

Those going with individual labour permit are also found to have faced problems during foreign employment. However, the proportion and vulnerability of those going with institutional labour approval (through agencies) is higher compared to those with individual labour approval.

<sup>18</sup>National Human Rights Commission, Nepal, Situation of the Rights of Migrant Workers: Research Report on Recruitment Practices and Access to Justice, 2019. Available at [https://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/Research\\_Report\\_MigrantWorker\\_Situation\\_com-press\\_2073-03-31.pdf](https://www.nhrcnepal.org/nhrc_new/doc/newsletter/Research_Report_MigrantWorker_Situation_com-press_2073-03-31.pdf)

## 1. FRAUDULENT PRACTICES OF THE FOREIGN EMPLOYMENT ENTREPRENEURS

**1.1 Charging of Exorbitant and illegal Fee:** Charging of illegal and exorbitant fees is the major problem. As per the policy of Free VISA Free Ticket in the case of 6 countries in the gulf and Malaysia, a maximum of 10 thousand rupees can be charged while different amount has been prescribed for other countries. However, the entrepreneurs were found to violate that and charge the workers excessively.

**1.2 Not providing receipt or receipt of full amount:** The workers are entitled to a receipt of the amount they pay. But in practice it is not implemented. When workers pay, the recruiters either don't give a receipt or even if they give, don't give it against the full amount paid. After the enforcement of the "Free VISA. Free ticket" policy, the entrepreneurs kept charging the workers huge amount as previously but give receipt for only the prescribed amount saying "we cannot issue a receipt of more than 10 thousand."

**1.3 Deception in remuneration and facilities:** The common problem that many migrant workers face is the fraud in remuneration and facilities. Though a certain amount had been promised during the recruitment, they are forced to sign a contract either for a lesser amount or they are not provided the said amount upon reaching the destination country. NHRC's research shows 55.63% facing this kind of problem.

**1.4 Salary deduction and withholding:** The employers were found to have been holding the salary of the workers, as a result of which they were forced to work in order to get that payment.

**1.5 Deception in the nature of work:** Having to do a work upon reaching the destination country which is different to what the agency in Nepal had said or what is mentioned in the labour permit and contract is another major problem. NHRC's research shows 36.7% facing this kind of problem.

**1.6 Different Employer:** Workers were also found to have been sent to an employer that was different to what was told before or changed the employer in between.

**1.7 No payment for overtime work:** NHRC's research shows 56.39% of migrants facing this kind of problem.

**1.8 Deception in provision of food or food expenses and accommodation**

**1.9 Fraud in Employment Contract:** NHRC's research shows 62.68% of migrants facing this kind of problem.

**1.10 Multiple or fake contract**

**1.11 Recruiting workers through unregistered agents:** The people wishing to go for foreign employment are linked to the agencies by the local individual agents and the agency recruit them after completing the recruitment process. Until the amendment in law in March 2019, the agencies could mobilize agents in the mediate recruitment of workers, only those who were registered. But by that date also, more than 60,000 agents were working to link the aspirants, whereas the number of registered agents were only around a thousand. After the provision of agent was repealed in March 2019, all the works of the agents have now become "illegal". However, it was found that the agencies continue to recruit workers through such unauthorized agents.

**1.12 Sub-agent sending workers in an informal manner:** The agents were found to be sending significant number of workers to third countries through informal channel. Some are assured of being sent through Kathmandu with labour permit and sent to third country on a visit or tourist VISA, whereas especially for women with low skills related to employment, they are told 'currently you cannot go via Kathmandu airport' and taken to the gulf countries and Iraq through India. Likewise, incidents were also reported of people being charged huge sum with the promise of sending them to Europe and USA but leaving them stranded in the middle.



## KEY FINDING OF STUDY IN NEPAL

**1. Over dependency of worker on sub-agent and recruitment agencies:** Prospective workers rely on what the sub-agent and recruitment agency say. Since the RAs are based in Kathmandu and worker mostly don't have direct contact with them, the main contacts are the sub-agents. Sub-agents are those who are either relative, friend or from the local area.

The general tendency of worker is to trust the sub-agent fully who are connected with the RA. In most of the cases aspirants keep trusting their agent until they are deceived badly. Though the RA are authorized to do their recruitment process done, they normally don't interact with the RA directly, but sub-agent is their contact point. The worker will not normally know even if their sub-agent and RA gave them false information or promises. They don't know the way to verify or cross-check the fact as they either don't have information about how to do it or they don't do it as they keep trusting the agents.

The interviews with 20 workers that FNV researcher did in Nepal show how all of them were relying on the sub-agents and RAs. In majority of those cases, the worker kept trusting despite sub-agent or recruiters kept extorting money from them or making such false promised which simply one can't trust upon.

**2. Licensed recruitment agencies recruiting workers in personal basis:** There is widespread practice of licenced RA recruiting workers in personal basis. According to Foreign Employment Act, 2007, licensed RA are not allowed to recruit workers in personal basis, and if found so the RA will be punished (Article 52, FEA). Out of the 21 workers interviewed for this study, there was involvement of licensed RA in the recruitment process of 20 (one was not recruited for employment but had gone Poland to play a game representing the country but later did not return and worked in EU). The RA, however, did process in 'individual' basis (either under tourist visa category or individual labour approval).

For example, FNV team interviewed Manoj, a migrant worker who had returned from Poland in December 2019. His recruiter (a licensed recruitment agency in Nepal) had assured him to get institutional labour approval and working visa. While FNV team interviewed him, Manoj told his labour approval was the 'institutional' one as he was recruited by the licensed recruitment agency. But FNV's researcher checked Manoj's labour approval details on DoFE's website (by entering his passport number) and found that his labour approval was 'Individual' and not the 'Institutional'. This means, the recruitment agency followed the "individual labour approval process". This shows, Manoj either still doesn't know his labour approval is 'individual' or doesn't know the difference between individual labour approval and institutional labour approval.

