

# AMNESTY INTERNATIONAL

## Unpaid and abandoned: the abuse of Mercury MENA workers

### Part 2: Nepal

#### Out of sight, out of mind

At the end of 2017, at least thirty-four male Nepali migrants returned home from Qatar penniless, dejected and overloaded with debt. Employed by Mercury MENA, a major mechanical, engineering and plumbing company with operations across the Middle East and North Africa, the workers found themselves working for months without salaries or proper legal documentation on infrastructure projects with links to the 2022 FIFA World Cup.

The first article in this series, “Promises Won’t Feed My Family,” highlighted the struggles faced by these and other Mercury MENA workers in Qatar who were made vulnerable by the country’s notorious ‘Kafala’ sponsorship system, and left unaided when faced with unpaid salaries and benefits averaging over \$2,000 per worker.

In this article we show how the human rights abuses faced by these Mercury MENA workers began in Nepal, with the Nepali authorities failing in their obligation to prevent the illegal conduct of recruitment agencies and close gaps in the law. With most workers forced to pay illegally high fees to Nepali recruitment agencies for their jobs, taking out high-interest loans to do so, they left Nepal heavily indebted and less able to challenge or escape their abuse once in Qatar. Once in difficulty, stranded without food or wages, the authorities neglected their calls for help and failed to help them access remedies at home or abroad.

Almost a year after their return from Qatar, many of the workers are still

struggling with their debts, and all remain without the salaries and benefits they are owed. Amnesty International is calling on the new government in Nepal, in place since February 2018, to deliver on its promises to better [safeguard the rights of migrant workers](#), by reforming and enforcing its foreign employment laws to end the exploitation of their nationals at home and abroad.

## **I. A Bitter Return**

**“My whole family planned for this job to be my last migration. I was going to start a business at home with savings from my job. Now, I have lost hope. Time is ticking while I sit and wait here in Nepal while the interest rate on my loan increases. My only option is to work abroad again.”**

- Padam (not his real name), a migrant worker from Rupandhi District

When Padam started work in Qatar with Mercury MENA in June 2015, he had already spent a decade working in temporary jobs across the Gulf, believing his only realistic option for employment was to seek work away from his home in Nepal.

Knowing the potential pitfalls and perils of working in the region, when Padam was offered a position with Mercury MENA, he researched the company online to judge whether it was trustworthy. He then calculated whether or not the salary promised by his recruitment agency would be enough to both support his family and, critically, cover the recruitment fees they were demanding. The recruitment agency told Padam he had two options: pay the \$1,255 fee or see the job go to another worker who would.

Frustrated at the need to take out a loan, with a yearly interest rate of 36%, to secure a two-year job abroad, Padam was nonetheless hopeful that the Mercury MENA job would still pay off. Although most of his wages - \$385 (QAR 1,400) per month - in the first year would go to paying off recruitment debts, he calculated he would at least have his second year's earnings to cover his family's basic needs. Lacking a better employment option, he accepted.

Padam's plan went off course, however, the moment that Mercury MENA stopped paying him his wages in December 2016. He continued to work following promises made by the company that the delayed payments were only temporary and would soon be fixed, but the situation dragged on for five months and he soon found himself without money to buy food or go home to Nepal.

Uncertain what to do, and with few options, Padam decided to stay in Qatar hoping the company would eventually pay the thousands of dollars they owed him. But after 10 months and no resolution - nor minimal help from the Qatari or Nepali authorities - he finally gave up, took out another loan, and bought a plane ticket home in October 2017.

Padam's experience with Mercury MENA was far from unique. We spoke to 33 other Nepali Mercury MENA workers who shared similar experiences. Now back at home, these workers and their families are facing extreme economic hardship on account of the double burden of their recruitment debts and unpaid wages by their former employer. They are owed, on average, \$2,035 each (QAR 7,410 or NPR 220,330) – which is a vast sum of money in a country where over a third of the country lives on [less than \\$2 a day](#).

All workers we spoke to say that Mercury MENA failed to honour repeated promises that they would be repaid, including promises made when they left Qatar. One of the workers, who communicated regularly on WhatsApp with his Mercury MENA supervisor about recovering five months of unpaid wages when he was in Qatar, says that once he arrived back in Nepal in October 2017 he never heard from his work supervisor again. Researchers also listened to recorded Whatsapp messages from Mercury MENA supervisors advising the workers to return home and wait for payment of their wages. Today, some workers believe that they were deliberately encouraged to return home to make it easier for the company to avoid paying them.

Meanwhile, the money that workers have lost through as a result of abusive recruitment practices and non-payment of wages continues to have a devastating impact on their families' access to health care, adequate housing and education. Some of these workers, now unemployed and with

huge debts, face the risk of losing their land and homes.

One worker, Rohan (not his real name), has had to sell his home and land after returning from Qatar in order to reduce his debts. Six former Mercury MENA workers were forced to withdraw their children from school because they couldn't afford the expenses. Others told us that they were forced to cancel urgently-needed medical operations for sick family members and aging parents.

The debts accumulated by the workers will be difficult – if not impossible - to escape without access to compensation or debt relief. In Saptari district, for example, four workers said their loan repayments are US \$50 per month. In their current financial situation, they risk missing payments and triggering a further rise in interest rates. 15 of the workers told us that they are seeking to re-migrate to cope with their debt burden, which will likely entail paying even more money to Nepali recruitment agents for jobs overseas. In this vicious cycle, their current debts are driving their desperation for work, which in turn, is putting them at risk of paying more recruitment fees and again facing heightened risks of labour abuse.

This cycle of abuse has a long-lasting impact on workers and their families. Migrant workers often seek work abroad to save enough money to give their children a better life and enable them to stay in Nepal with their families in the future. But abuses, such as those experienced by the Mercury MENA workers, thwart these very basic human ambitions.

One worker named Rupak explained:

**“In my life, I was never able to attend school. This is why I worked as a low-skilled labourer. I do not want this life for my children – I only work abroad to realize my dream for them. Working at Mercury MENA was wasted time for me. It was time that could have been spent with my family or earning a living somewhere else.”**

Another Mercury MENA worker conveyed to us that he had waited 20 years to “end his sacrifice as a migrant worker.” Instead of Qatar being his last position abroad, he is now seeking another one to pay off debts accumulated during his last migration.

## II. How Were Migrants Exploited from Recruitment to Employment?

“I tried to get a lower recruitment fee, because I knew the government was about to put its ‘Free Visa, Free Ticket’ Policy in place. But my recruitment agency refused and said they would send someone else in my place if I did not pay. In the end, I paid NPR 120,000 (US \$1,102).”

--Yadav (not his real name), Migrant Worker from Rupandhi district, Nepal

All 34 Nepali workers that we spoke to paid recruitment fees in excess of the legal limit for jobs in Qatar, which was 70,000 NPR (US \$642) at the time of their migration. They said they paid between US \$867 to US \$1,156 for their jobs. At least eight of the workers had also taken out loans with high interest rates, often up to 36% per annum, which is common practice for migrant workers who are unable to pay the high fees demanded by recruitment agencies. These illegal fees not only violated Nepali law, but also provisions laid out in a bilateral [labour agreement between Qatar and Nepal that require Qatari employers to bear the costs of travel expenses](#).

From the [hundreds of cases](#) that we have documented in the last two years, we can conclude that the business practice of extracting high and illegal fees from workers is responsible for turning workers into bonded labourers before they leave Nepal. Debt bondage is a specific form of forced labour, in which the element of compulsion is derived from debt. This is especially the case when workers cannot pay the employment-related fees upfront and must resort to taking out loans from local moneylenders, who notoriously charge exorbitant interest rates on the loans they provide. The amount of money that workers need to earn to pay off recruitment debts often compels them to endure labour abuse while working abroad. Furthermore, having to pay off high recruitment debts can also wipe out workers’ earnings, sometimes making it impossible to purchase tickets to return home or send money to their families.