**3. Sub-agents and RA approach low skilled workers:** Sub-agents and RA found to be approaching low skilled workers mainly the ones who are not well familiar about official processes and process of labour migration. Workers are not briefed. This type of workers found to be relying fully on what sub-agent or recruiter say and may not have idea of cross-checking what they say.

**4. Recruiter being non-transparent or unethical while explaining the recruitment or migration process:** Recruiters are found not explaining the official processes of migration or labour approval but telling the things in an exaggerated manner. For example, every worker interviewed for this study were told that they will have labour approvals and work visa. But in fact, no one of them were able to get the labour approval or work visa. Majority of them (11 out of 20 processed through recruiters) were abandoned by their recruiter after taking first instalment of recruitment cost.

Prospective workers are not aware about safe migration information and are not familiar with proper process of labour migration or how and where to cross check the information provided by the recruiters. Recruiters are found 'taking advantage' of such situation of workers.

**5. Expectation to get Residence Card:** Nepali workers desperate to migrate to EU states mainly because they believe they can get residence card after spending some months/years. Because of desire in getting residence card and earning relatively higher sum of money in EU, the workers not only become ready to pay high amount of

recruitment charge but take this as an attractive opportunity. The first thing that both sub-agents and the recruiters do is use residence card as a main tool to make workers ready to go EU states. Out of 21 workers (either prospective or returnees) we interviewed in March 2020, 'all' of them mentioned residence card as one of main reason that they were motivated to go to EU states against other states and became ready (happily) to pay large amount of recruitment charge.

**6. Illegal and higher recruitment charge:** The sub-agent and RA charges illegal or high recruitment charge to the workers. Nepal government has prescribed NPR 80,400 as the recruitment cost for Poland, but the recruiters had asked from NPR 800,000 to 1,250,000 with the workers interviewed for this study.

Though it is not new for the recruiters to charge higher to those going elsewhere, the amount is relatively too high in EU states. For example, according to the current policy of Nepal government, recruiters can't charge any fee to the workers going to 6 GCC countries and Malaysia (but can charge up to NPR 10,000 as service charge of recruiter if the employer has not agreed to pay this charge to the recruiter). For example, according to NHRC Nepal's research, workers going to GCC and Malaysia have found to be charged from NPR 70,000 to NPR 210,000. But the workers interviewed for this study told they were asked (or had to pay) a million in average.

Workers are found arranging the money by taking loan in high interest rate normally in 36% annual interest rate.

**7. Worst form of deception and financial exploitation:** Workers are found deceived very badly by the sub-agents and RAs. Out of 21 workers interviewed, 11 were not able to reach EU state despite paying a significant amount of money as advance payment of recruitment cost, they had agreed to pay. In all those cases, recruiters have not returned the money taken from them.

In most of the cases, recruiters take first instalment of sum agreed as recruitment charge at the beginning saying money required to start the process. Then they give a try to get the documents and visa for the workers. If it is gotten, recruiter gets credit for it and will get the remaining recruitment charge. If failed, the recruiters don't return the money which will be big amount for the poor workers.

# ANNEX 1

## List of countries/territories opened by Nepal government for foreign employment through recruiting agencies<sup>19</sup>

S.No.	Country	S. No.	Country	S. No.	Country
1	Afghanistan*	38	Guinea	75	Nigeria
2	Albania	39	Holy see	76	Norway
3	Algeria	40	Hong Kong	77	Oman
4	Argentina	41	Hungary	78	Pakistan
5	Armenia	42	Iceland	79	Panama
6	Australia	43	Indonesia	80	Peru
7	Austria	44	Iran	81	Poland
8	Azerbaijan	45	Iraq*	82	Portugal
9	Bahrain	46	Ireland	83	Qatar
10	Bangladesh	47	Israel	84	Republic of Korea
11	Belarus	48	Italy	85	Republic of Slovak
12	Belgium	49	Japan	86	Rumania
13	Bolivia	50	Jordan	87	Russia
14	Bosnia Herzegovina	51	Kazakhstan	88	Saipan
15	Brazil	52	Kenya	89	Saudi Arabia
16	Brunei	53	Kosovo	90	Singapore
17	Bulgaria	54	Kuwait	91	Slovenia
18	Canada	55	Laos PDR	92	South Africa
19	Chile	56	Latvia	93	Spain
20	China	57	Lebanon	94	Sri Lanka
21	Columbia	58	Libya*	95	Sweden
22	Cambodia	59	Luxemburg	96	Switzerland
23	Congo	60	Macau	97	Seychelles
24	Costa Rica	61	Malaysia	98	Tanzania
25	Croatia	62	Maldives	99	Thailand
26	Cuba	63	Malta	100	The Philippines
27	Cyprus	64	Macedonia	101	Tunisia
28	Czech Republic	65	Mexico	102	Turkey
29	Denmark	66	Moldova	103	Uganda
30	Egypt	67	Mongolia	104	Ukraine
31	Estonia	68	Mauritius	105	United Arab Emirates
32	Fiji	69	Morocco	106	United States of America
33	Finland	70	Mozambique	107	Uzbekistan
34	France	71	Myanmar	108	Venezuela
35	Germany	72	Netherland	109	Vietnam
36	Great Britain	73	New Zealand	110	Zambia
37	Greece	74	Nicaragua		

\* temporarily blocked by GoN

<sup>19</sup>Nepal Government, Department of Foreign Employment <http://dofe.gov.np/recognized.aspx>