Nepali recruitment agencies frequently use other practices to undermine the right of workers to file cases complaining about business malpractice. For example, none of the workers we interviewed had received

documentation from their recruitment agencies that could be used to prove they had been charged illegally. One worker was issued a receipt for US \$192 (NPR 20,000) when he had in fact paid US \$963 (NPR 100,000). Another worker tried in vain to establish a paper trail for his recruitment fee by attempting to pay his recruiter via bank transfer. He explained the futility of his efforts:

**“I tried to pay this fee through a bank transfer, but my recruitment agency refused. They wanted me to give money to my village agent instead, even though he lived in Kathmandu. Basically, the company wanted to obtain the money from the village agent.”**

Other Mercury MENA workers interviewed by us said that they paid illegal charges in the same way—to local sub-agents in hotels or villages. Far away from the offices of recruitment agencies in Kathmandu, the remoteness of these locations and the lack of a paper trail can often make it difficult to prove violations of Nepali law relating to recruitment agencies’ involvement and legal liability for the payment of fees.

This deliberate circumventing of legislation has also undermined employment rights. [Legally](#), Nepali recruitment agencies must repatriate workers whose contractual terms and conditions of employment have not been respected. Yet, the recruitment agencies in the Mercury MENA case did not meet their legal responsibilities to do so. For example, four of eight Mercury MENA workers we interviewed in-depth said that they explicitly reached out to their sub-agents and recruitment agencies for help after the company failed to pay their wages for several months. The workers claim both individual agents and recruitment agencies instructed them to again raise their complaints directly with Mercury MENA even though the agents were obliged to deal with them in accordance with Nepali law. Then, when the migrants re-contacted their agents after their work contracts expired with their wages still unpaid, these agents told them that their legal responsibilities to repatriate the workers had already come to an end because they no longer had a contractual relationship with the workers.

Many workers felt abandoned by the very agencies who had put them in an exploitative position. As one worker put it:

**“Our recruitment agencies took a large amount of money from us. Even if they didn’t want to pay to bring us home, at least they could have lobbied the company on our behalf and pressure the company to pay our salaries and send us home. They didn’t even do that. They didn’t take any responsibility for sending us to Mercury MENA.”**

The recruitment agencies’ interpretation of Nepal’s [Foreign Employment regulation](#)<sup>1</sup>, yet to be tested in the courts, raises a potentially important gap in the law which the agencies can exploit. The result is that migrant workers trying to recover back pay and flight tickets home, and who are therefore forced to stay in their country of work after their contract period with their recruitment agency has ended, are unable to secure the assistance they need from that agency. The law does not recognise the complexity of these situations. Without proper government oversight, agencies can easily evade their legal responsibilities to workers by encouraging them to seek help elsewhere or by delaying assistance until they are no longer legally required to provide it. The regulation requires urgent reform to explicitly recognise the ongoing responsibilities of the agencies to provide more effective assistance for abandoned migrant workers.

In November 2017, we met one of the primary Nepali recruitment agencies that was contracted to recruit migrant workers for Mercury MENA’s operations. The recruitment agency interviewed denied workers’ testimonies of charging illegal fees for their jobs and refusing to provide help to stranded workers who contacted them. They did admit, however, that they were aware the problem of delayed and unpaid wages was taking place at Mercury MENA. They also informed us they had repatriated 20 Nepali Mercury MENA workers who had complained of

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<sup>1</sup> Article 75 of the Foreign Employment Act (on responsibilities to repatriate) states “Provisions on sending workers back to Nepal:(1) Where any worker becomes helpless by the reason that the worker has not got such facilities as set forth in the contract and such worker has to return to Nepal, the concerned licensee shall arrange for the returning of such worker to Nepal.” There is no timeframe specified in the regulation.

delayed and unpaid wages a few months after arriving in Qatar.

The company admitted that after this repatriation they did not try to contact or monitor the situation of the remaining 89 migrant workers who they had sent to work for Mercury MENA and were still working at the company. This is despite disclosing that they have an employee based in Qatar, who could have done so. They argued they had no legal responsibility to workers who do not make direct complaints to them, and claimed they only learned of new cases of labour rights abuse from workers after their contracts had expired. Denying responsibility for the situation of the remaining workers, the recruitment agency stated:

**“It is the duty of workers to renew their contracts with their employer if they overstay their contract period. Our duty to the workers only lasts for the contract period.”**

A representative of the recruitment company also admitted that it did not oversee or monitor the practices of the sub-agents it commissioned to recruit workers, a practice that enables sub-agents to charge workers additional fees. A representative of the recruitment company was dismissive of the idea that his agency had this responsibility to protect workers during the initial stage of their recruitment, saying:

**“We have no idea what happens in the districts. We just take our NPR 10,000 [the legal limit] from the worker. That is it.”**

The agency also admitted that they did not investigate the business practices of Mercury MENA before agreeing to recruit workers for them. This, in addition to their admissions that they did not investigate the practices used by local agents to find workers to send abroad, nor contact or monitor the situation of the 89 migrant workers remaining in Qatar, shows that the agency ignored its broader responsibility to respect human rights under international standards on business and human rights, regardless of whether or not the recruitment agency had any obligation to Mercury MENA workers under Nepali law.

All companies have a responsibility to respect human rights, as set out in international standards on business and human rights such as the [UN](#)



[Guiding Principles on Business and Human Rights \(UNGPs\)](#). The corporate responsibility to respect requires companies to take concrete steps to avoid causing or contributing to human rights abuses and to address human rights impacts with which they are involved, including by providing an effective remedy for any actual impacts. This includes putting in place a due diligence process – on an ongoing and proactive basis – to identify potential human rights abuses linked to its operations, to assess how they can be prevented or mitigated (as appropriate) and to act upon those findings.

It is clear, given the known risks of excessive fees in the Nepali recruitment sector and of labour abuse in Qatar, that the recruitment agency did not follow effective due diligence processes, including in its engagement with sub agents recruiting workers in districts across the country. This is amplified by the fact that the agency admitted that they knew Mercury MENA was not paying wages to the workers they had recruited for them. The agency should have been undertaking ongoing and proactive due diligence to check for and address the risk of sub-agents charging excessive fees, and of Mercury MENA withholding workers' wages abroad. For example, the agency could have required sub-agents to provide documentary evidence that they had not charged excessive fees and verified this with the workers recruited. The recruitment agency's failure to undertake any due diligence in the key areas set out above– as admitted by the agency – means that it has failed to meet its responsibility to respect human rights.

### **III. How did the Nepal Government Fail Abused Migrants?**

While Nepali agencies that recruited workers for Mercury MENA may have charged illegally-high fees and failed to fulfil their legal obligation under domestic law to help workers facing abuse and to meet their responsibility to respect their rights, these abuses were ultimately made possible by Nepal's failure to meet its own [legal obligations to migrant workers](#) – just as Qatar's exploitative sponsorship laws facilitated labour abuses by Mercury MENA.

[In previous reports](#), we have found that Nepal has taken minimal action to enforce its foreign employment legislation, and has dragged its heels on closing legal gaps and tightening its regulatory framework. Nepal's flagship "[Free Visa, Free Ticket](#)" Policy – possibly its best defence against conditions of debt bondage – has been poorly resourced and [implemented](#). This combination of weak laws and ineffective regulation has made it easy for businesses – both in Nepal and abroad – to exploit Nepal's large migrant workforce.

In this investigation, carried out between April 2017 and April 2018, we again found significant shortcomings in Nepal's actions to protect migrants abroad. This is despite having established a dedicated Migrant Worker Welfare Fund for migrant workers with reserves of over [US\\$38 million](#) that can be used on a priority basis to assist workers in distress.

Between August and December 2017, the Nepali authorities were made aware of Mercury MENA's abuse of its nationals on at least four separate occasions – twice by the workers and twice by Amnesty International. They received information/complaints regarding the workers' restricted movement and financial barriers to return home, lack of access to food, threats of arrest and deportation, and lack of information and money to file legal cases against the company. Despite this and the existence of a US \$38 million Migrant Worker Welfare Fund, the Nepal authorities at the Department of Foreign Employment or the Nepal Embassy in Qatar did not act to repatriate workers or provide them with any legal or financial assistance.

Eight Mercury MENA workers who we first spoke to in November 2017 reported that they initially met with embassy officials in Doha in August 2017. At this point, the workers had not been paid for at least five months, and had been stranded in Qatar for another three months after that, without food or air tickets from the company to return home. During this visit, the workers raised the issue that the company had not renewed their residency permits in Qatar, making them vulnerable to arrest and deportation.

The workers say that Nepal embassy officials did not respond to the urgency of their situation by helping them recover wages or file legal

claims. Despite requests from the workers to do so, the embassy did not attempt to aid them in recovering their wages by, for example, helping them file a legal case against the company or appeal to the Government of Qatar on their behalf. The workers also told us that embassy officials did not follow-up with them at their accommodation, even though every visit to the embassy entailed risk of arrest because of their unexpired work visas. Instead of proactively assisting the workers to get the money they were owed, the workers say that Nepal embassy officials advised them to accept their fate and return home without their wages. Disillusioned with this lack of support, one worker complained:

**“We told the Embassy that we needed our unpaid salaries, not just a plane ticket home. We raised that we wouldn’t even be able to leave the Kathmandu airport and reach our home villages without it. Still, the embassy told us that if the company provided a ticket we should take it. For them it was better that we all go home. We didn’t agree and kept trying to recover our wages from the company.”**

Two months later, the embassy again rejected workers’ request to the embassy for help to recover unpaid wages and receive assistance from Nepal to return home.

When Amnesty International raised the workers’ case with the government, our experience was similar. During our meeting with the Department of Foreign Employment (DoFE) in Nepal in November 2017, then-Director General Bishow Raj Pandey agreed to provide financial assistance for the Mercury MENA workers if the embassy in Doha applied for relief funds. However, to the best of our knowledge, the embassy in Doha never submitted this application and the Nepal government released no funds to aid the abused workers to leave Qatar. When we followed-up on the case in Doha in December 2017, Nepal embassy officials justified their lack of response by calling the situation a “normal case” of unpaid wages that did not merit financial assistance from the government.

The Nepal government’s indifference meant that scores of indebted workers remained penniless and trapped in Qatar – often without food – until they could borrow enough money to return home. The workers say that their lack of food was one of the most distressing aspects of their

experience:

**“We had no support from the embassy. No food or money. We used to share as much as we could. At night, we passed around a spoon so that each person could shake a bit of salt or spice onto his food. This is how we rationed what little we had.”**

Furthermore, Government promises to investigate the conduct of the recruitment agencies involved also fell short. Although the then-Director General of the DoFE promised to look into the matter, he later told us that his investigation consisted of one meeting with the relevant recruitment agencies and did not include speaking with any of the migrant workers. Without consideration of the stories of workers that they had reached out to their recruitment agencies for help prior to the end of their contract, the then-DoFE Director supported the recruitment agencies’ claim that they no longer had a legal responsibility to repatriate the stranded workers in Qatar because the workers’ contracts had expired. In making this judgement, the DoFE director discharged the Nepali recruitment agencies from their responsibility to repatriate the stranded workers. He also failed to recognise the state’s responsibility to step in and assist its nationals when they have been abused and require assistance to return home.

Our interaction with the Department of Foreign Employment at this time highlighted the tendency in Nepal to normalise cases of recruitment abuse and blame migrants for the complex situations created by abusive business practices. The former DoFE director, for example told researchers that it was difficult to assist the Mercury MENA workers because of their “undocumented” status. This approach ignored the unlawful conduct and exploitative practices of recruitment agencies and Mercury MENA that left workers stranded in Qatar with significant debt, and without the legal status or financial means to deal with their situation.

The former Director General of the DoFE also discouraged us from advising migrant workers to file claims with his department, asserting – without having seen a single piece of documentary evidence from the workers – that Mercury MENA workers did not have a legitimate case against their recruitment agencies, under [Articles 53 and 55 of the Foreign Employment Act](#). These articles allow migrant workers to seek

compensation from recruitment agencies for excessive recruitment fees (Article 53) and for discrepancies between salaries received and salaries specified in contracts with recruitment agencies (Article 55). This pre-judgement of cases reinforces serious concerns already highlighted in [previous research by Amnesty International](#) about the independence and impartiality of existing claims mechanisms at the DoFE.

When Amnesty International reviewed the Department of Foreign Employment's blacklist of foreign companies in May 2018 it did not find Mercury Mena on the list, meaning that the company can still legally recruit workers from Nepal. The Nepal government has not yet responded to Amnesty International's request to clarify if this is still the case.

#### **IV. Where Nepal Went Wrong and How to Make It Right**

When Padam left Nepal, he believed he had done everything in his power to protect himself from labour abuse abroad. Yet, today, Padam is now worse off than when he started. Both he and his wife have medical problems that they can't afford to treat without the payment of his wages. Because of the financial situation he has been left in, he is also considering selling his home – his only valuable asset.

Still, Padam and other Mercury MENA workers in this dire situation have not given up their case. They continue to demand compensation, even if they face considerable barriers to do so. Some workers are not familiar with DoFE claims processes, and others have not been able to afford the relatively high cost of [travelling to Kathmandu](#) to file their claims against recruitment companies for excessive recruitment fees and unpaid wages. From Nepal, they are also unable to file cases against Mercury MENA in Qatar.

[Nepal](#) and [Qatar](#) both have an obligation to protect migrant workers from abuse under a range of international treaties they have ratified, including the International Labour Organization's Forced Labour Convention. We are calling on the Nepal and Qatar governments to support Mercury MENA workers so they can get justice and compensation, and to take steps to prevent similar abuses in the future.

In February 2018, a new government was formed in Nepal. The current Minister of Labour, Employment and Social Security, Gokarna Bista, has pledged to [crackdown on recruitment fees, improve law enforcement](#) and [strengthen the role of embassies in recruitment processes](#) . While it remains to be seen whether these measures will be implemented on the ground, there is at least an opportunity to change.

In tackling these issues, the government should also increase the human and financial resources it devotes to regulating recruitment processes, and more systematically monitor, investigate and sanction the illegal conduct of recruitment businesses and local agents. The government should also prioritise legislative reform and bring recruitment regulations in line with international law and standards, including addressing the weak legal liability of its recruitment industry that creates and sustains abuse.

The Nepali authorities should also prioritise and drastically improve their efforts to assist their nationals, like Padam, who have suffered abuse. They must make claims processes more affordable and accessible in Nepal, and embassies should have staff who can provide legal aid and other assistance for migrants who experience abuse abroad. In that respect, Nepal's Migrant Worker Welfare Fund should be better used to help more migrants in distress, with clear guidelines needed to ensure the Fund's appropriate, transparent, and efficient use. Such efforts will go a long way to ensuring that workers who have lost huge sums of money during their migration are not continually trapped in harmful cycles of abuse.

#### Methodology:

Amnesty International has thoroughly analysed the cases of 34 Nepali migrants who worked for Mercury MENA in Qatar. Eight of these migrant workers were interviewed in November 2017 in Kathmandu and in Saptari district. In April 2018, Amnesty International interviewed another twenty-six workers by phone. Researchers also met with the former Director General for the Department of Foreign Employment on 13 November 2017 and the Labour Counsellor and First Secretary of the Nepal Embassy in Qatar on 30 November 2017. Amnesty International also wrote to the Government of Nepal in August 2018 to put the full draft findings to the government for

the purpose of their comment but received no response. The researchers further met with one of the primary recruitment agencies in Nepal recruiting for Mercury MENA on 20 November 2017.

Amnesty International also raised the situation of Mercury MENA's workers with the company's CEO in emails on 10 November 2017, a phone conversation on 13 November 2017, and a follow up email requested by him on 20 November 2017, to which we did not receive any reply. We followed up again on 30 January 2018 seeking further clarification but to date failed to receive any response. We also spoke to other Mercury MENA managers via telephone in April 2017, as well as the sponsor of Mercury MENA in Qatar on 10 October 2017. Both the CEO and sponsor recognised that there had been persistent problems with paying salaries, and claimed it was itself facing financial pressures. The CEO denied that it was company policy to charge for the provision of residency permit cards. We also wrote to Mercury MENA in July 2018, to put the full draft findings to the company for the purpose of their comment, but received no response./